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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

IN RE: PREMIER BLUE CROSS
CUSTOMER DATA SECURITY BREACH
LITIGATION

This Document Relates to All Actions.

Case No. 3:15-md-2633-SI

**UNOPPOSED MOTION AND
SUPPORTING MEMORANDUM FOR
PRELIMINARY APPROVAL OF
PROPOSED SETTLEMENT
AGREEMENT**

LR 7-1 CERTIFICATION

In compliance with Local Rule 7-1(a), the parties, through their respective counsel, have conferred in multi-day mediation and settlement discussions between October 2018 and March 2019. Defendant Premera Blue Cross (“Defendant” or “Premera”) does not oppose this Motion.

MOTION

NOW INTO COURT, through undersigned counsel, come Plaintiffs Elizabeth Black, Catherine Bushman, Krishnendu Chakraborty, Maduhchanda Chakraborty, Ralph Christopherson, Anne Emerson, William Fitch, Eric Forsetter, Mary Fuerst, Debbie Hansen-Bosse, Stuart Hirsch, Ilene Hirsh, Howard Kaplowitz, Barbara Lynch, and Kevin Smith (“Plaintiffs”), individually and on behalf of the proposed Class, who hereby move this Court as follows:

1.

Plaintiffs’ Counsel, on behalf of Plaintiffs and the proposed Settlement Class, and Defendant have agreed on a proposed compromise settlement (the proposed “Settlement”) of all claims of the Class against Defendant, as more particularly set forth in and attached as Exhibit 1 (the proposed “Settlement Agreement” or “SA”), the terms, definitions, provisions, reservations and conditions of which are made part of this Motion.

2.

The purpose and intent of all parties to this proposed Settlement (the “Parties”) are: (a) to settle any and all claims of any type related to the cyberattack against Premera’s computer systems that was publicly disclosed on March 17, 2015 (the “Data Breach”); (b) to terminate and extinguish any liability of Defendant for all Released Claims of the Class Members; and (c) to dismiss on the merits and with prejudice all claims of the Class Members against Defendant.

3.

The Parties now seek preliminary approval from this Court of the terms of the proposed Settlement Agreement, including:

(1) Preliminary approval of the proposed Settlement memorialized in the proposed Settlement Agreement as being fair, adequate, and reasonable, such that notice to the Class should be provided pursuant to the proposed Settlement Agreement;

(2) Certification of the Settlement Class as defined in the proposed Settlement Agreement for settlement purposes only;

(3) Approval of a date for a Final Fairness Hearing;

(4) Approval of: (i) the Summary Notice to be mailed and/or emailed to proposed Settlement Class Members in a form substantially similar to the one attached to the proposed Settlement Agreement as Exhibit B; (ii) the Long Form Notice in a form substantially similar to the one attached to the proposed Settlement Agreement as Exhibit C; and (iii) the Publication Notice in a form substantially similar to the one attached to the proposed Settlement Agreement as Exhibit D;

(5) Approval of a Claims Deadline by which the Settlement Class Members shall be able to submit valid and completed Claim Forms;

(6) Appointment of Cameron Azari as the Notice Specialist as jointly agreed to by the Settling Parties;

(7) Appointment of Epiq as the Settlement Administrator as jointly agreed to by the Settling Parties;

(8) Setting a specified date by which objections shall be heard and papers in support of such objections must be submitted to the Court;

(9) Setting specified dates by which proposed Class Counsel shall file and serve all papers in support of the application for final approval of the proposed Settlement and by which the Parties shall file and serve all papers in response to any valid and timely objections and by which proposed Class Counsel shall file their motion for fees and expenses;

(10) Ordering that all proposed Settlement Class members will be bound by the Final Approval Order and Judgment;

(11) Ordering that persons in the Settlement Class wishing to exclude themselves from the proposed Settlement will have until the date specified in the Preliminary Approval Order to submit to the Settlement Administrator a valid written request for exclusion or opt out;

(12) Approving the proposed Settlement Agreement's procedure for persons in the proposed Settlement Class to object, including the right to object to Plaintiffs' attorneys' fees and costs, or opt out from the proposed Settlement;

(13) Approving deadlines consistent with the proposed Settlement Agreement for mailing of notice to the Settlement Class, opting out of or objecting to the proposed Settlement, and filing papers in connection with the Final Fairness Hearing; and

(14) Appointment of Plaintiffs as Representative Settlement Class Plaintiffs and Plaintiffs' Counsel as Class Counsel for the Settlement Class.

4.

Defendant has no objection to this motion, and consents to the relief sought by Plaintiffs.

MEMORANDUM IN SUPPORT

Plaintiffs present this Memorandum in Support of their Unopposed Motion for Preliminary Approval of Proposed Settlement Agreement. Defendant does not object to this Motion and consents to the relief sought by Plaintiffs.

I. Introduction.

This Motion seeks preliminary approval of the proposed Settlement Agreement reached by the Parties to settle this class action involving the breach of Premera's computer systems that was publicly disclosed on March 17, 2015 (the "Data Breach"). The proposed Settlement includes a \$32 million Qualified Settlement Fund that will be used to make cash payments and to provide robust Credit Monitoring and Insurance to proposed Class Members who submit valid claims. Additionally, the Settlement requires Premera to spend \$42 million over three years on comprehensive remedial measures and injunctive relief in the form of business practice changes and future commitments related to Premera's IT security practices.

Plaintiffs allege that Premera was negligent, breached its contracts, and violated the Washington Consumer Protection Act ("CPA") (RCW § 19.86.020) and California's Confidentiality of Medical Information Act ("CMIA") (Cal. Civ. Code §§56.36, 56.101(a)) when it failed to prevent Plaintiffs' confidential information, including personally identifying information ("PII") and protected health information ("PHI"), and "medical information" as that term is defined under the CMIA, (collectively "Personal Information"), from being compromised in the Data Breach.

The proposed class consists of all persons in the United States whose Personal Information was stored on Premera's computer network systems that were compromised in the Data Breach. There are approximately 10.6 million class members.

The proposed Settlement Agreement is an outstanding result, reached through numerous arm's-length negotiations after heavily-contested litigation by experienced and well-informed counsel. Because the proposed Settlement is fair, reasonable and adequate, it merits preliminary approval.

II. Procedural Background.

Plaintiffs filed their respective complaints between March 18, 2015 and July 21, 2017 after they learned of the Data Breach. The Judicial Panel on Multidistrict Litigation consolidated the various cases in this Court between June and September 2015. During the course of the litigation, the Parties engaged in significant discovery. Defendant produced over 1.5 million pages of documents and the Parties collectively took more than 50 depositions. The Parties also sought the Court's guidance on several discovery disputes, including motions regarding Defendant's privilege logs, which resulted in the appointment of a Special Master, several hearings, and two published decisions.

Before reaching this Settlement, the Parties fully briefed Plaintiffs' Motion for Class Certification, as well as several motions to exclude various expert testimony. ECF 156–168, 190, 195–197, 211–219, 222–227, 247, 260–264. The Court heard the motions on November 18, 2018.

Over the course of the last several months, and while the Court's decision on these Motions was pending, the Parties engaged in extensive, arm's-length settlement negotiations, including three sessions of mediation, with the aid of the Honorable Jay C. Gandhi (Ret.) of JAMS and with

the additional aid of Peter K. Rosen, Esq. of JAMS for two of the sessions,¹ and multiple follow up emails and telephone conferences with Judge Gandhi and Mr. Rosen. On February 15, 2019, the Parties reached a preliminary agreement on the terms of a nationwide settlement. Numerous additional negotiations occurred relating to finalizing the Settlement Agreement. The proposed Settlement Agreement was executed by all Parties on May 29, 2019.

III. Terms of the Proposed Settlement.

The terms of the proposed Settlement are summarized briefly below. The full terms are set forth in the proposed Settlement Agreement.

A. Class Definition. The proposed Settlement Class is defined as:

“All persons in the United States whose Personal Information was stored on Premera’s computer network systems that was compromised in the Security Incident as publicly disclosed on March 17, 2015. Excluded from the Settlement Class are: (1) the Judge presiding over the Action, and members of his family; (2) the Defendant, its subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendant or its parents have a controlling interest and their current or former officers and directors; (3) Persons who properly execute and submit a request for exclusion prior to the expiration of the Opt-Out Period; and (4) the successors or assigns of any such excluded Persons.”

(Ex. 1 (“SA”), ¶ 1.38).

B. Qualified Settlement Fund. The proposed Settlement Agreement creates a Qualified Settlement Fund of \$32 million that Defendant will fund to provide monetary relief to the Class, credit monitoring and insurance to the Class, attorneys’ fees and costs, Class Notice, Settlement Administration, and Service Awards. (*See SA*, at §§ III, IV, V, VI, IX.) This is a non-reversionary fund, meaning that no portion of the Qualified Settlement Fund shall revert to Premera unless this Settlement is voided, cancelled, or terminated. (*SA*, ¶ 3.7.)

¹ Two of these mediation sessions began at 10 a.m. and went well past midnight. All three of the mediation sessions included counsel for Premera’s insurance carriers.

C. Monetary Compensation. No less than \$10 million of the Qualified Settlement Fund will be used to provide direct monetary compensation to those proposed Settlement Class Members who submit valid Claim Forms. (SA, ¶ 4.2.) Each proposed Settlement Class Member may qualify for benefits and distributions from this fund as follows:

1. **Reimbursement of Out-of-Pocket Losses:** For proposed Settlement Class Members who submit Reasonable Documentation of verified unreimbursed costs or expenditures that they actually incurred, and that are plausibly traceable to the Data Breach (such as unreimbursed losses or charges due to identity theft, freezing or unfreezing of credit, credit monitoring costs, lost time, etc.), up to \$10,000. (SA, ¶ 4.3.)
2. **Default Payments:** For proposed Settlement Class Members who do not submit Reasonable Documentation of Out-of-Pocket Costs, alternative compensation of up to \$50. (SA, ¶ 4.4.)
3. **California Payments:** For proposed Settlement Class Members who, as of March 17, 2015, resided in California and who received notice from Premera that their information may have been compromised in the Data Breach, up to an additional \$50 as compensation under the California Confidentiality of Medical Information Act (“CMIA”). (SA, ¶ 4.5.)

If the approved claims in the above three categories (the “Approved Claims”) exceed the Net Qualified Settlement Fund, then the Approved Claims shall be reduced *pro rata* based on the amount of all allowed Claims. (SA, ¶ 4.2.1.) If the Approved Claims are less than the Net Qualified Settlement Fund, the excess will be used first to increase the Approved Claims on a per capita basis, and then to fund additional credit monitoring services. Finally, any residual funds not

economically viable to distribute to proposed Settlement Class Members in either of these ways will be distributed in a *cy pres* award approved by the Court. (SA, ¶ 4.7.) No amounts of the Qualified Settlement Fund shall revert to the Defendant. (SA, ¶ 3.7.)

D. Credit Monitoring and Insurance. Up to \$3.5 million of the Qualified Settlement Fund will be allocated to provide proposed Settlement Class Members with two years of Credit Monitoring and Insurance provided by Identity Guard (the “Individual Total Plan”), which provides each proposed Settlement Class Member who submits a valid Claim Form seeking to be enrolled in this service with:

1. Up to \$1 Million Dollars reimbursement insurance covering losses due to identity theft, stolen funds, etc.;
2. Three-bureau credit monitoring providing notice of changes to credit profile;
3. Authentication alerts when someone attempts to change their personal account information within the covered network;
4. High Risk Transaction Alerts providing notification of high-risk transactions including but not limited to account takeovers, wire transfers, tax refunds, payday loan applications, and cell service applications;
5. Dark Web Monitoring providing notification if their information such as Social Security number, credit card numbers, financial account numbers and/or health insurance number are found on the Dark Web;
6. Threat Alerts powered by IBM “Watson” providing proactive alerts about potential relevant threats such as breaches, phishing scams, and malware vulnerabilities;

7. Customer support and victim assistance provided by Identity Guard;
8. Anti-phishing and safe Apps for iOS and Android mobile devices; and
9. Safe browsing software for PC and Mac to help protect against malicious content with add-ons for Safari, Chrome, and Firefox web browsers that deliver proactive malware protection by blocking various malware delivery channels including phishing, malvertisements, and Flash. (The extension also blocks content and tracking cookies to help protect personal information.)

(SA, ¶ 4.6.1.) The retail value for each proposed Settlement Class Member receiving this Credit Monitoring and Insurance benefit is \$479.76 (\$19.99 per month for 24 months). *See* Identity Guard, *Total Plan*, <https://www.identityguard.com/plans/total/> (last visited May 28, 2019).

E. Business Practice Commitments. Premera agrees to provide equitable injunctive relief in the form of business practice commitments for three years from the date of final approval² of the proposed Settlement Agreement (the “Settlement Term”). These business practice commitments include a variety of methods for securing Personal Information, such as: encrypting, archiving, and maintaining protected environments for data; requiring two-factor authentication for remote access for all personnel and vendors; performing various audits and testing exercises, and collecting and maintaining logs of covered information systems; operating a Cyber Security Operations Center; employing a Chief Information Security Officer; requiring Information Security training for its associates, etc. (SA, Ex. A) (Exhibit A to the SA contains the full statement of Defendant’s business practice commitments.)

² Premera’s archiving commitment extends three years from the date it begins archiving. (SA, Ex. A.)

F. Additional Relief. In addition to the individual monetary relief, the credit monitoring and insurance, and the business practice commitments, the proposed Settlement Agreement provides the following relief to be paid from the Qualified Settlement Fund:

- 1. Payment for Notice and for Settlement Administrator:** The cost of implementing and developing a notice plan, as well as the costs of a Court-approved Settlement Administrator to disseminate notice, administer the Settlement, and evaluate and pay claims. (SA, §§ V, VI.)
- 2. Service Awards for Proposed Settlement Class Representative Plaintiffs:** In addition to any payments the proposed Representative Plaintiffs are entitled to receive for submitting valid claims, Premera has agreed to, and Class Counsel may apply to the Court for, Service Awards of up to \$5,000 to each proposed Representative Plaintiff for his or her time, effort, and risk in connection with the Action, including stepping forward to represent the proposed Class, searching for and producing data, and preparing for and sitting for their depositions. These Service Awards are not conditioned on the Plaintiffs' support of the proposed Settlement. Class Counsel negotiated the amount of Service Awards to be applied for independently from the other terms of the proposed Settlement, and the Court shall consider the Service Awards separately from its consideration and determination of the fairness, reasonableness, and adequacy of the proposed Settlement. (SA, ¶ 9.1.)
- 3. Payment of Attorneys' Fees and Expenses:** Under the proposed Settlement Agreement, and subject to Court approval, Defendant

acknowledges that Class Counsel shall be entitled to request payment of attorneys' fees and costs from the Qualified Settlement Fund. The Parties negotiated the maximum amount of the attorneys' fees, costs and expenses to be sought by Class Counsel under the supervision of the Honorable Jay C. Gandhi and Peter Rosen of JAMS, after all monetary relief terms of the proposed Settlement had been agreed upon. Prior to the Final Fairness Hearing, Class Counsel will submit a request to the Court of their attorneys' fees, reasonable costs, and expenses in an amount up to \$14 million. As that motion will make clear, the amount sought is reasonable as a percentage of the fund and is commensurate with the lodestar attorneys' fees plus expenses incurred in this matter. Premera does not and will not object, appeal, or otherwise comment upon any such attorneys' fee and expense request. (SA, ¶¶ 9.2, 9.3, 9.4, 9.6.)

G. Release of Liability. In exchange for the relief described above, Defendant will receive a full and final release of all claims related to the Data Breach that Premera publicly disclosed on March 17, 2015. (See SA, ¶¶ 1.32, 11.1 for the complete release language.)

IV. The Proposed Settlement Class Should Be Certified.

In order to grant preliminary approval of a proposed settlement, the Court should determine that the proposed settlement class is appropriate for certification. Manual for Complex Litigation ¶ 21.632 (4th ed. 2004) ("MCL 4th"); *Amchem Prods. Inc. v. Windsor*, 521 U.S. 591, 620 (1997). Class certification is proper if the proposed class, the proposed class representatives, and the

proposed class counsel satisfy the numerosity, commonality, typicality, and adequacy of representation requirements of Rule 23(a). Fed. R. Civ. P. 23(a)(1–4).

In addition to meeting the requirements of Rule 23(a), plaintiffs seeking class certification must also meet at least one of the three provisions of Rule 23(b). Fed. R. Civ. P. 23(b). When plaintiffs, such as the Plaintiffs in this action, seek class certification under Rule 23(b)(3), the representatives must demonstrate that common questions of law or fact predominate over individual issues and that a class action is superior to other methods of adjudicating the claims. Fed. R. Civ. P. 23(b)(3); *Amchem*, 521 U.S. at 615–16.

The procedure for review of a proposed class action settlement is well established. Because Plaintiffs meet all of the Rule 23(a) and 23(b)(3) prerequisites, certification of the proposed Settlement Class is proper.³

A. The Requirement of Numerosity Is Satisfied.

“The prerequisite of numerosity is discharged if ‘the class is so large that joinder of all members in impracticable.’” *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1019 (9th Cir. 1998) (quoting Fed. R. Civ. P. 23(a)(1)). A putative class of at least forty members usually is sufficient to satisfy the numerosity requirement. *Oregon Laborers-Emp’rs Health & Welfare Trust Fund v. Philip Morris, Inc.*, 188 F.R.D. 365, 372 (D. Or. 1998). At the time that the Data Breach intrusion was remediated on March 6, 2015, Premera’s network held the Personal Information of approximately 8 million current and former Premera members; approximately 1.9 million current and former non-Premera Blue Cross Blue Shield members for whom Premera administered health benefit claims; and approximately 500,000 current and former employees, providers, and vendors.

³ The Class Certification issues have been fully briefed in ECF Nos. 156–168, 190, 195–197, 218–219, 247, and 260–264, which are adopted and made part of this motion by reference.

(ECF 156, Ex. 110.) The large number of persons in the proposed Settlement Class, coupled with the fact that they are geographically disbursed throughout the country, renders joinder impracticable. *See McCluskey v. Trs. of Red Dot Corp. Emp. Stock Ownership Plan & Trust*, 268 F.R.D. 670, 674 (W.D. Wash. 2010).

B. The Requirement of Commonality Is Satisfied.

The second requirement for certification mandates that “there are questions of law or fact common to the class.” Fed. R. Civ. P. 23(a)(2). Commonality is demonstrated when the claims of all class members “depend upon a common contention . . . that is capable of class-wide resolution.” *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011). This requires that the determination of the common question “will resolve an issue that is central to the validity of each one of the claims in one stroke.” *Id.* “Even a single common question will do.” *Id.* at 359. Thus, when a defendant “has engaged in some course of conduct that affects a group of persons and gives rise to a cause of action, one or more of the elements of that cause of action will be common” and the requirements of Rule 23(a)(2) are satisfied. *Phelps v. 3PD, Inc.*, 261 F.R.D. 548, 555 (D. Or. 2009) (quoting *Oregon Laborers*, 188 F.R.D. at 373).

In this case, all proposed Settlement Class Members’ claims involve common questions of law and fact regarding Premera’s data security. Proposed Settlement Class Members’ claims arise out of a common core of facts. For example, whether Premera’s data security practices were sufficient is a common question of fact imbedded in each one of their claims. Moreover, this question would have been answered using common evidence. Premera held Personal Information for all proposed Settlement Class Members in centralized databases. ECF 156, Ex. 74 (Seymour Dep 2) at 42:8–16. Its security practices did not vary internally or among its members. Proof regarding Premera’s deficient security practices would have been common across the proposed

Settlement Class and this alone is sufficient to establish commonality. *See, e.g., Grays Harbor Adventist Christian Sch. v. Carrier Corp.*, 242 F.R.D. 568 572 (W.D. Wash. 2007) (finding numerous common questions related to Washington CPA claim); *Smith v. Triad of Alabama, LLC*, No. 1:14-CV-324-WKW, 2017 WL 1044692 (M.D. Ala Mar. 17, 2017), *on reconsideration in part*, 2017 WL 3816722 (M.D. Ala. Aug. 31, 2017) (holding, in data breach case, that “[t]he effect and terms of the purported contract are common points sufficient to carry the first claim past Rule 23(a)(2)”).

Additional common questions include: (1) Whether Premera was aware or had reason to be aware that its systems were vulnerable to attack, given multiple government warnings and the inadequacies and deficiencies in its own data security policies and procedures; (2) whether Premera violated HIPAA in its policies and practices regarding data security; (3) whether Premera was unfair or deceptive in its business practices by failing to disclose deficiencies in its data security; (4) whether the Data Breach compromised Personal Information; and (5) whether the proposed Settlement Class Members would be entitled to damages as a result of Premera’s conduct. These common questions run throughout all claims of the proposed Settlement Class and satisfy the commonality requirement of Rule 23.

C. The Requirement of Typicality Is Satisfied.

Rule 23 next requires that the class representatives’ claims be typical of those of the class members. Fed. R. Civ. P. 23(a)(3). “The purpose of the typicality requirement is to assure that the interest of the named representative aligns with the interests of the class.” *Hanon v. Dataproducts Corp.*, 976 F.2d 497, 508 (9th Cir. 1992). “The test of typicality is whether the other members have the same or similar injury, whether the action is based on conduct which is not unique to the named plaintiffs, and whether other class members have been injured in the same course of

conduct.” *Ellis v. Costco Wholesale Corp.*, 657 F.3d 970, 984 (9th Cir. 2011). The Ninth Circuit does not require the named plaintiffs’ injuries to be “identical with those of the other class members, [but] only that the unnamed class members have injuries similar to those of the named plaintiffs and that the injuries result from the same injurious course of conduct.” *Armstrong v. Davis*, 275 F.3d 849, 869 (9th Cir. 2001), *abrogated on other grounds by Johnson v. California*, 543 U.S. 499, 504–05 (2005)). Thus, “a plaintiff’s claim is typical if it arises out of the same event or practice or course of conduct that gives rise to the claims of other class members and his or her claims are based on the same legal theory.” *Phelps*, 261 F.R.D. at 557 (quoting *Sorenson v. Concanon*, 893 F. Supp. 1469, 1479 (D. Or. 1994)). In addition, at least one class representative must have standing to pursue claims against Defendant in order for the typicality prong to be met. *See In re Abbott Labs. Norvir Anti-Trust Litig.*, No. C 04–1511 CW, 2007 WL 1689899, at *3 (N.D. Cal. June 11, 2007) (“[I]t is well-settled that prior to the certification of a class, and technically speaking before undertaking any formal typicality or commonality review, the district court must determine that at least one named class representative has Article III standing to raise each class subclaim.” (quotation marks omitted)); *see also Frank v. Gaos*, ___ U.S. ___, 139 S. Ct. 1041, 1046 (2019) (“A court is powerless to approve a proposed class settlement if . . . no named plaintiff has standing.”).

Plaintiffs’ claims and the Settlement Class Member’s claims arise from the same conduct by Premera. Plaintiffs are each typical of the proposed Settlement Class because Plaintiffs possess the same interests and suffered harm from the same conduct as did the proposed Settlement Class Members. Plaintiffs and the proposed Settlement Class Members each had Personal Information that was stored on Premera’s computer network systems when those systems were compromised in the Data Breach. And each of the named Plaintiffs has standing to pursue their claims. It is well-

established in the Ninth Circuit that an increased risk of harm for victims of data theft, where the data taken is sensitive and personal (such as the Personal Information here), and where Plaintiffs allege at least some information has been used for harm, as Plaintiffs allege here, meets the requirements for Article III standing. *See In re Zappos.com, Inc.*, 888 F.3d 1020, 1027 (9th Cir. 2018), *cert. denied sub nom. Zappos.com, Inc. v. Stevens*, 139 S. Ct. 1373 (2019). Thus, Plaintiffs' claims arise out of the same course of conduct, are based on the same legal theories, seek the same types of damages as the proposed Settlement Class, and meet all necessary standing requirements. Accordingly, the typicality requirement is satisfied.

D. The Requirement of Adequate Representation Is Satisfied.

The final Rule 23(a) prerequisite requires that the proposed class representatives have and will continue to "fairly and adequately protect the interests of the class." Fed. R. Civ. P. 23(a)(4). "To determine whether named plaintiffs will adequately represent a class, courts must resolve two questions: '(1) do the named plaintiffs and their counsel have any conflicts of interest with other class members and (2) will the named plaintiffs and their counsel prosecute the action vigorously on behalf of the class?'" *Ellis*, 657 F.3d at 985 (quoting *Hanlon*, 150 F.3d at 1020).

Here, the interests of the Plaintiffs are identical to the interests of each member of the proposed Settlement Class since they each had Personal Information stored on Premera's computer network systems when those systems were compromised in the Data Breach, and they each seek to recover damages and injunctive relief related to the Data Breach. Plaintiffs have no interests that are antagonistic to or in conflict with the persons in the proposed Settlement Class they seek to represent, and they have a substantial interest in the outcome of this action, since their Personal Information was compromised in the Data Breach. In addition, proposed Class Counsel are active practitioners with substantial experience in consumer, privacy and data breach litigation, who have

been appointed to leadership positions in numerous class actions. *See* Declarations filed with Plaintiffs’ Motion for Class Certification: ECF 157 (Declaration of Keith S. Dubanevich at ¶¶ 3–9); ECF 158 (Declaration of James J. Pizzirusso at ¶¶ 2–4); ECF 159 (Declaration of Karen Hanson Riebel at ¶¶ 3–5); ECF 161 (Declaration of Kim D. Stephens at ¶¶ 2–4); ECF 162 (Declaration of Tina Wolfson at ¶¶ 11–18). The requirements of Rule 23(a) are satisfied.

E. The Proposed Settlement Meets the Requirements of Rule 23(b)(3).

Once the threshold requirements of Rule 23(a) are satisfied, Plaintiffs also must show that “questions of law and fact common to the members of the class predominate over any questions affecting only individual members,” and that a class action is superior to other available methods of adjudicating the claims. Fed. R. Civ. P. 23(b)(3). Rule 23(b)(3)’s predominance requirement tests whether proposed classes are “sufficiently cohesive to warrant adjudication by representation.” *Hanlon*, 150 F.3d at 1022 (citing *Amchem*, 521 U.S. at 623). The predominance inquiry measures the relative weight of the common questions as against individual ones. *Amchem*, 521 U.S. at 624. Common issues predominate here because Plaintiffs contend the central liability question in this case—whether Premera’s Security Incident wrongfully exposed the proposed Settlement Class’s Personal Information to compromise—can be established through generalized evidence.

1. Common Issues of Law and Fact Predominate in All Four Causes of Action.

The proposed Settlement seeks to resolve four factually related causes of action: CPA, Negligence, Breach of Contract, and CMIA. Each of these claims rests on the same factual basis: Defendant held the proposed Settlement Class Members’ Personal Information on its computer systems; Defendant had a duty to safeguard this Personal Information; Defendant failed in that

duty and thereby permitted Members' Personal Information to be compromised in the Data Breach; and the proposed Settlement Class Members were harmed by this exposure of their Personal Information. The common factual and legal issues overwhelmingly predominate over individualized concerns in a case like this one where the proposed Settlement Class Members were all allegedly damaged by the same conduct with respect to Defendants' centralized computer systems.

The Court must analyze choice of law as part of the predominance inquiry. *See Mazza v. Am Honda Motor Co., Inc.*, 666 F.3d 581, 589–90 (9th Cir. 2012). Here, the aggregated contacts with the State of Washington overwhelmingly point to the application of Washington law for the CPA and Negligence Claims. Restatement (Second) of Conflict of Laws § 145; *Pruczinski v. Ashby*, 374 P.3d 102, 108 n.7 (Wash. 2016). Premera's place of incorporation and principal place of business is Washington. Premera stored the proposed Settlement Class members' data on servers in Washington and all of Premera's data security conduct occurred in Washington. "[T]he place where the defendant's conduct occurred will usually be given particular weight in determining the state of the applicable law." *Id.* § 145 cmt. e. In other nationwide data breach cases, courts have applied similar reasoning. *In re Target Corp. Customer Data Sec. Breach Litig.*, 309 F.R.D. 482, 489 (D. Minn. 2015) (holding that Minnesota law applied to all class members' negligence claims because Target was incorporated and headquartered in Minnesota; the relevant servers affected by the breach were in Minnesota; security decisions were made in Minnesota; and Target employees' failure to heed specific warnings about security vulnerabilities occurred in Minnesota); *see also Veridian Credit Union v. Eddie Bauer, LLC*, 295 F. Supp. 3d at 1153–54 (finding Washington had most significant relationship where misconduct related to defendant's decisions concerning internal data security that led to a data breach were made "at its corporate

headquarters in Bellevue, Washington,” and its failure to employ adequate data security measures “emanated from [its] headquarters” even though plaintiff was located in Iowa).

With respect to the Breach of Contract Claim, there is no meaningful difference in the relevant law among the various states, so the Court does not need to make a choice of law decision. Breach of contract claims are based on black letter common law that does not materially vary among the implicated states. *See, e.g., In re U.S. Foodservice Inc. Pricing Litig.*, 729 F.3d 108, 127 (2d. Cir. 2013) (“A breach is a breach is a breach, whether you are on the sunny shores of California or enjoying a sweet autumn breeze in New Jersey.” (citation omitted)).

Finally, the CMIA Claim is a California state law claim that, by its terms and the terms of the proposed Settlement, will only impact the proposed Settlement Class Members who resided in California as of March 17, 2015, the date Premera gave notice of the Data Breach. Premera knowingly insured individuals who resided in California; it was therefore aware that it could be subject to California’s additional statutory requirements for California residents. While Premera’s conduct was centered in Washington, California has a significant relationship to the dispute with respect to the legal protections California established under the CMIA. California has the most significant relationship with respect to this particular claim (that does not exist under Washington or Oregon law), and California has a clear interest in ensuring that its citizens are protected by the provisions of the CMIA. Restatement (Second) of Conflict of Laws § 145.

Applying these choice of law principles to each of the four causes of action resolved in this proposed Settlement Agreement, it is clear that common issues of law and fact predominate over individualized concerns.

a. Common Issues of Law and Fact Predominate for the Washington CPA Claim.

With respect to the Washington CPA Claim, Plaintiffs have asserted that they are entitled to recover damages because Premera's failure to provide adequate data security for their Personal Information was an unfair practice that violated the CPA. Plaintiffs have also asserted that Premera's failure to inform class members, employers, or regulators that it lacked appropriate data security was a deceptive practice that violated the CPA. "To establish a CPA violation, the plaintiff must prove five elements: (1) an unfair or deceptive act or practice that (2) occurs in trade or commerce; (3) impacts the public interest; (4) and causes injury to the plaintiff in her business or property, and (5) the injury is causally linked to the unfair or deceptive act." *Michael v. Mosquera-Lacy*, 200 P.3d 695, 698–99 (Wash. 2009) (citing *Hangman Ridge Training Stables, Inc. v. Safeco Title Ins. Co.*, 719 P.2d 531, 533 (Wash. 1986)); RCW § 19.86.020. Plaintiffs would prove each of these elements by generalized proof regarding whether Premera's data security was adequate and the actual vulnerabilities of the Personal Information stored within Premera's computer systems, the facts of the breach of those systems, and the resulting exposure of the proposed Settlement Class Members' data and caused damages. The Washington CPA applies extraterritorially. *Thornell v. Seattle Serv. Bureau, Inc.*, 363 P.3d 587, 592 (Wash. 2015). Therefore, this Court can apply it to all proposed Settlement Class Members. Thus, common issues of law and fact predominate individualized issues with respect to the Washington CPA claim.

b. Common Issues of Law and Fact Predominate in the Negligence Claim.

To prove his or her Negligence Claim under Washington law, a plaintiff must show "(1) the existence of a duty, (2) breach of that duty, (3) resulting in injury, and (4) proximate cause." *Ranger Ins. Co. v. Pierce Cty*, 192 P.3d 886, 889 (Wash. 2008). Again, all issues pertinent to these

claims can be resolved on a classwide basis as Plaintiffs' liability case depends first and foremost on whether Premera used adequate data security practices to protect class members' Personal Information. The duty would be the duty Premera owed to proposed Settlement Class members to maintain adequate data protection over the Personal Information within its computer systems; the breach of the duty would be Premera's failure to adequately safeguard those systems; and proximate cause would be shown in the relationship of the Data Breach to Defendant's failure to appropriately safeguard its systems. Again, these joint questions would overwhelmingly predominate over individualized inquiries.

c. Common Issues of Law and Fact Predominate in the Breach of Contract Claim.

Plaintiffs' contract claim is based on promises Premera made in the Notice of Privacy Practices it sent to its members. This Notice included identical promises to all proposed Settlement Class Members that Premera is "committed to maintaining the confidentiality of your medical and financial information," "must take measures to protect" members' data, and "take steps to secure [its] buildings and electronic systems from unauthorized access." ECF 156, Exs. 5, 6. The joint issues of fact and law inherent in this claim include the question whether this Notice was incorporated by reference into the members' contracts, as Premera had a uniform practice of mailing the notice along with the policy booklet contract. ECF 156, Ex. 7; *see also In re Premera Blue Cross Consumer Data Sec. Breach Litig.*, No. 3:15-md-2633-SI, 2017 WL 539578, at *10–11 (D. Or. Feb. 9, 2017) (citing *Dalmage v. Combined Ins. Co. of Am*, No. 14 C 3809, 2016 WL 754731, at *4–6 (N.D. Ill. Feb. 23, 2016)) (holding that concurrent receipt of the Privacy Notice with the policy booklet was sufficient to state a claim for breach of contract based on the Privacy Notice.).

The claim for breach of a “form contract . . . present[s] the classic case for treatment as a class action.” *In re Scotts EZ Seed Litig.*, 304 F.R.D. 397, 411 (S.D.N.Y. 2015); *see also In re U.S. Foodservice Inc. Pricing Litig.*, 729 F.3d 108, 124 (2d Cir. 2013) (affirming class certification where, as here, each proposed class member was subject to the same material contractual terms). Thus, common issues greatly predominate individualized concerns with respect to the Breach of Contract Claim.

d. Common Issues of Law and Fact Predominate in the CMIA Claim.

California’s Confidentiality of Medical Information Act prohibits covered entities such as Premera from negligently releasing an individual’s confidential medical information and obligates a covered entity to treat such medical information in a “manner that preserves the confidentiality of the information contained therein.” Cal. Civ. Code §§ 56.36, 56.101(a); *In re Premera Blue Cross Customer Data Sec. Breach Litig.*, 198 F. Supp. 3d 1183, 1201 (D. Or. 2016). To establish a violation of the CMIA, a plaintiff must show that the defendant negligently caused the release of “individually identifiable information . . . regarding a patient’s medical history, mental or physical condition, or treatment,” and that an unauthorized third party “viewed or otherwise accessed” the confidential information. Cal. Civ. Code § 56.05(j); *Regents of the Univ. of Cal. v. Superior Court*, 220 Cal. App. 4th 549, 554, 564–65, 163 Cal. Rptr. 3d 205, 208, 216 (2013). This claim applies only to those proposed Settlement Class Members who resided in California prior to March 17, 2015 while they were Premera-insureds. The question of whether a proposed Settlement Class Member is eligible for damages under the CMIA is easily resolved by asking each proposed Settlement Class member the same question: whether they resided in California at the relevant time.

Premiera's alleged violations of the CMIA affected all proposed Settlement Class members who resided in California at the relevant time in materially the same way. Premiera had in its computer systems individually identifiable information relating to their medical history, condition, or treatment. ECF 156, Ex. 74 (Seymour Depo. 2 at 42:8–16). The privacy of their medical information was compromised in the same way during the Data Breach. CMIA claims resulting from the failure to adequately protect medical information have been certified as a class action for settlement. *See Johansson-Dohrmann v. Cbr Sys., Inc.*, 12-CV-1115-MMA BGS, 2013 WL 3864341, at *8 (S.D. Cal. July 24, 2013). Thus, once again, the common issues of law and fact would predominate over individualized concerns with respect to the CMIA Claim.

2. Class Adjudication Would Be Superior to Other Available Methods.

“[T]he purpose of the superiority requirement is to assure that the class action is the most efficient and effective means of resolving the controversy” 7AA Charles Wright, Arthur Miller & Mary Kay Kane, *Federal Practice and Procedure* § 1779 (3d ed. 2005); *Wolin v. Jaguar Land Rover N. Am., LLC*, 617 F.3d 1168, 1175 (9th Cir. 2010). “Rule 23(b)(3)’s superiority test requires the court to determine whether maintenance of this litigation as a class action is efficient and whether it is fair. This analysis is related to the commonality test. Underlying both tests is a concern for judicial economy.” *Id.* at 1175–76.

“‘Where damages suffered by each putative class member are not large,’ the first factor ‘weighs in favor of certifying a class action.’” *Agnes v. Papa John’s Int’l, Inc.*, 286 F.R.D. 559, 571 (W.D. Wash. 2012) (quoting *Zinser v. Accufix Research Inst., Inc.*, 253 F.3d 1180, 1190 (9th Cir. 2001)). “The policy ‘at the very core of the class action mechanism is to overcome the problem that small recoveries do not provide the incentive’ for individuals to bring claims.” *Id.* (quoting *Amchem*, 521 U.S. at 617). Courts have held the superiority requirement was met even where the

amount of damages could reach \$1,500 per individual. *Kavu, Inc. v. Omnipak Corp.*, 246 F.R.D. 642, 650 (W.D. Wash. 2007); *see also Rodriguez v. Experian Info. Solutions, Inc.*, No. C15-01224-RAJ, 2018 WL 1014606, at *6 (W.D. Wash. Feb. 22, 2018) (superiority requirement met where “relatively small” statutory damages of \$1000 per violation under the Fair Credit Reporting Act would deter individual litigants).

Like other proposed class actions, this case involves millions of individual class members, each of whom have suffered a relatively small amount of damages. Even at the high end of the estimates for recovery, individual litigation would be cost-prohibitive. *See Chamberlan v. Ford Motor Co.*, 402 F.3d 952, 960 (9th Cir. 2005) (“[T]he district court did not abuse its discretion in finding that, absent a class action, Class Plaintiffs would have no meaningful redress . . .”). Here, litigating through a class action is superior to leaving Plaintiffs and the proposed class members without a viable means of pursuing their claims.

Because the claims are being certified for purposes of settlement, there are no manageability issues. *Amchem*, 521 U.S. at 620 (“Confronted with a request for settlement-only certification, a district court need not inquire whether the case, if tried, would present intractable management problems . . . for the proposal is that there be no trial.”). Additionally, the resolution of hundreds of thousands of claims in one action is far superior to individual lawsuits and promotes consistency and efficiency of adjudication. *See id.* at 617 (noting the “policy at the very core of the class action mechanism is to overcome the problem that small recoveries do not provide the incentive for any individual to bring a solo action prosecuting his or her rights.”). Certification for purposes of settlement is appropriate.

V. The Court Should Appoint Plaintiffs' Counsel as Class Counsel.

After certifying a class, Rule 23 requires a court to appoint class counsel that will fairly and adequately represent the class members. Fed. R. Civ. P. 23(g)(1)(B). In making this determination, the Court must consider, *inter alia*, counsel's (i) work in identifying or investigating potential claims; (ii) experience in handling class actions or other complex litigation and the types of claims asserted in the case; (iii) knowledge of the applicable law; and (iv) resources committed to representing the class. Fed. R. Civ. P. 23(g)(1)(A)(i–iv).

As set forth in Section IV.D. above (pp.16–17), proposed Class Counsel have extensive experience in consumer, privacy and data breach class action cases. Proposed Class Counsel have successfully litigated and settled numerous data breach class actions across the country and were extremely well qualified to litigate this case. In addition, proposed Class Counsel have spent almost four years litigating this case, conducting discovery, and advocating for the class. As a result of their efforts, the negotiated proposed Settlement provides considerable monetary and equitable relief to each of the proposed Settlement Class members. (*See* Section III. above, pp. 6–11.) Thus, this Court should appoint Kim D. Stephens and Jason T. Dennett of Tousley Brain Stephens PLLC; Keith S. Dubanevich of Stoll Berne; Tina Wolfson of Ahdoot and Wolfson, PC; James Pizzirusso of Hausfeld LLP; and Karen Hanson Riebel of Lockridge Grindal Nauen P.L.L.P. as Class Counsel.

VI. The Proposed Settlement Is Fundamentally Fair, Reasonable, and Adequate, and thus Warrants Preliminary Approval.

The Court should also grant preliminary approval of the proposed Settlement. A court's ultimate approval of a class action settlement involves the consideration of certain factors to determine whether a proposed settlement is fair, reasonable, and adequate. Fed. R. Civ. P. 23(e)(2).

Preliminary approval of a settlement is appropriate if “the proposed settlement appears to be the product of serious, informed, non-collusive negotiations, has no obvious deficiencies, does not improperly grant preferential treatment to segments of the class, and falls within the range of possible approval.” *See Booth v. Strategic Realty Trust, Inc.*, No. 13–cv–04921–JST, 2015 WL 3957746, at *6 (N.D. Cal June 28, 2015) (citing *In re Tableware Antitrust Litig.*, 484 F. Supp. 2d 561, 570 (E.D. Pa. 2001); *see also* MCL 4th § 21.632. “To assess a settlement proposal, courts must balance the strength of the plaintiffs’ case; the risk, expense, complexity, and likely duration of further litigation; the risk of maintaining class action status throughout the trial; the amount offered in settlement; the extent of discovery completed and the state of the proceedings; the experience and views of counsel; the presence of a governmental participant; and the reaction of the class members to the proposed settlement.” *In re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 944 (9th Cir. 2015).

Importantly, this Motion seeks preliminary approval of the proposed Settlement, not final approval. Accordingly, the standards are not as stringent as those applied to a motion for final approval. MCL 4th § 21.63 (“At the stage of preliminary approval, the questions are simpler, and the court is not expected to, and probably should not, engage in analysis as rigorous as is appropriate for final approval.”). If the proposed Settlement discloses no reason to doubt its fairness, has no obvious deficiencies, does not improperly grant preferential treatment to class representatives or segments of the class, does not grant excessive compensation to attorneys, and appears to fall within the range of possible approval, the Court should grant preliminary approval. For the following reasons, this proposed Settlement should be preliminarily approved.

A. The Proposed Settlement Agreement Is the Product of Serious, Informed, and Non-Collusive Negotiations.

The Court’s role is to ensure that “the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned.” *Hanlon*, 150 F.3d at 1027; *see also In re Online DVD*, 779 F.3d at 944 (noting settlements in class actions “present unique due process concerns for absent class members,” including the risk that class counsel “may collude with the defendants” (quoting *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 946 (9th Cir. 2010))).

The Court may presume that a proposed settlement is fair and reasonable when it is the result of arm’s-length negotiations. 4 Newberg on Class Actions ¶ 11.41 (4th ed). In this case, there is no evidence the settlement involves fraud or collusion. In addition, there is also a presumption that no fraud or collusion occurred between counsel, in the absence of any evidence to the contrary. *Id.*

The proposed Settlement is the result of intensive, arm’s-length negotiations between experienced attorneys for all Parties who are familiar with class action litigation in general and with the legal and factual issues of this case in particular. *See* Dubanevich Decl., Ex. B, ¶¶ 7–10. Plaintiffs’ Counsel are particularly experienced in the litigation, certification, trial, and settlement of data breach class actions. *See* Section IV.D. above (pp.15–16). As detailed in Section II above (p. 5), the Settlement was the result of months of extensive and arm’s-length settlement negotiations, including three extended mediation sessions with the aid of Judge Gandhi and Mr. Rosen, Esq. On February 15, 2019, the Parties reached a preliminary agreement on terms for a nationwide settlement. All the Parties executed the proposed Settlement Agreement on May 29, 2019. A settlement negotiated with the assistance of an experienced private mediator is further

proof that the settlement was reached fairly and provides adequate relief to the class. *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d at 948 (recognizing that use of a mediator is “a factor weighing in favor of a finding of non-collusiveness”).

Plaintiffs’ Counsel spent years engaging in written discovery, document review, depositions, data analysis, expert analysis, and analyzing legal issues related to the lawsuit’s claims. *See* Dubanevich Decl., Ex. B, ¶ 3; *Hanlon*, 150 F.3d at 1027 (no basis to disturb the settlement in the absence of any evidence suggesting that the settlement was negotiated in haste or in the absence of information). Plaintiffs and proposed Class Counsel support the settlement as fair, reasonable, adequate and in the best interests of the members of the proposed Settlement Class. This factor favors granting preliminary approval.

B. Complexity, Expense, and Likely Duration of the Litigation.

Class action cases present many complex issues. The unique legal questions raised in this case were extremely complex. At this point in the litigation, the Parties have engaged in substantial discovery that produced 1.5 million pages of documents relating to the claims of the Plaintiffs and the proposed Settlement Class. The case has been pending for almost four years. The complexity of this case is apparent not only from the issues involved, but also from the extensive record.

This litigation, including the settlement negotiations, has been complex, expensive and time-consuming for all Parties. Further litigation would be prolonged and expensive with unknown results. The proposed Settlement avoids these risks and provides immediate and certain relief to the proposed Settlement Class. This factor weighs in favor of preliminary approval.

C. The Stage of the Proceedings and the Amount of Discovery Completed Support Preliminary Approval.

Plaintiffs' Counsel have thoroughly analyzed the factual and legal issues involved in this case. Plaintiffs' Counsel's investigation of the Data Breach and Premera's data security practices commenced in 2015. Since that time, proposed Class Counsel have fully defended against and survived Premera's two motions to dismiss, reviewed over a million pages of documents during a lengthy discovery period, taken and defended more than 50 depositions, including those of eight experts, filed and argued numerous discovery motions, and fully briefed their motion for class certification and motions to exclude expert testimony. Through this extensive discovery, Plaintiffs' Counsel obtained essential information about the Data Breach and Premera's data security practices. Plaintiffs' Counsel also retained four experts to measure damages, investigate the Data Breach, and conduct forensic analysis of Premera's computer and data systems. This factor favors preliminary approval of the proposed Settlement.

D. The Proposed Settlement Provides Substantial Relief to the Proposed Settlement Class and Treats All Proposed Settlement Class Members Fairly.

As detailed above, the terms of the proposed Settlement are extremely fair to all proposed Settlement Class Members. *See* pp. 4–9, *supra*. Premera agrees to pay \$32 million to fund a Qualified Settlement Fund. As explained in more detail below, the Qualified Settlement Fund will provide Settlement Class Members with substantial individual monetary relief and robust Credit Monitoring and Insurance worth hundreds of dollars per claimant. Premera commits to a variety of injunctive measures to protect Settlement Class Members data stored in its systems in the future, and has committed to investing no less than \$14 million per year for three years on these efforts. The Qualified Settlement Fund also will be used to pay any class representative Service Awards,

attorneys' fees to proposed Class Counsel, and notice and claims administration costs, as approved by the Court. (SA, §§ III, IV, V, IX.) The Qualified Settlement Fund is non-reversionary, ensuring that the monetary benefits will go to the proposed Settlement Class—any residual Settlement Funds will be distributed first, to the extent feasible, as additional compensation or Credit Monitoring and Insurance services to the Class, and to the extent not feasible for such distribution, to an appropriate *cy pres* recipient, to be approved by the Court. (SA ¶ 4.7.1(c).)

1. The Credit Monitoring and Insurance Services Provide Valuable Benefits to Settlement Class Members.

The Settlement Agreement provides Settlement Class Members with two years of Credit Monitoring and Insurance Services through Identity Guard. The services offered to the Settlement Class Members have a retail value of \$19.99 per month per individual. *See supra* Section III.D.; Identity Guard, *Total Plan*, <https://www.identityguard.com/plans/total/> (last visited May 28, 2019). Over the two-year period that the Settlement Agreement provides this service, this amounts to a value of \$479.76 for each participating Settlement Class Member. Given a class size of approximately 10.6 million individuals, this is an enormous benefit, potentially amounting to hundreds of millions of dollars of savings to Settlement Class Members were they to obtain similar, or even inferior, credit-monitoring products on their own on the open market. A higher response rate means more claimants will receive the Credit Monitoring and Insurance Services, resulting in an increase in the value attributable to that component of the Settlement. Thus, the actual value of the benefits to the Settlement Class Members includes, for every 1% of Settlement Class Members that receive this service, an additional value to the Settlement Class of approximately \$50,854,560.00, before excluding the cost of the Credit Monitoring and Insurance Services.

The retail value of these services (rather than the cost) is the proper gauge to apply here, given that this represents the value of the benefit Class Members will actually receive. *See, e.g., Johansson-Dohrmann v. Cbr Sys., Inc.*, No. 12-cv-1115-MMA (BGS), 2013 WL 3864341, at *9 (S.D. Cal. July 24, 2013) (including value of credit monitoring in value of common fund, and finding requested fees “well within the 25% benchmark”);⁴ *In re The Home Depot, Inc. Customer Data Sec. Breach Litig.*, No.: 1:14-md-02583-TWT, 2016 WL 6902351, at *4 (N.D. Ga. Aug. 23, 2016) (granting final approval and reasoning that “[t]hese services have a retail value of approximately \$180 per enrollee”); *Lockwood v. Certegy Check Servs., Inc.*, No. 07-cv-01434, Dkt. 101 at 9 n.4 (M.D. Fla. Sept. 3, 2008) (“Using the Representative Plaintiffs’ estimates of the value of the monitoring”); *In re Michaels Stores Pin Pad Litig.*, No. 11-cv-03350, Dkts. 103 (fee motion), 107 (final approval order) (N.D. Ill. Mar. 3 & Apr. 17, 2013) (granting fee request justified under percentage method based on retail value of credit monitoring); *In re Experian Data Breach Litig.*, No. 8:15-cv-01592-AG-DFM (C.D. Cal. May 10, 2019), Dkt. 322 (final approval order) at 2 (granting fee request justified under percentage method based on retail value of credit monitoring).

2. Premera’s Investment in Injunctive Measures Provides Additional Value to the Class.

Premera agreed to spend \$42 million on improved data security between 2019 and 2022. Settlement Agreement Exhibit A and Paragraph 4.8.2; Declaration of Robert Vigil (“Vigil Decl.”) at ¶¶ 18–21; 26–28. This improved data security benefits everyone whose data is in Premera’s system because a new data breach would cause harm to those people. *Id.* at ¶¶ 9–10 (citing

Declaration of Dr. Coleman Bazelon In Support of Plaintiffs’ Motion For Class Certification, ECF 164 at ¶ 19).

Premera agrees that its cost to obtain and maintain the components of the injunctive relief is equal to the difference between (1) the \$14 million per year Premera is obligated to spend on data security under the Settlement Agreement and (2) Premera’s pre-breach IT security budget.⁵ SA ¶ 4.8.2. Dr. Vigil calculates that cost, then values the benefit to the class members using the Cost Approach, a conservative and commonly used method to value an intangible asset like data security. Vigil Decl. at ¶¶ 18–20; 10–17.

The Cost Approach is a methodology that is commonly used by economists and finance professionals to value many different types of assets. *Id.* at ¶ 11. This approach is most applicable in situations, similar to this case, where cost information is known, the intangible asset being valued is new (*i.e.*, the improvement in data security), and the type of value being estimated is the value in continued use by the current owner. *Id.* at ¶ 12. The premise of the Cost Approach is that “the cost to purchase or develop [an asset] is commensurate with the economic value of the service that the [asset] can provide during its life.” *Id.* at ¶ 16, citing Smith, Gordon V., and Russell L. Parr, *Valuation of Intellectual Property and Intangible Assets* 197–98 (3d ed. 2000). Inherent in Premera’s decision to spend money on data security is a belief that its customers will benefit by an amount *at least as much* as it spends. Premera may believe that its customers will benefit by more than what it spends, but not less. If Premera did not believe its customers would benefit by the amount it has already spent and has agreed to spend, it would not be rational for Premera to spend this money. *Id.* at ¶ 17. Courts have found the Cost Approach to be an acceptable valuation

⁵ To protect Premera’s confidentiality, Premera’s historical IT budgets and patient population data are detailed only in Dr. Vigil’s report, which the parties will move to file under seal.

methodology in a wide variety of cases. *See, e.g., Apple, Inc. v. Samsung Elecs. Co., Ltd.*, No.: 12–CV–00630–LHK, 2014 WL 794328 at *4-5, 11 (N.D. Cal. Feb. 25, 2014) (valuing patents related to various smartphone features); Vigil Decl. at ¶ 15 (compiling additional cases).

However, the improved data security benefits not just class members (those whose data was in Premera’s system at the time of the breach) but also those people whose data was added to that database between the breach and the present. Dr. Vigil adjusted the value to the class considering the number of people added to Premera’s database between the data breach and the present and estimating the increase during the three year injunctive period. *Id.* at ¶¶ 21–24. Based on that calculation, the value to the class members of the injunctive relief that Premera has agreed to pay for and implement over the three-year settlement period is, at least, **\$11,872,000**. Vigil Decl. at ¶¶ 3; 23–25.

Premera agrees that plaintiffs and Class Counsel were a catalyst in causing Premera to undertake remedial IT security measures it has already undertaken. Settlement Agreement ¶ 4.8.2. Those investments have already benefitted the class members in the form of improved security. Dr. Vigil calculated the value to the class members of the additional data security practices that Premera implemented from 2015 to 2018 at **\$30,104,000**. Vigil Decl. at ¶¶ 3; 30–32.

E. The Proposed Settlement Is Fair and Reasonable in Light of the Alleged Claims and Defenses.

Plaintiffs and Plaintiffs’ Counsel were confident in the strength of their case, but also pragmatic in their evaluation of the risks in continued litigation and the various defenses advanced by Premera. Proposed Settlement Class Members could have ended up recovering only a fraction of the proposed Settlement Agreement benefits, or losing the case at or before trial and recovering nothing at all. The Parties asked the Court to stay any ruling on class certification to allow for

mediation to take place. If mediation was unsuccessful, the Parties anticipated a ruling from the Court on class certification. The risks of an adverse ruling on class certification, or at trial, were considerable. In addition, Premera filed a Motion for Partial Summary Judgment on issues related to the filed rate doctrine, which is still pending as of the date of this Settlement, posing additional risk to some of Plaintiffs' claims.

The proposed Settlement provides certain and substantial relief to the proposed Settlement Class without delay and is within the range of reasonableness, particularly in light of the risks the Plaintiffs would face in continued litigation.

VII. The Proposed Notice Plan Should be Approved.

To satisfy the requirements of both Rule 23 and due process, Rule 23(c)(2)(B) provides that, "[f]or any class certified under Rule 23(b)(3), the court must direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort." Fed. R. Civ. P. 23(c)(2)(B); *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 173 (1974). Rule 23(e)(1) similarly requires that notice be reasonably disseminated to those who would be bound by the court's judgment. Fed. R. Civ. P. 23(e)(1). The best practicable notice is that which is "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950).

Defendant has agreed to provide—within thirty days of the date of the Order preliminarily approving this proposed Settlement ("Preliminary Approval Order")—a list in electronic form of persons that, according to its records, may be proposed Settlement Class Members including to the extent available in Premera's records each proposed Settlement Class Member's most current email and mailing address. (SA, ¶ 6.2.1.) At the same time, Premera has agreed to provide a list in

electronic form of persons that, according to its records, previously received written notice of the Data Breach, along with the email and mailing address used at the time such notice was sent. *Id.*

The proposed forms of notice, the Summary Notice and the Long Form Notice (SA, ¶ 6.1.4 and SA, Exhibits B and C) (“Notices”), satisfy all of the criteria of Rule 23. The Notices are clear, straightforward, and provide persons in the proposed Settlement Class with enough information to evaluate whether to participate in the proposed Settlement. The Notices also advise the proposed Settlement Class on how to object to the settlement, including Plaintiffs’ attorney fees and costs. Thus, the Notices satisfy the requirements of Rule 23. *Phillips Petroleum Co. v. Shutts*, 472 U.S. 797, 808 (1985) (explaining a settlement notice must provide settlement class members with an opportunity to present their objections to the settlement).

While Rule 23 does not require that each potential class member receive actual notice of the class action, *Mullane*, 339 U.S. at 316, the proposed Settlement Agreement provides for direct notice via either email or U.S. Mail to members of the proposed Settlement Class. The Class Member list that Premera has agreed to generate is especially trustworthy, as it is comprised entirely of individuals whose information is contained on Premera’s computer system, and whose information therefore may have been exposed in the Data Breach. Because the Parties have the ability to send direct notice to nearly 100% of all Class Members, publication notice is not necessary. But, in an abundance of caution, there will be some publication notice (still to be defined).

Besides direct-mail and email notice, the Claims Administrator will create a settlement website that will contain information for proposed Settlement Class Members and provide an opportunity for proposed Settlement Class Members to submit a claim form online. (SA, ¶ 6.2.9.) In addition, the Claims Administrator will establish a toll-free telephone number through which

Settlement Class members may obtain information about the Settlement. (SA, ¶ 6.2.11.) As an extra precaution, the proposed Settlement Agreement requires the appointment of a Notice Specialist who has recognized expertise in class action notice generally and data security litigation specifically to review the Notice and Claim Forms and assist with any recommended revisions as agreed to by the Parties and subject to this Court's approval. (SA, ¶¶ 1.19, 6.1.14, 6.2.10.)

The Parties have agreed to request the appointment of Epiq as the Settlement Administrator for this Settlement. Epiq has almost 30 years of experience serving as a Settlement Administrator in many large and complex class action lawsuits, including in other data breach lawsuits in which it handled similar duties with respect to assisting class members avail themselves of credit monitoring services, and resolving claims for out of pocket expenses. Additionally, the Parties have agreed to request the appointment of Cameron Azari as a Notice Specialist. Mr. Azari has over 19 years of experience in the design and implementation of legal notification and claims administration programs, having been personally involved in well over one hundred successful notice programs. Declaration of Cameron R. Azari ("Azari Decl.") on Settlement Notice Plan at ¶¶ 5–7 and Attachment 1.

As set forth below, and in the Notice and Claim Form (SA, Exhibits B, C, and E), the process for submitting a claim is straightforward and the manner in which Settlement Funds will be allocated is simple and efficient, and both treat all members of the Proposed Class fairly and equally. Proposed Settlement Class Members can fill out and mail back a tear-off postcard with postage prepaid, fill out a claim online and submit it electronically using an electronic signature, download a form from the Settlement website, or request a paper copy of a claim form from the Settlement Administrator. In sum, the Court should find that the proposed methods for providing

notice to the Class, including by direct mail, email, and a settlement website, comport with both Rule 23 and due process considerations. Azari Decl. at ¶¶ 28–31.

VIII. Scheduling a Final Approval Hearing Is Appropriate.

The last step in the settlement approval process is a final approval hearing at which the Court may hear all evidence and argument necessary to make its settlement evaluation. Proponents of the proposed Settlement may explain the terms and conditions of the proposed Settlement Agreement, and offer argument in support of final approval. Proposed Settlement Class Members who object to the proposed Settlement may appear and be heard. The Court will determine after the final approval hearing whether the proposed Settlement should be approved, and whether to enter a final order and judgment under Rule 23(e). Plaintiffs request that the Court set a date for a hearing on final approval at the Court's convenience, but no earlier than 120 days after entry of the Preliminary Approval Order, and schedule further proceedings pursuant to the schedule set forth below:

ACTION	DATE
Preliminary Approval Order Entered	At the Court's Discretion
Publication Notice Published	Within 30 days following entry of Preliminary Approval Order
Mailing of Notice Commenced	Within 45 days following entry of Preliminary Approval Order
Notice Date	60 days following the Commencement of Publication Notice
Proof of Notice Submitted	Within 60 days following Notice Date

Exclusion/Objection Deadline	Within 90 days after Notice Date
Final Approval Brief and Response to Objections Due	At least 10 days prior to the Final Approval Hearing
Final Approval Hearing	No earlier than 120 days following the Notice Date
Final Approval Order Entered	At the Court's Discretion
Deadline to Submit Claims	150 days after Notice Date

IX. Conclusion.

For the foregoing reasons, Plaintiff respectfully asks that the Court (1) certify the proposed Settlement Class for settlement purposes only; (2) appoint Elizabeth Black, Catherine Bushman, Krishnendu Chakraborty, Maduhchanda Chakraborty, Ralph Christopherson, Anne Emerson, William Fitch, Eric Forsetter, Mary Fuerst, Debbie Hansen-Bosse, Stuart Hirsch, Ilene Hirsh, Howard Kaplowitz, Barbara Lynch, and Kevin Smith as Settlement Class Representative Plaintiffs; (3) appoint Plaintiffs' Counsel as Class Counsel; (4) grant preliminary approval of the proposed Settlement Agreement; (5) approve the form and manner of notice described above; and (6) grant such further relief the Court deems reasonable and just. For convenience, proposed dates and deadlines leading to a final approval hearing are provided in the proposed order separately submitted to the Court.

DATED: May 30, 2019

TOUSLEY BRAIN STEPHENS PLLC

/s/ Kim D. Stephens

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Plaintiffs' Executive Leadership Committee

EXHIBIT 1

SETTLEMENT AGREEMENT

This Settlement Agreement, dated as of May 29, 2019, is made and entered into by and among the following Settling Parties (as defined below): (i) Elizabeth Black, Catherine Bushman, Krishnendu Chakraborty, Maduhchanda Chakraborty, Ralph Christopherson, Anne Emerson, William Fitch, Eric Forseter, Mary Fuerst, Debbie Hansen-Bosse, Stuart Hirsch, Ilene Hirsh, Howard Kaplowitz, Barbara Lynch, and Kevin Smith (collectively, the “Representative Plaintiffs”), individually and on behalf of the Settlement Class (as defined below), by and through Kim D. Stephens of Tousley Brain Stephens PLLC, James Pizzirusso of Hausfeld LLP, Tina Wolfson of Ahdoot & Wolfson, PC, Karen Hanson Riebel of Lockridge Grindal & Nauen PLLP, and Keith Dubanevich of Stoll Berne (together, “Class Counsel”); and (ii) Premera Blue Cross and its Related Entities, as set forth in ¶ 1.31 (collectively “Premera”), by and through its counsel of record, lead counsel Paul Karlsgodt of Baker & Hostetler LLP and Darin Sands of Lane Powell LLP. The Settlement Agreement and related letter agreement, dated as of May 29, 2019 (the “Letter Agreement”) are subject to Court approval and are intended by the Settling Parties to resolve, discharge, and settle fully, finally, and forever the Released Claims (as defined below), upon and subject to the terms and conditions hereof.

RECITALS

Whereas, Premera is a nonprofit corporation under Washington law. Premera and its direct and indirect subsidiaries provide health benefit policies and plans for individuals in Washington, Oregon, and Alaska and numerous companies headquartered in those same states that cover employees working in all fifty (50) states and U.S. territories;

Whereas, in March 2015, Premera publicly announced that its computer network system was the target of an external criminal-cyberattack that began in May 2014, which is believed to have been perpetrated by an Advanced Persistent Threat group originating from China (the “Security Incident”);

Whereas, since the time the Security Incident was first discovered, Premera worked closely with cybersecurity professionals and federal law enforcement officials to identify the scope of the Security Incident and to remediate Premera's computer network systems;

Whereas, during the forensic investigation Premera learned that certain data that could have been accessed by the cyberattackers included Personal Information for patients of Premera customers, including names, addresses, birthdates, Social Security numbers, protected health information, telephone numbers, and the names of employers;

Whereas, on March 17, 2015, Premera publicly announced the Security Incident and subsequently mailed individual notice regarding the Security Incident to affected customers;

Whereas, following public disclosure of the Security Incident plaintiffs filed numerous lawsuits against Premera and affiliated entities over the Security Incident, including:

<u>Case Name</u>	<u>Case Number</u>
<i>Devine v. Premera Blue Cross</i>	<u>3:15-cv-01157-SI</u>
<i>Colcord v. Premera Blue Cross</i>	<u>3:15-cv-00516-SI</u>
<i>Cushnie v. Premera Blue Cross</i>	<u>3:15-cv-01101-SI</u>
<i>Blackwolfe et al v. Premera Blue Cross</i>	<u>3:15-cv-01102-SI</u>
<i>Guenser v. Premera Blue Cross</i>	<u>3:15-cv-01103-SI</u>
<i>Hoirup et al v. Premera Blue Cross</i>	<u>3:15-cv-01104-SI</u>
<i>Cossey et al v. Premera Blue Cross</i>	<u>3:15-cv-01105-SI</u>
<i>Forseter et al v. Premera Blue Cross</i>	<u>3:15-cv-01106-SI</u>
<i>Archibald v. Premera Blue Cross</i>	<u>3:15-cv-01107-SI</u>
<i>Woodford et al v. Premera Blue Cross</i>	<u>3:15-cv-01115-SI</u>
<i>Webb et al v. Premera Blue Cross</i>	<u>3:15-cv-01156-SI</u>
<i>Surman et al v. Premera Blue Cross</i>	<u>3:15-cv-01092-SI</u>
<i>Purcell v. Premera Blue Cross et al</i>	<u>3:15-cv-00572-SI</u>
<i>Kaplowitz v. Premera Blue Cross</i>	<u>3:15-cv-01153-SI</u>
<i>Burkhardt v. Premera Blue Cross et al</i>	<u>3:15-cv-01155-SI</u>
<i>Welch v. Premera Blue Cross</i>	<u>3:15-cv-01158-SI</u>
<i>Powers v. Premera Blue Cross</i>	<u>3:15-cv-01159-SI</u>
<i>Olson v. Premera Blue Cross</i>	<u>3:15-cv-01160-SI</u>
<i>Emerson v Premera Blue Cross</i>	<u>3:15-cv-01161-SI</u>
<i>Facchinello v. Premera Blue Cross et al</i>	<u>3:15-cv-01162-SI</u>
<i>Hardan et al v. Premera Blue Cross</i>	<u>3:15-cv-01163-SI</u>
<i>Christopherson v. Premera Blue Cross</i>	<u>3:15-cv-01164-SI</u>
<i>Prothero v. Premera Blue Cross</i>	<u>3:15-cv-01165-SI</u>
<i>Astengo et al v. Premera Blue Cross</i>	<u>3:15-cv-01166-SI</u>
<i>Lynch v. Premera Blue Cross</i>	<u>3:15-cv-01167-SI</u>

<u>Case Name</u>	<u>Case Number</u>
<i>Miller v. Premera Blue Cross</i>	<u>3:15-cv-01168-SI</u>
<i>Eykel v. Premera Blue Cross</i>	<u>3:15-cv-01169-SI</u>
<i>Fuerst v. Premera Blue Cross</i>	<u>3:15-cv-01170-SI</u>
<i>Kaihoi v. Premera et al</i>	<u>3:15-cv-01171-SI</u>
<i>Dudley v. Premera Blue Cross</i>	<u>3:15-cv-01172-SI</u>
<i>Underwood v. Premera Blue Cross</i>	<u>3:15-cv-01154-SI</u>
<i>Black v. Premera Blue Cross</i>	<u>3:15-cv-01262-SI</u>
<i>Chakraborty et al v. Premera Blue Cross</i>	<u>3:15-cv-01263-SI</u>
<i>Green v. Premera Blue Cross, et al</i>	<u>3:15-cv-01264-SI</u>
<i>Fitch v. Premera Blue Cross</i>	<u>3:15-cv-01265-SI</u>
<i>Flint v. Premera Blue Cross</i>	<u>3:15-cv-01266-SI</u>
<i>Cummings v. Premera Blue Cross</i>	<u>3:15-cv-01267-SI</u>
<i>Shores et al v. Premera Blue Cross</i>	<u>3:15-cv-01268-SI</u>
<i>Danis et al v. Premera Blue Cross</i>	<u>3:15-cv-01392-SI</u>
<i>Hansen-Bosse v. Premera Blue Cross</i>	<u>3:15-cv-01472-SI</u>
<i>Imbler et al v. Premera Blue Cross</i>	<u>3:17-cv-01648-SI</u>

Whereas, on June 15, 2015, the United States Judicial Panel on Multi-District Litigation consolidated all pending and future federal court cases over the Security Incident for coordinated pretrial proceedings under 28 U.S.C. § 1407 in the District of Oregon before the Honorable Michael H. Simon, captioned as *In Re: Premera Blue Cross Customer Data Security Breach Litigation*, No. 3:15-md-2633-SI (D. Or.) (the “Multi-District Litigation” proceedings);

Whereas, over the course of numerous months the Settling Parties engaged in extensive and arm’s length settlement negotiations, including in three formal sessions of mediation with the aid of the Honorable Jay C. Gandhi (Ret.) of JAMS on October 26, 2018, and with the aid of the Honorable Jay C. Gandhi (Ret.) and Peter K. Rosen, Esq. of JAMS on January 24, 2019 and January 25, 2019, as well as numerous informal in-person and phone discussions, and in May 2019 reached a preliminary agreement on terms for a nationwide class action settlement;

Whereas, this Agreement sets forth the final understanding of the Settling Parties regarding the settlement of the Multi-District Litigation proceedings against Premera over the Security Incident;

Whereas, pursuant to these terms, this Settlement Agreement provides for the resolution of all claims and causes of action asserted, or that could have been asserted against Premera and the

Released Persons relating to the Security Incident, by and on behalf of the Representative Plaintiffs and Settlement Class Members, including any and all appellate rights, against Premera relating to the Security Incident (collectively, the “Litigation”);

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among Representative Plaintiffs, individually and on behalf of the Settlement Class, Class Counsel, and Premera that, subject to the approval of the Court, the Litigation and the Released Claims shall be finally and fully compromised, settled, and released, and the Litigation shall be dismissed with prejudice as to the Settling Parties and the Settlement Class, except those members of the Settlement Class who properly opt out of the Settlement Agreement, upon and subject to the terms and conditions of this Settlement Agreement and related Letter Agreement, as follows:

I. DEFINITIONS.

As used anywhere in the Settlement Agreement, including the Recitals, the following terms have the meanings specified below:

1.1 “Administration Expenses” means any and all reasonable fees, costs, and charges incurred, charged, or invoiced by the Settlement Administrator relating to the administration and notice of the Settlement, including but not limited to: (i) the reasonable costs and expenses that are associated with disseminating the notice to the Settlement Class, including, but not limited to, the Class Notice and the performance of the Notice Plan; (ii) the reasonable costs and expenses that are associated with the maintenance of the Qualified Settlement Fund as provided in this Agreement; (iii) the payment of Taxes, if any; and (iv) the reasonable costs and expenses of reviewing Claims and distributing the Qualified Settlement Fund to Settlement Class Members.

1.2 “Agreement” or “Settlement Agreement” or “Settlement” means this Settlement Agreement and the settlement embodied herein, including all attached Exhibits (which are an integral part of this Settlement Agreement and Release and are incorporated in their entirety by reference), including all subsequent written amendments executed by the Settling Parties and including exhibits to such amendments, and the terms of the related Letter Agreement.

1.3 “Approved Claim” means a Claim in an amount approved by the Settlement Administrator, as set forth in this Agreement.

1.4 “Claim Form” means the form made available to Settlement Class Members substantially in the form of Exhibit E hereto. The Claim Form must be submitted physically (via U.S. Mail) or electronically (via the Settlement Website) by Settlement Class Members who wish to file a Claim for their given share of the settlement benefits pursuant to the terms and conditions of this Agreement. The Claim Form shall be available for download and online submission on the Settlement Website and available in hard copy form upon written or telephonic request. The Claim Form may be utilized to submit a Claim for all benefits available to Settlement Class Members pursuant to this Agreement.

1.5 “Claim” means a claim for settlement benefits made under the terms of this Settlement Agreement.

1.6 “Claims Deadline” means the postmark deadline for valid Claims pursuant to ¶ 5.6.

1.7 “Claims Period” means the period of time during which Settlement Class Members may submit Claims Forms to receive their given share of the Qualified Settlement Fund and shall commence on the Notice Date and shall end on the date one hundred fifty (150) days thereafter.

1.8 “Class Counsel” means Kim D. Stephens of Tousley Brain Stephens PLLC, James Pizzirusso of Hausfeld LLP, Tina Wolfson of Ahdoot & Wolfson, PC, Karen Hanson Riebel of Lockridge Grindal & Nauen PLLP, and Keith Dubanevich of Stoll Berne.

1.9 “Class Notice” means the notice provided to the Settlement Class of the class action status and proposed settlement of the Litigation, as set forth in this Agreement.

1.10 “Credit Monitoring and Insurance Services” means the services to be provided to Settlement Class Members by Identity Guard, as further set forth in ¶ 4.6 of this Agreement.

1.11 “Effective Date” means the first date by which all events and conditions specified in ¶ 12.1 herein have occurred and been met.

1.12 “Final” means the occurrence of all of the following events: (i) the settlement pursuant to this Settlement Agreement is approved by the Court; (ii) the Court has entered a Final

Approval Order and Judgment (as that term is defined herein); and (iii) the time to appeal from the Final Approval Order and Judgment has expired or, if appealed, the appeal has been dismissed in its entirety, or the Final Approval Order and Judgment has been affirmed in its entirety by the court of last resort to which such appeal may be taken, and such dismissal or affirmance has become no longer subject to further appeal or review. Notwithstanding the above, any order modifying or reversing any attorneys' fee award or incentive award made in this case shall not affect whether the Final Approval Order and Judgment is "Final" as defined herein or any other aspect of the Final Approval Order and Judgment.

1.13 "Final Approval Order and Judgment" means an order and judgment that the Court enters in this Litigation after the Final Fairness Hearing, which finally approves the Settlement Agreement and dismisses the Litigation with prejudice and without material change to a proposed Final Approval Order and Judgment to be agreed-upon by the Settling Parties.

1.14 "Litigation" means the consolidated class action captioned *In re Premera Blue Cross Customer Data Security Breach Litigation*, Case No. 3:15-md-2633-SI, now pending before the Honorable Michael H. Simon, in the United States District Court for the District of Oregon.

1.15 "Long Form Notice" means the long form notice of settlement, substantially in the form attached hereto as Exhibit C.

1.16 "Net Qualified Settlement Fund" means the amount of funds that remain in the Qualified Settlement Fund after funds are paid from or allocated for payment from the Qualified Settlement Fund for the following: (i) Administration Expenses, (ii) the expenses associated with procuring Credit Monitoring and Insurance Services on behalf of the Participating Settlement Class Members, (iii) any service awards approved by the Court, and (iv) any Fee Award and Costs approved by the Court.

1.17 "Notice Date" means sixty (60) days after the Class Notice is first disseminated pursuant to the Notice Plan, either by (i) the publication of the Publication Notice, or (ii) the commencement of mailing of the agreed-upon individual Summary Notice to Settlement Class

Members via U.S. Mail and via email for those Settlement Class Members where Premera has an existing email address, whichever is earlier.

1.18 “Notice Plan” means the method and process of disseminating the Class Notice and notice of the Settlement as described in ¶ 6.2 herein.

1.19 “Notice Specialist” means an individual designated by agreement of the Settling Parties with recognized expertise in class action notice generally and data security litigation specifically, subject to Court approval. The Settling Parties agree to recommend that the Court appoint Cameron Azari as the Notice Specialist.

1.20 “Objection Deadline” means the date by which Settlement Class Members must file and postmark all required copies of any written objections, pursuant to the terms and conditions herein, to this Settlement Agreement and to any application or motion for (i) the Fee Award and Costs, or (ii) Service Awards.

1.21 “Opt-Out Date” means the date by which Settlement Class Members must mail their requests to be excluded from the Settlement Class in order for that request to be effective. The postmark date shall be the date of mailing for these purposes.

1.22 “Opt-Out Period” means the period of time between the publication of the Publication Notice and Opt-Out Date.

1.23 “Participating Settlement Class Member” means a Settlement Class Member who submits an Approved Claim for their given share of the settlement benefits pursuant to the terms and conditions of this Agreement.

1.24 “Person” means an individual, corporation, partnership, limited partnership, limited liability company or partnership, 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 respective spouses, heirs, predecessors, successors, representatives, agents, and/or assignees.

1.25 “Personal Information” means confidential information, including name, date of birth, mailing address, telephone number, email address, Social Security number, member

identification number, medical claim information, financial information, or any other protected health information as defined by the Health Insurance Portability and Accountability Act of 1996.

1.26 “Plaintiffs’ Counsel” means Class Counsel and the other attorneys who have represented plaintiffs in the Multi-District Litigation.

1.27 “Preliminary Approval Order” means the order preliminarily approving the Settlement Agreement and ordering that notice be provided to the Settlement Class, as described in ¶ 6.1. The Settling Parties’ proposed form of Preliminary Approval Order is attached as Exhibit F.

1.28 “Publication Notice” means the print notice substantially in the form attached hereto as Exhibit D.

1.29 “Qualified Settlement Fund” means the Thirty-Two Million Dollars and No Cents (\$32,000,000.00) cash consideration that Premera will pay, pursuant to ¶ 3.1 of this Settlement, as part of the consideration for the release of all claims as provided in this Agreement.

1.30 “Reasonable Documentation” means documentation supporting a Claim for Out-of-Pocket Losses, including, but not limited to, credit card statements, bank statements, invoices, telephone records, and receipts. Out-of-Pocket Losses cannot be documented solely by a personal certification, declaration, or affidavit from the Claimant; a Settlement Class Member must provide supporting documentation, except as provided in ¶ 4.3.3(b).

1.31 “Related Entities” means Premera’s past or present parents, subsidiaries, divisions, and related or affiliated entities of any nature whatsoever, whether direct or indirect, as well as each of Premera’s and these entities’ respective predecessors, successors, directors, officers, employees, principals, agents, attorneys, insurers, and reinsurers, and includes, without limitation, any Person related to any such entity who is, was or could have been named as a defendant in any of the actions related to the Security Incident in the Litigation, other than any individual who is found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding or abetting the criminal activity occurrence of the Security Incident or who pleads *nolo contendere* to any such charge.

1.32 “Released Claims” shall collectively mean any and all claims and causes of action including, without limitation, any causes of action for or under 18 U.S.C. § 2701 *et seq.*, and all similar statutes in effect in any states in the United States as defined herein; the Fair Credit Reporting Act, and all similar statutes in effect in any states in the United States as defined herein; State Consumer Laws, as alleged in ¶ 217 of plaintiffs’ First Amended Consolidated Complaint, and all similar statutes in effect in any states in the United States as defined herein; negligence; negligence *per se*; breach of contract; breach of implied contract; breach of fiduciary duty; breach of confidence; invasion of privacy; misrepresentation (whether fraudulent, negligent or innocent); unjust enrichment; bailment; wantonness; failure to provide adequate notice pursuant to any breach notification statute or common law duty; and including, but not limited to, any and all claims for damages, injunctive relief, disgorgement, declaratory relief, equitable relief, attorneys’ fees and expenses, pre-judgment interest, credit monitoring services, the creation of a fund for future damages, statutory damages, punitive damages, special damages, exemplary damages, restitution, the appointment of a receiver, and any other form of relief that either has been asserted, or could have been asserted, by or on behalf of any Representative Plaintiff or Settlement Class Member against any of the Released Persons based on, relating to, concerning, or arising out of the Security Incident and alleged theft of Personal Information or the allegations, facts, or circumstances described in the Litigation. Released Claims shall include Unknown Claims, but shall not include the right of any Settlement Class Member or any of the Released Persons to enforce the terms of the settlement contained in this Settlement Agreement, and shall not include the Claims of Settlement Class Members who have timely and properly opted out of the Settlement Agreement and thus excluded themselves from the Settlement Class.

1.33 “Released Persons” means Premera and its Related Entities.

1.34 “Representative Plaintiffs” means: Elizabeth Black, Catherine Bushman, Krishnendu Chakraborty, Maduhchanda Chakraborty, Ralph Christopherson, Anne Emerson, William Fitch, Eric Forseter, Mary Fuerst, Debbie Hansen-Bosse, Stuart Hirsch, Ilene Hirsh, Howard Kaplowitz, Barbara Lynch, and Kevin Smith.

1.35 “Security Incident” means the cyberattack against Premera’s computer systems that was publicly disclosed on March 17, 2015, as further described in the Recitals.

1.36 “Settlement Administration” means the processing and payment of Claims received from Settlement Class Members by the Settlement Administrator.

1.37 “Settlement Administrator” means, an experienced class action settlement and claims administrator generally, and specifically those of the type provided for and made in data breach litigation, subject to agreement of the Settling Parties and Court approval. The Settling Parties agree to recommend that the Court appoint Epiq as the Settlement Administrator.

1.38 “Settlement Class” means: All persons in the United States whose Personal Information was stored on Premera’s computer network systems that was compromised in the Security Incident as publicly disclosed on March 17, 2015. Excluded from the Settlement Class are: (1) the Judge presiding over the Action, and members of his family; (2) the Defendant, its subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendant or its parents have a controlling interest and their current or former officers and directors; (3) Persons who properly execute and submit a request for exclusion prior to the expiration of the Opt-Out Period; and (4) the successors or assigns of any such excluded Persons.

1.39 “Settlement Class List” means the list generated by Premera containing the last known name and mailing address for all persons that fall under the definition of the Settlement Class, which Defendant will provide to the Settlement Administrator no later than thirty (30) days following the date of the Preliminary Approval Order.

1.40 “Settlement Class Member(s)” means a Person(s) who falls within the definition of the Settlement Class and who do not submit a timely and valid request for exclusion from the Settlement pursuant to ¶ 7.1 of this Settlement Agreement.

1.41 “Settling Parties” means, collectively, Premera and the Representative Plaintiffs, individually and on behalf of the Settlement Class.

1.42 “Summary Notice” means the summary notice of the proposed class action settlement, substantially in the form attached hereto as Exhibit B. The Summary Notice which will

direct recipients to the Settlement Website and inform Settlement Class Members, *inter alia*, of the Claims Deadline, the Opt-Out Date and Objection Deadline, and the date of the Final Fairness Hearing. The Summary Notice will include a perforated tear off which Settlement Class Members may utilize to submit a Claim for the settlement benefits set forth in ¶¶ 4.4–4.6.

1.43 “Taxes” means: (a) all federal, state, or local taxes of any kind on any income earned on the Qualified Settlement Fund; and (b) the reasonable expenses and costs incurred by the Settlement Administrator in connection with determining the amount of, and paying, any taxes owed on interest accrued on the Qualified Settlement Fund (including, without limitation, reasonable expenses of tax attorneys and accountants).

1.44 “Unknown Claims” means any of the Released Claims that any Settlement Class Member, including any of the Representative Plaintiffs, does not know or suspect to exist in his/her favor at the time of the release of the Released Persons that, if known by him or her, might have affected his or her settlement with, and release of, the Released Persons, or might have affected his or her decision not to object to and/or to participate in this Settlement Agreement. With respect to any and all Released Claims, the Settling Parties stipulate and agree that upon the Effective Date, the Representative Plaintiffs expressly shall have, and each of the other Settlement Class Members shall be deemed to have, and by operation of the Final Approval Order and Judgment shall have, waived the provisions, rights, and benefits conferred by California Civil Code § 1542, and also any and all provisions, rights, and benefits conferred by any law of any state, province, or territory of the United States (including, without limitation, Montana Code Ann. § 28-1-1602; North Dakota Cent. Code § 9-13-02; and South Dakota Codified Laws § 20-7-11), which is similar, comparable, or equivalent to California Civil Code §1542, which provides:

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

Settlement Class Members, including the Representative Plaintiffs, may hereafter 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 the Released Claims, but the Representative Plaintiffs expressly shall have, and each other Settlement Class Member shall be deemed to have, and by operation of the Final Approval Order and Judgment shall have, upon the Effective Date, fully, finally, and forever settled and released any and all Released Claims. The Settling Parties acknowledge, and Settlement Class Members shall be deemed by operation of the Agreement to have acknowledged, that the foregoing waiver is a material element of the Settlement Agreement of which this release is a part.

1.45 “United States” as used in this Settlement Agreement includes the fifty states, the District of Columbia, and all United States territories.

II. REQUIRED EVENTS AND COOPERATION BY PARTIES.

2.1 For purposes of this Settlement Agreement and the proceedings contemplated herein, the Settling Parties stipulate and agree that the Representative Plaintiffs shall be appointed to represent the Settlement Class and Class Counsel shall be appointed to represent the Settlement Class.

2.2 Class Counsel shall submit this Settlement Agreement and the related Letter Agreement to the Court and shall move the Court to enter the Preliminary Approval Order, in the form attached as Exhibit F.

2.3 The Settling Parties shall, in good faith, cooperate, assist, and undertake all reasonable actions and steps in order to accomplish all requirements of this Agreement on the schedule set by the Court and subject to the terms of this Settlement.

2.4 If the Settlement set forth in this Settlement Agreement and the related Letter Agreement is not approved by the Court, or if the Settlement Agreement is terminated or cancelled pursuant to the terms of this Settlement Agreement, this Settlement Agreement, and the certification of the Settlement Class provided for herein, will be vacated and the Litigation shall proceed as though the Settlement Class had never been certified, without prejudice to any Person’s

or Settling Party's position. The Settling Parties' agreement to the certification of the Settlement Class is also without prejudice to any position asserted by the Settling Parties in any other proceeding, case or action, as to which all of their rights are specifically preserved.

2.5 Premera shall provide notice of the Settlement to appropriate state and federal officials pursuant to 28 U.S.C. § 1715 ("CAFA Notice"), and no party shall request that an order giving final approval of the settlement be issued prior to the expiration of the time set forth in 28 U.S.C. § 1715(d).

2.6 Class Counsel shall move the Court for a Final Approval Order and Judgment of this Settlement, to be issued following the Final Fairness Hearing; within a reasonable time after the Objection Deadline and Opt-Out Period, and at least ninety (90) days after Premera executes CAFA Notice.

III. SETTLEMENT CONSIDERATION.

3.1 In consideration for the Dismissal and Release of Claims, Premera agrees, in addition to implementing the business practice commitments described below in ¶ 4.8 and Exhibit A, to make a payment of Thirty-Two Million Dollars and No Cents (\$32,000,000.00), to establish and create the non-reversionary settlement fund for the benefit of Settlement Class Members pursuant to the terms of this Settlement. Premera shall deposit that payment into a Qualified Settlement Fund as follows: (i) Premera shall pay Five Million Dollars and No Cents (\$5,000,000.00) into the Qualified Settlement Fund within ten (10) business days after the Court enters the Preliminary Approval Order to cover reasonable costs associated with the Notice Plan and any other Administrative Expenses incurred prior to the Effective Date; (ii) Premera shall pay an additional amount sufficient to fund the payment of an award of Class Counsel's attorneys' fees, expenses, and costs into the Qualified Settlement Fund within ten (10) business days after the Court enters an order awarding such amount; and (iii) Premera shall pay the remaining amount of the Thirty-Two Million Dollars and No Cents (\$32,000,000.00) non-reversionary settlement fund still due, after the payments under subsections (i) and (ii) of this paragraph have been paid, into the Qualified Settlement Fund within ten (10) business days after the Effective Date.

3.2 Premera shall make such payments into an account established by the Settlement Administrator to be established and maintained as a qualified settlement fund within the meaning of Treasury Regulation § 1.468 B-1, and the Settlement Administrator, within the meaning of Treasury Regulation § 1.468 B-2(k)(3), shall be responsible for filing tax returns and any other tax reporting for or in respect of the Qualified Settlement Fund and paying from the Qualified Settlement Fund any Taxes owed with respect to the Qualified Settlement Fund. The account shall be an interest-bearing bank account deposit with a commercial bank with excess capital exceeding One Hundred Million Dollars and No Cents (\$100,000,000.00), with an S&P Global rating of “A” or higher and in an account that is fully insured, up to the amount of the Qualified Settlement Fund, by the United States Government or the Federal Deposit Insurance Corporation. The Settling Parties agree that the Qualified Settlement Fund shall be treated as a qualified settlement fund from the earliest date possible and agree to any relation-back election required to treat the Qualified Settlement Fund as a qualified settlement fund from the earliest date possible. The Settlement Administrator shall provide an accounting of any and all funds in the Qualified Settlement Fund, including any interest accrued thereon and payments made pursuant to this Agreement, upon request of any of the Settling Parties.

3.3 All Taxes relating to the Qualified Settlement Fund shall be paid out of the Qualified Settlement Fund, shall be considered an Administrative Expense, and shall be timely paid by the Settlement Administrator without prior order of the Court. Further, the Qualified Settlement Fund shall indemnify, defend, and hold harmless the Settling Parties and their counsel for Taxes (including, without limitation, taxes payable by reason of any such indemnification payments). The Settling Parties and their respective counsel have made no representation or warranty with respect to the tax treatment by any Representative Plaintiff or any Settlement Class Member of any payment or transfer made pursuant to this Agreement or derived from or made pursuant to the Qualified Settlement Fund. Each Representative Plaintiff and Settlement Class Member shall be solely responsible for the federal, state, and local tax consequences to him, her or it of the receipt of funds from the Qualified Settlement Fund pursuant to this Agreement.

3.4 No amounts from the Qualified Settlement Fund may be withdrawn unless (i) expressly authorized by the Settlement Agreement or (ii) approved by the Court. Class Counsel may authorize the periodic payment of actual reasonable Administration Expenses from the Qualified Settlement Fund as such expenses are invoiced, without further order of the Court. The Settlement Administrator shall provide Class Counsel and Premera with notice of any withdrawal or other payment the Settlement Administrator proposes to make from the Qualified Settlement Fund before the Effective Date.

3.5 The Qualified Settlement Fund shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time as the entirety of the Qualified Settlement Fund is distributed pursuant to this Settlement Agreement or returned to those who paid the Qualified Settlement Fund only in the event this Settlement Agreement is voided, terminated, or cancelled.

3.6 In the event this Settlement Agreement is voided, terminated, or cancelled pursuant to any provision of this Agreement: (i) the Representative Plaintiffs and Class Counsel shall have no obligation to repay any of the Administrative Expenses that have been paid or incurred in accordance with this Agreement; (ii) any amounts remaining in the Qualified Settlement Fund after payment of Administrative Expenses paid or incurred in accordance with this Agreement, including all interest earned on the Qualified Settlement Fund net of any Taxes, if any, and any funds paid out as attorneys' fees pursuant to ¶ 9.4 shall be returned to Premera; and (iii) no other Person or entity shall have any further claim whatsoever to such amounts.

3.7 This Settlement is not a reversionary settlement, meaning that no portion of the Qualified Settlement Fund shall revert back to Premera unless this Settlement is voided, cancelled, or terminated. As of the Effective Date, all rights of Premera in or to the Qualified Settlement Fund shall be extinguished and, no portion of the Qualified Settlement Fund shall be returned to Premera.

IV. SETTLEMENT BENEFITS.

4.1 Each Settlement Class Member may qualify for the following benefits and distributions from the Net Qualified Settlement Fund as described below in ¶¶ 4.3–4.5.

4.2 From the Net Qualified Settlement Fund specified above, no less than Ten Million Dollars and No Cents (\$10,000,000.00) shall be used to fund the settlement provisions described below in ¶¶ 4.3–4.5.

4.2.1 If the total amount of all Approved Claims exceeds the sum of funds available for disbursement in the Net Qualified Settlement Fund, the per-Claim amount shall be reduced *pro rata*, based on the amount of all allowed Claims.

4.2.2 Unclaimed funds in the Net Qualified Settlement Fund will be distributed in accordance with ¶ 4.7.

4.3 Reimbursement for Out-of-Pocket Losses:

4.3.1 The Settlement Administrator will use the Net Qualified Settlement Fund to compensate those Settlement Class Members who submit valid Claims for Out-of-Pocket Losses (as defined below) that are plausibly traceable to the Security Incident. Individual Out-of-Pocket Claimants will be subject to an overall Claims cap of Ten Thousand Dollars and No Cents (\$10,000.00) paid directly from the Net Qualified Settlement Fund regardless of the number of Claims for Out-of-Pocket Losses submitted by the Claimant during the Claims Period.

4.3.2 “Out-of-Pocket Losses” are verifiable unreimbursed costs or expenditures that a Settlement Class Member actually incurred and that are plausibly traceable to the Security Incident. Out-of-Pocket Losses may include, without limitation, the following, subject to the provisions of ¶ 4.2:

(a) unreimbursed costs, expenses, losses or charges incurred as a result of identity theft or identity fraud, health insurance fraud, falsified tax returns, or other alleged misuse of Settlement Class Members’ Personal Information;

(b) costs incurred on or after May 5, 2014, associated with freezing or unfreezing credit with any credit reporting agency;

(c) other miscellaneous expenses incurred related to any Out-Of-Pocket Loss such as notary, fax, postage, copying, mileage, and long-distance telephone charges;

(d) credit monitoring costs that were incurred on or after May 5, 2014, through the date of the Settlement Class Member's Claim submission; and

(e) hours for time spent taking actions intended to remedy fraud, identity theft, or other misuse of a Settlement Class Member's Personal Information that is plausibly traceable to the Security Incident.

4.3.3 Settlement Class Members with Out-of-Pocket Losses must submit Reasonable Documentation supporting their Claims, with the exception that Settlement Class Members claiming Out-of-Pocket losses for time under ¶ 4.3.2(e) can receive reimbursement for such time expenditures subject to the following provisions:

(a) Settlement Class Members may submit a Claim for up to twenty (20) hours of time under ¶ 4.3.2(e) to be compensated at Twenty Dollars and No Cents (\$20.00) per hour, subject to the overall cap in ¶ 4.3.1, provided the Settlement Class Members can provide Reasonable Documentation related to the time they spent remedying the issues described in ¶ 4.3.2.

(b) Settlement Class Members with Reasonable Documentation of a fraud, identity theft, or other alleged misuse of the Settlement Class Member's Personal Information plausibly traceable to the Security Incident, but who do not provide Reasonable Documentation related to their lost time may self-certify the amount of time they spent remedying the foregoing and file a Claim for up to five (5) hours at Twenty Dollars and No Cents (\$20.00) per hour.

4.4 Default Settlement Payments:

4.4.1 All Settlement Class Members who do not submit a Claim for settlement payments under ¶ 4.3 may request alternative compensation of up to Fifty Dollars and No Cents (\$50.00) as settlement compensation for claims in this litigation ("Default Settlement Payments"). If the settlement payments for compensation under this and other provisions exceed the overall

Net Qualified Settlement Fund, then Default Settlement Payments shall be distributed *pro rata* to those making all valid Claims for compensation.

4.4.2 Settlement Class Members seeking compensation under ¶ 4.4 must submit a Claim and verify that they are not seeking additional compensation under ¶ 4.3 of the Settlement.

4.5 California Payment:

4.5.1 All Settlement Class Members who, as of March 17, 2015, resided in California and who received notice from Premera that their information may have been compromised in the Security Incident may submit Claims for an additional compensation of up to Fifty Dollars and No Cents (\$50.00) (“California Settlement Payments”) under the California Confidentiality of Medical Information Act (“CMIA”). If the settlement payments for compensation under this and other provisions exceed the overall Net Qualified Settlement Fund, then California Settlement Payments shall be distributed *pro rata*.

4.5.2 Settlement Class Members seeking compensation under ¶ 4.5 must submit a Claim seeking this compensation.

4.6 Credit Monitoring and Insurance Services:

4.6.1 In addition to the benefits and distributions from the Net Qualified Settlement Fund as described above in ¶¶ 4.3–4.5, all Settlement Class Members will also be eligible to enroll in two years of Credit Monitoring and Insurance Services. Because some Settlement Class Members may have existing credit monitoring services, a Settlement Class Member may elect to delay the start of the Credit Monitoring and Insurance Services received under this section for up to two years after the Effective Date. The Credit Monitoring and Insurance Services will provide certain services to each Participating Settlement Class Member, including: (i) Up to One Million Dollars and No Cents (\$1,000,000.00) in reimbursement insurance covering future losses due to identity theft, stolen funds, etc.; (ii) three bureau credit monitoring providing notice of changes to the Settlement Class Member’s credit profile; (iii) real time instant authentication alerts when someone attempts to make a change to the Settlement Class Member’s personal account information; (iv) Dark Web Monitoring providing notification if the Settlement

Class Member's information such as Social Security number, credit card numbers, financial account numbers, and health insurance number are found on the Dark Web; (v) threat alerts about potential threats relevant to the Settlement Class Member (such as breaches, phishing scams, and malware vulnerabilities); and (vi) customer support and victim assistance, among other features.

4.6.2 Settlement Class Members seeking to enroll in the free credit monitoring offered under this Agreement must submit a Claim Form seeking to be enrolled in the service and provide a valid email address for enrollment.

4.6.3 The Settlement Administrator will allocate up to Three Million Five Hundred Thousand Dollars and No Cents (\$3,500,000.00) out of the Qualified Settlement Fund to provide for the wholesale purchase of two (2) years of Credit Monitoring and Insurance Services for all Settlement Class Members making Claims. Any funds remaining will go back to the Net Qualified Settlement Fund for distribution to Class Members.

4.7 Use of Remaining Settlement Funds:

4.7.1 Any remaining funds in the Net Qualified Settlement Fund after payment of valid Claims submitted under ¶¶ 4.3–4.5 during the Claims Period will be used as follows:

(a) First, payments to Settlement Class Members with valid Claims under ¶¶ 4.3–4.5 will be proportionally increased and distributed on a *per capita* basis.

(b) Second, if payments made as described in ¶ 4.7.1(a) above do not exhaust the Net Qualified Settlement Fund, additional credit monitoring services will be provided to those who have filed a valid Claim for such services under ¶ 4.6, to the extent the purchase of additional credit monitoring services is economically feasible in light of the amount of funds remaining in the Net Qualified Settlement Fund.

(c) To the extent any monies remain in the Net Qualified Settlement Fund more than one hundred and eighty (180) days after the distribution of settlement payments to the Settlement Class Members from uncashed checks, and it is economically unviable to redistribute any remaining funds to Settlement Class Members, any such residual funds shall be

distributed to a 26 U.S.C. § 501(c)(3) recipient approved by the Court or as otherwise directed by the Court after considering proposals from the Settling Parties.

4.8 Business Practice Commitments:

4.8.1 As additional consideration for the Dismissal and Release of Claims, Premera covenants, warrants, and agrees to provide equitable injunctive relief in the form described in Exhibit A to this Settlement Agreement. The obligations set forth in Exhibit A shall terminate three (3) years from the date of the execution of this Agreement, unless otherwise specified in Exhibit A.

4.8.2 The Settling Parties agree that plaintiffs and Class Counsel were a catalyst in causing Premera to undertake remedial measures it will or has already undertaken. Included in this Agreement, as negotiated between the Settling Parties, are minimum budgetary requirements for Premera until 2022, which are contractually mandated by this Agreement. Premera agrees that the difference between its yearly 2012-2014 security budgets and its contractually agreed budgets of \$14 million per year from 2019 through 2022 under Exhibit A is at least equal to the cost of implementing and maintaining the obligations set forth in Exhibit A. Plaintiffs have retained an expert who has placed a value on the proposed injunctive relief. Premera neither challenges nor accepts that valuation, but agrees that the security remediation measures obtained by plaintiffs are of substantial value to the Settlement Class.

V. Settlement Administration

5.1 A Settlement Administrator shall be selected by the Settling Parties, subject to Court Approval. The Settling Parties agree to recommend that the Court appoint Epiq as the Settlement Administrator, subject to the Court's approval. The Settlement Administrator shall be responsible for administrative tasks, which shall include, without limitation, (a) arranging for distribution of the Class Notice and Claim Form to Settlement Class Members; (b) making any mailings to Settlement Class Members required under this Agreement; (c) forwarding written inquiries from Settlement Class Members to Class Counsel or their designee; (d) establishing and maintaining the Settlement Website, subject to review and approval by the Settling Parties;

(e) qualifying Claims submitted by Settlement Class Members; (f) distributing cash payments to Settlement Class Members; (g) assisting Settlement Class Members in enrolling in Credit Monitoring and; (h) otherwise assisting with implementing and administering this Agreement.

5.2 The Settlement Administrator shall make all reasonable efforts to administer the Settlement efficiently and to minimize and to avoid unnecessary Administration Expenses. The Settlement Administrator shall provide a detailed written accounting of all Administration Expenses on a regular basis to Class Counsel and Premera's counsel, and shall respond promptly to inquiries by any of them with respect to this Agreement and the Settlement.

5.3 The Settlement Administrator shall administer and calculate the Claims submitted by Settlement Class Members under the terms described in Section IV - Settlement Benefits. Class Counsel and Premera shall be given reports as to both Claims and distribution and have the right to review and obtain supporting documentation and challenge such reports if they believe them to be inaccurate or inadequate. The Settlement Administrator's determination of the validity or invalidity of any such Claims shall be binding, subject to the dispute resolution process set forth in Section V - Settlement Administration.

5.4 Submission of Claims.

5.4.1 Settlement Class Members may submit electronically verified Claim Forms and any documentation to the Settlement Administrator through the Settlement Website or may download Claim Forms to be filled out and submitted physically with documentation by mail to the Settlement Administrator. Claim Forms must be submitted electronically or postmarked during the Claims Period and on or before the Claims Deadline.

5.4.2 The Settlement Administrator will review Claim Forms submitted by Settlement Class Members to determine whether they are eligible for settlement payment.

(a) The Settlement Administrator shall evaluate Claims for Out-of-Pocket Losses and determine whether the Claims are valid and plausibly traceable to the Security Incident. Out-of-Pocket Losses shall be deemed plausibly traceable to the Security Incident if (i) they were incurred on or after May 5, 2014, through the date of the Settlement Class Member's

Claim submission; (ii) the Settlement Class Member certifies that they incurred such Out-of-Pocket Losses as a result of the Security Incident; and (iii) the Settlement Class Member has Reasonable Documentation to support the Claims.

(b) If the Settlement Administrator rejects a Settlement Class Member's claims for Out-of-Pocket Losses, the Settlement Class Member shall automatically qualify for a Default Settlement Payment, and the Settlement Administrator shall automatically determine whether the Settlement Class Member is eligible for a Default Settlement Payment.

5.4.3 The Settlement Administrator shall reject any Claim Forms that are incomplete, inaccurate, or not timely received, and is not required to, but may first request additional information. To the extent the Settlement Administrator determines a Claim for Out-of-Pocket Losses is deficient, within ten (10) days of making such a determination, the Settlement Administrator shall notify the Settlement Class Member of the deficiencies and give the Settlement Class Member thirty (30) days to cure the deficiencies. The Settlement Administrator shall have the sole discretion and authority to determine whether the Settlement Class Member has cured the deficient Claim.

5.4.4 Information submitted by Settlement Class Members pursuant Section IV - Settlement Benefits of this Settlement Agreement shall be deemed confidential and protected as such by the Settling Parties and the Settlement Administrator.

5.5 Settlement Class Members will be provided the option to receive any settlement payment due to them pursuant to the terms of this Agreement by check or by either PayPal, eCheck, as a credit to the Participating Settlement Class Member's Amazon account, or Venmo, to the extent payment by these methods is possible. In the event Settlement Class Members do not exercise this option, they will receive their given settlement payment via a physical check sent by U.S. Mail. Initial payments for Approved Claims shall be sent to Participating Settlement Class Members within sixty (60) days of the Effective Date or sixty (60) days after the end of the Claims Period, whichever is latest.

5.6 Claim Forms must be postmarked or submitted electrically via the Settlement Website within one hundred fifty (150) days of the Notice Date.

5.7 All Settlement Class Members who fail to submit a Claim for any benefits within the time frames set forth in this Agreement, or within such other period as may be ordered by the Court, shall be forever barred from receiving any payments or benefits pursuant to the Settlement, but will in all other respects be subject to, and bound by, the provisions of the Settlement, the Releases contained herein, and the Final Approval Order and Judgment.

5.8 No Person shall have any claim against the Settlement Administrator, Premera, Class Counsel, Plaintiffs' Counsel, Premera's counsel, and/or the Representative Plaintiffs based on distributions of benefits to Settlement Class Members.

5.9 The Settling Parties and the Settlement Administrator shall keep the Settlement Class List confidential and not use it for any purpose, other than to effectuate the terms of this Agreement.

5.10 Settlement Administrator's Duties.

5.10.1 The Settlement Administrator will review Claim Forms submitted by Settlement Class Members to determine whether they are eligible for a settlement payment.

5.10.2 The Settlement Administrator shall, under the supervision of the Court, administer the relief provided by this Agreement by processing Claim Forms in a rational, responsive, cost effective and timely manner, and calculate settlement payments in accordance with this Agreement.

5.10.3 The Settlement Administrator shall disseminate the Settlement Class Notice as provided for in this Agreement.

5.10.4 The Settlement Administrator shall maintain reasonably detailed records of its activities under this Agreement. The Settlement Administrator shall maintain all such records as required by applicable law in accordance with its business practices and such records will be made available to Class Counsel, Premera, and Premera's counsel upon request. The Settlement Administrator shall also provide reports and other information to the Court as the Court may

require. Upon request, the Settlement Administrator shall provide Class Counsel, Premera, and Premera's counsel with information concerning notice, administration, and implementation of the Settlement. Without limiting the foregoing, the Settlement Administrator shall:

(a) Receive Requests for Exclusion from Settlement Class Members and provide Class Counsel and Premera's counsel a copy thereof no later than five (5) days following the deadline for submission of the same. If the Settlement Administrator receives any Requests for Exclusion or other requests from Settlement Class Members after expiration of the Opt-Out Period, the Settlement Administrator shall promptly provide copies thereof to Class Counsel and Premera's counsel.

(b) Provide weekly or other periodic reports to Class Counsel and Premera's counsel that include, without limitation, reports regarding the number of Claim Forms received, the number of Claim Forms approved by the Settlement Administrator, and the categorization and description of Claim Forms rejected by the Settlement Administrator. The Settlement Administrator shall also, as requested by Class Counsel or Premera's counsel and from time to time, provide the amounts remaining in the Qualified Settlement Fund.

(c) Make available for inspection by Class Counsel and Premera's counsel the Claim Forms and any supporting documentation received by the Settlement Administrator at any time upon reasonable notice.

(d) Cooperate with any audit by Class Counsel or Premera's counsel, who shall have the right but not the obligation to review, audit, and evaluate all Claim Forms for accuracy, veracity, completeness, and compliance with the terms and conditions of this Agreement.

5.10.5 The Settlement Administrator shall create the Settlement Website, described in ¶6.2.9.

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

5.11 The Settlement Administrator shall comply with ¶ 5.4 herein and shall make all settlement payments contemplated in ¶¶ 4.3–4.5 of this Agreement by check or by either PayPal, eCheck, as a credit to the Participating Settlement Class Member’s Amazon account, or Venmo, to the extent payment by these methods is possible, and send them to Participating Settlement Class Members within sixty (60) days of the Effective Date and/or sixty (60) days of the end of the Claims Period, whichever is later.

VI. PRELIMINARY APPROVAL AND SETTLEMENT CLASS NOTICE.

6.1 As soon as practicable after the execution of the Settlement Agreement, Class Counsel and Premera’s counsel shall jointly submit this Settlement Agreement to the Court and file a motion for preliminary approval of the settlement with the Court requesting entry of a Preliminary Approval Order requesting, *inter alia*:

6.1.1 preliminary approval of the settlement memorialized in this Agreement as being within the range of reasonableness such that notice to the Class should be provided pursuant to this Agreement;

6.1.2 certification the Settlement Class as defined herein for settlement purposes only;

6.1.3 approval of a date for a Final Fairness Hearing;

6.1.4 approval of (i) the Summary Notice (with Claim Form attached) to be mailed and emailed to Settlement Class Members in a form substantially similar to the one attached hereto as Exhibit B; (ii) the Long Form Notice in a form substantially similar to the one attached hereto as Exhibit C; and (iii) the Publication Notice in a form substantially similar to the one attached hereto as Exhibit D, which together shall include a fair summary of the Settling Parties’ respective litigation positions, the general terms of the settlement set forth in the Settlement Agreement, instructions for how to object to or opt out of the Settlement, the process and instructions for making Claims to the extent contemplated herein, and the date, time and place of the Final Fairness Hearing;

6.1.5 approval of a Claims Deadline through which Settlement Class Members shall be able to submit to submit valid and completed Claim Forms;

6.1.6 specified dates by which objections shall be heard and any papers submitted in support of said objections shall be considered by the Court at the Final Fairness Hearing only if, on or before the date(s) specified in the Preliminary Approval Order, such objector submits to the Court a written objection and otherwise complies with the requirements in Section VIII - Objection Procedures below;

6.1.7 specified dates by which Class Counsel shall file and serve all papers in support of the application for final approval of the settlement and by which the Settling Parties shall file and serve all papers in response to any valid and timely objections and by which Class Counsel shall file their motion for fees and expenses as provided in Section IX - Service Awards to Representative Plaintiffs; Plaintiffs' Counsel's Attorneys' Fees, Costs, and Expenses;

6.1.8 that all Settlement Class Members will be bound by the Final Approval Order and Judgment;

6.1.9 that Persons in the Settlement Class wishing to exclude themselves from the Settlement will have until the date specified in the Preliminary Approval Order to submit to the Settlement Administrator a valid written request for exclusion or opt out;

6.1.10 a procedure for Persons in the Settlement Class to object or opt out from the Settlement;

6.1.11 deadlines consistent with this Agreement for mailing of notice to the Settlement Class, opting out of or objecting to the settlement, and filing papers in connection with the Final Fairness Hearing;

6.1.12 appointment of Representative Plaintiffs as Settlement Class Representatives and Class Counsel as counsel for the Settlement Class;

6.1.13 appointment of Epiq as the Settlement Administrator as jointly agreed to by the Settling Parties; and

6.1.14 appointment of a Notice Specialist as jointly agreed to by the Settling Parties.

6.2 Following the entry of the Preliminary Approval Order, the Settlement Administrator shall provide timely Class Notice in the manner and form approved and directed by the Court. The Class Notice and Claim Form shall be reviewed by the Notice Specialist and Settlement Administrator and may be revised as agreed upon by the Settling Parties prior to such submission to the Court for approval. The Settling Parties agree that the dissemination of the Class Notice and Claim Form by mail, publication, and by posting them on the Settlement Website, in the manner specified in ¶ 6.1.4 and ¶ 6.2 and its subparts, satisfies the notice requirements of due process and Rule 23 of the Federal Rules of Civil Procedure.

6.2.1 As soon as practicable following the entry of the Preliminary Approval Order, but in no event later than thirty (30) days following the date of the Preliminary Approval Order, Premera shall provide (i) a list in electronic form of persons that, according to its records, may be Settlement Class Members to the Settlement Administrator, including to the extent available in Premera's records each Settlement Class Member's most current email and mailing address (the "Settlement Class List"), and (ii) a list in electronic form of persons that, according to its records, previously received written notice of the Security Incident, along with the email and mailing address used at the time such notice was sent. Premera represents and warrants the information provided in the Settlement Class List it provides is true and correct to the best of Premera's knowledge. The Settlement Administrator shall perform any further investigations deemed appropriate by the Settlement Administrator, including using the National Change of Address ("NCOA") database maintained by the U.S. Postal Service, in an attempt to identify current mailing addresses for individuals whose names are on the Settlement Class List.

6.2.2 Because the Settlement Class List will be provided to the Settlement Administrator solely for purposes of providing the Class Notice and Settlement benefits and processing opt-out requests, the Settlement Administrator will execute a Business Associate Agreement with Premera and will ensure that any information provided to it by Settlement Class

Members, Premera's Counsel, or Premera, including the Settlement Class Members' Personal Information, will be secure and used solely for the purpose of effecting this Settlement.

6.2.3 Within forty-five (45) days following entry of the Preliminary Approval Order, or at such other time or as may be ordered by the Court, the Settlement Administrator shall commence the mailing of the agreed-upon individual Summary Notice to Settlement Class Members via U.S. Mail and via email for those Settlement Class Members where Premera has an existing email address, and shall have thirty (30) days to complete that process. Settlement Class Members may simply mail the Claim Form attached to the Summary Notice or may use the unique class member identifier contained in the notice to log onto the Settlement Website described in ¶ 6.2.9 and either download a Claim Form or submit the Claim Form online. Settlement Class Members may also request a written Claim Form from the Settlement Administrator. The Settlement Administrator shall use reasonable fraud-prevention mechanisms to prevent (i) submission of Claim Forms by persons other than potential Settlement Class Members, and (ii) submission of more than one Claim Form per Person. In the event a Claim Form is submitted without a unique class member identifier, the Settlement Administrator shall employ reasonable efforts to ensure that the Claim is valid.

6.2.4 If any notice that has been postmarked is returned by the U.S. Postal Service as undeliverable because the address of the recipient is no longer valid, and the envelope contains a forwarding address, the Settlement Administrator shall re-send the Summary Notice to the forwarding address within seven (7) days of receiving the returned Summary Notice.

6.2.5 In the event that subsequent to the first mailing of a Summary Notice, and at least fourteen (14) days prior to the Opt-Out and Objection Deadline, a Summary Notice is returned to the Settlement Administrator by the U.S. Postal Service because the address of the recipient is no longer valid and does not contain a new forwarding address, the Settlement Administrator shall perform a standard skip trace, in the manner that the Settlement Administrator customarily performs skip traces, in an effort to attempt to ascertain the current address of the particular Settlement Class Member in question and, if such an address is ascertained, the

Settlement Administrator will re-send the Class Notice within seven (7) days of receiving such information.

6.2.6 If an email sent to a Settlement Class Member bounces back (as opposed to being returned as undeliverable), the Settlement Administrator will make up to two (2) additional email attempts on days and times chosen by Settlement Administrator as reasonably likely to achieve delivery. If the email notice is bounced back on the third attempt, the email notice will be treated as undeliverable.

6.2.7 For any Settlement Class Member for whom the Settlement Administrator has an email address, and who has not submitted a valid Claim Form, the Settlement Administrator shall transmit periodic email reminders of the opportunity to file a Claim Form prior to the Claims Deadline.

6.2.8 As soon as practicable, but no later than thirty (30) days after the Court's entry of the Preliminary Approval Order, the Settlement Administrator shall cause the Publication Notice (attached hereto as Exhibit D) to be published, pursuant to the Preliminary Approval Order. Before publication, the Settlement Administrator shall provide the Settling Parties with the opportunity to review and approve the Publication Notice plan, consistent with the Preliminary Approval Order.

6.2.9 Prior to the dissemination of the Class Notice, the Settlement Administrator shall establish a dedicated Settlement Website and shall maintain and update the website throughout the Claims Period. The Settlement Website shall inform Settlement Class Members of the terms of this Agreement, their rights, applicable dates and deadlines, and related information. The Settlement Website shall include, and make available for download in .pdf format, the following: (i) the Long Form Notice; (ii) the Claim Form; (iii) the Preliminary Approval Order; (iv) this Agreement (including all of its Exhibits), (v) the operative Class Action Complaint filed in the Litigation; and (vi) any other materials agreed upon by the Settling Parties and/or required by the Court. The Settlement Website shall provide Settlement Class Members with the ability to (i) complete and submit the Claim Form electronically; and (ii) submit requests for exclusion or

opt out electronically using the unique Settlement Class Member identifier referenced in ¶ 6.2.3. No later than twenty (20) days before the Final Fairness Hearing, the Settlement Administrator will cause proof of the establishment and maintenance of the Settlement Website and the telephone assistance program described in ¶ 6.2.9 and ¶ 6.2.11 to be filed with the Court.

6.2.10 The Summary Notice, Long Form Notice, and Claim Form approved by the Court may be adjusted by the Notice Specialist and/or Settlement Administrator, respectively, in consultation and agreement with the Settling Parties, as may be reasonable and not inconsistent with such approval.

6.2.11 Prior to the dissemination of the Class Notice, the Settlement Administrator shall establish a toll-free telephone number, supported by a reasonable number of live operators to promptly respond to Settlement Class Member inquiries, through which Settlement Class Members may obtain information about the Action and the Settlement and request a mailed copy of the Long Form Notice and/or the Claim Form, pursuant to the terms and conditions of this Agreement. The toll-free number will be staffed by the Settlement Administrator with bilingual operators who speak both English and Spanish, to assist in answering questions from Settlement Class Members. The toll-free number shall provide access to live-support, a voice response unit (“VRU”), or a combination of live-support and VRU. It shall also offer a Spanish language alternative number and VRU. Any scripts, FAQs, or other materials for such purpose shall be made available for review and comment by Class Counsel and Premera’s counsel prior to their use. Class Counsel and Premera’s counsel shall confer and assist the Settlement Administrator as it reasonably requests. At the end of every call, the live operators will inform the caller that if they have questions they can call Class Counsel, and will inform the caller of the toll-free number where Class Counsel can be reached. Any VRU message will end with the same message.

6.2.12 Within sixty (60) days after the Notice Date, the Settlement Administrator shall file with the Court proof of the emailing or post mailing of the individual notices.

6.2.13 The Settlement Administrator will provide weekly reports to Class Counsel stating the number of notices sent to Settlement Class Members that have been returned as

undeliverable. The Representative Plaintiffs and Class Counsel may engage the Settlement Administrator, at their sole cost, to locate Settlement Class Members whose notices were returned as undeliverable.

6.2.14 Prior to the Final Fairness Hearing, Class Counsel and Premera shall cause to be filed with the Court an appropriate affidavit or declaration with respect to complying with this provision of notice. The Class Notice and Claim Form approved by the Court may be adjusted by the Notice Specialist and/or Settlement Administrator, respectively, in consultation and agreement with the Settling Parties, as may be reasonable and necessary and not inconsistent with such approval.

6.2.15 The Settlement Administrator shall terminate the Settlement Website two hundred seventy (270) days after (1) the later of the Effective Date or the end of the Claims Period, or (2) the date on which the settlement is terminated or otherwise not approved by the Court. The Settlement Administrator shall then transfer ownership of the URL of the Settlement Website to Premera.

VII. OPT-OUT PROCEDURES.

7.1 Each Person wishing to opt out of the Settlement Class shall individually sign and timely submit written notice of such intent to the designated Post Office box established by the Settlement Administrator. The written notice must clearly manifest a Person's intent to be excluded from the Settlement Class. To be effective, written notice must be postmarked by a date certain to be ordered by the Court in its Preliminary Approval Order, which date is no later than ninety (90) days after the Notice Date.

7.2 All Persons who submit valid and timely notices of their intent to be excluded from the Settlement Class, as set forth in ¶ 7.1 above, referred to herein as "Opt-Outs," shall not receive any benefits of and/or be bound by the terms of this Settlement Agreement. All Persons falling within the definition of the Settlement Class who do not request to be excluded from the Settlement Class in the manner set forth in ¶ 7.1 above shall be bound by the terms of this Settlement Agreement and Final Approval Order and Judgment entered thereon.

7.3 Within seven (7) days after the Opt-Out Date, the Settlement Administrator shall furnish to Class Counsel and to Premera's counsel a complete list of all timely and valid requests for exclusion (the "Opt-Out List").

VIII. OBJECTION PROCEDURES.

8.1 Each Settlement Class Member desiring to object to the Settlement Agreement or to the attorneys' fees, costs and expenses, shall submit a timely written notice of his or her objection. Such notice shall state: (i) the objector's full name, address, telephone number, and email address (if any); (ii) information identifying the objector as a Settlement Class Member, including proof that the objector is a member of the Settlement Class (e.g., copy of settlement notice, copy of original notice of the Security Incident); (iii) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable; (iv) the identity of all counsel representing or assisting the objector, if any; (v) the identity of all counsel representing the objector who will appear at the Final Fairness Hearing, if any; (vi) a list of all persons who will be called to testify at the Final Fairness Hearing in support of the objection, if any; (vii) a statement confirming whether the objector intends to personally appear and/or testify at the Final Fairness Hearing; (viii) the objector's signature and the signature of the objector's duly authorized attorney or other duly authorized representative (along with documentation setting forth such representation), if any; (ix) a list, by case name, court, and docket number, of all other cases in which the objector (directly or through counsel) has filed an objection to any proposed class action settlement within the last three (3) years; (x) a list, by case name, court, and docket number, of all other cases in which the objector's counsel (on behalf of any Person) has filed an objection to any proposed class action settlement within the last three (3) years; and (xi) a list, by case name, court, and docket number, of all other cases in which the objector has been a named plaintiff in any class action or served as a lead plaintiff or class representative. To be timely, written notice of an objection in the appropriate form must be filed with the Clerk of the Court by the date certain as ordered by the Court in the Preliminary Approval Order, which date shall be no later than ninety (90) days after the Notice Date, and served concurrently therewith upon Class Counsel, Kim D.

Stephens, Tousley Brain Stephens PLLC, 1700 Seventh Avenue, Suite 2200, Seattle, WA 98101, and Premera's counsel, Paul Karlsgodt, Baker & Hostetler LLP, 1801 California Street, Suite 4400, Denver, CO 80202.

8.2 Any Settlement Class Member who fails to comply with the requirements for objecting in ¶ 8.1 shall waive and forfeit any and all rights he or she may have to appear separately and/or to object to the Settlement Agreement and shall be bound by all the terms of the Settlement Agreement and by all proceedings, orders and judgments in the Litigation. The exclusive means for any challenge to the Settlement Agreement shall be through the provisions of ¶ 8.1. Without limiting the foregoing, any challenge to the Settlement Agreement, the Final Approval Order and Judgment to be entered upon final approval shall be pursuant to appeal under the Federal Rules of Appellate Procedure and not through a collateral attack.

8.3 The Settling Parties shall file their responses to objections, if any, to the settlement no later than ten (10) days prior to the Final Fairness Hearing.

8.4 Any Settlement Class Member who wishes to appear at the Final Fairness Hearing, whether pro se or through counsel, must, within the time set by the Court, (a) mail or hand-deliver to the Court a notice of appearance; (b) provide copies of any exhibits or other documents that the Settlement Class Member intends to present or use as evidence at the hearing; (c) provide a list of all witnesses that the Settlement Class Member intends to call to give evidence at the hearing; (d) take all other actions or make any additional submissions as may be ordered by the Court; and (e) mail or hand-deliver any notice and any such exhibits, lists, or other documents to Class Counsel and Counsel for Defendant as provided in the individual or publication notices such that receipt of same by Class Counsel and Counsel for Defendant has occurred no later than fourteen (14) days prior to the Final Fairness Hearing. Any Settlement Class Member who wishes to appear at the Final Fairness Hearing must provide dates at least seven (7) days in advance of the Final Fairness Hearing when the Settlement Class Member will be available for a deposition. Failure by an objector to make himself or herself available for a deposition may result in the Court striking the objection. The Court may tax the costs of any such discovery to the objector or the objector's

counsel if the Court determines that the objection is frivolous or made for an improper purpose. Unless so permitted by the Federal Rules of Civil Procedure or the Court's local rules, no Settlement Class Member shall be permitted to raise matters at the Final Fairness Hearing that the Settlement Class Member could have raised in an objection, but failed to do. Any Settlement Class Member who fails to comply with this Agreement, the individual notice, and any other order by the Court shall be barred from appearing at the Final Fairness Hearing.

IX. Service Awards to Representative Plaintiffs; Plaintiffs' Counsel's Attorneys' Fees, Costs, and Expenses.

9.1 Class Counsel may apply to the Court for service awards to be paid from the Qualified Settlement Fund of up to Five Thousand Dollars and No Cents (\$5,000.00) each to Sharif Ailey, April Allred, Elizabeth Black, Catherine Bushman, Krishnendu Chakraborty, Maduhchanda Chakraborty, Ralph Christopherson, Anne Emerson, William Fitch, Eric Forseter, Mary Fuerst, Debbie Hansen-Bosse, Stuart Hirsch, Ilene Hirsh, Ross Imbler, Howard Kaplowitz, Barbara Lynch, Kevin Smith, Gabriel Webster, and Laura Webster for their time, effort, and risk in connection with the Action. No amount has been guaranteed or promised to the individuals listed in ¶ 9.1. If the Court allows service awards, each recipient shall provide to the Settlement Administrator a completed W-9 form within twenty (20) days after the Effective Date.

9.1.1 Within thirty (30) days after the Effective Date, the Settlement Administrator shall pay any service awards, as awarded by the Court, to an account established by Class Counsel. Class Counsel shall thereafter distribute the service awards to the to the individuals identified in ¶ 9.1.

9.1.2 Service Awards are not conditioned on support of the Settlement. The allowance or disallowance by the Court of an award of Service Payments will be considered and determined by the Court separately from the Court's consideration and determination of the fairness, reasonableness, and adequacy of the Settlement.

9.2 Class Counsel may submit a request to the Court for their attorneys' fees, reasonable costs, and expenses to be paid from the Qualified Settlement Fund. Premera does not

and will not object, appeal, or otherwise comment upon any such attorneys' fee and expense request that does not exceed an amount equal to Fourteen Million Dollars and No Cents (\$14,000,000.00). Premera hereby authorizes the Settlement Administrator to pay the amount awarded by the Court to Class Counsel for their attorneys' fees, reasonable costs and expenses, up to and including Fourteen Million Dollars and No Cents (\$14,000,000.00), and no more than that amount. Class Counsel, in their sole discretion, shall allocate and distribute that amount of attorneys' fees, costs, and expenses awarded by the Court among Plaintiffs' Counsel.

9.3 The Settling Parties negotiated the maximum amount of the attorneys' fees, costs, and expenses to be sought by Class Counsel, as provided for in ¶ 9.2, under the supervision of the Honorable Jay C. Gandhi and Peter Rosen of JAMS, after all monetary relief terms of the settlement had been agreed upon.

9.4 Within ten (10) business days of an Order in which the Court awards attorneys' fees, expenses, and costs ("Fee Award and Costs") to Class Counsel, Premera shall deposit the amount of the Fee Award and Costs into the Qualified Settlement Fund. The Fee Award and Costs shall be paid from the Qualified Settlement Fund to Class Counsel immediately following transfer of such payment into the Qualified Settlement Fund, notwithstanding the existence of any timely filed objections thereto, or potential for appeal therefrom, or collateral attack on the settlement or any part thereof, subject to Class Counsel's joint and several obligation to repay those amounts to the Qualified Settlement Fund, plus accrued interest at the same net rate as is earned by the Qualified Settlement Fund, if and when, as a result of any appeal and/or further proceedings on remand, or successful collateral attack, the Fee Award and Costs is reduced or reversed, or return of the Qualified Settlement Fund is required consistent with the provisions of this Agreement. In such event, Class Counsel shall, within ten (10) business days from the event which requires repayment of the Fee Award and Costs, refund to the Qualified Settlement Fund the Fee Award and Costs paid to them.

9.5 The amount(s) of any award of attorneys' fees, costs, and expenses, and the service awards to the plaintiffs, are intended to be considered by the Court separately from the Court's

consideration of the fairness, reasonableness, and adequacy of the settlement. No order of the Court, or modification or reversal or appeal of any order of the Court, concerning the amount(s) of any attorneys' fees, costs, expenses, and/or service awards ordered by the Court to Class Counsel or the Representative Plaintiffs shall affect whether the Final Approval Order and Judgment is Final or constitute grounds for cancellation or termination of this Settlement Agreement.

X. Final Approval.

10.1 If the Court preliminarily approves the settlement, Class Counsel and Premera's counsel shall request that the Court hold a hearing and grant final approval of the settlement set forth herein (the "Final Fairness Hearing") on a date after notice and opt-out procedures are substantially completed and, pursuant to 28 U.S.C. § 1715(b) & (d), no earlier than one hundred twenty (120) days after the Notice Date.

10.2 Representative Plaintiffs shall submit a motion for final approval of the settlement, including a memorandum in support of the motion, and shall seek entry of an order and final judgment, at least ten (10) days prior to the Final Fairness Hearing.

10.3 Such Final Approval Order shall specifically include provisions that: (a) the Court has personal jurisdiction over all Settlement Class Members, the Court has subject matter jurisdiction over the Claims asserted, and that venue is proper; (b) finally certify the Settlement Class pursuant to Rule 23 of the Federal Rules of Civil Procedure; (c) finally approve the settlement pursuant to Rule 23 of the Federal Rules of Procedure; (d) find that the Class Notice as distributed was the best notice practicable under the circumstances and fully satisfied the requirements of due process and Rule 23 of the Federal Rules of Civil Procedure; (e) approve the terms of distribution of cash to Settlement Class Members; (f) approve the method of enrolling Settlement Class Members in Credit Monitoring and Insurance Services; (g) confirm that Representative Plaintiffs and the Settlement Class Members have released all Released Claims and are permanently barred and enjoined from asserting, commencing, prosecuting, or continuing any of the Released Claims against the Released Parties; (h) retain jurisdiction relating to the

administration, consummation, validity, enforcement, and interpretation of this Agreement, the Final Approval Order and Judgment, any final order approving the Fee and Expense Award and service awards, and for any other necessary purpose; and (i) enter a judgment that dismisses the action with prejudice, without costs to any party, except as provided in the Agreement, and subject to the Court's continuing jurisdiction over the Settling Parties for the purpose of enforcement of the terms of the Settlement Agreement.

10.4 The Settling Parties shall recommend that the Final Fairness Hearing be scheduled for a date at least one hundred and twenty (120) days after the date of commencement of notice to Settlement Class Members, but in no event earlier than ninety (90) days after CAFA Notice is served.

10.5 At the Final Fairness Hearing, Representative Plaintiffs and Class Counsel shall make a good faith effort to present sufficient evidence to support the entry of the Final Approval Order and Judgment, and shall present such evidence as they deem appropriate to support any award of attorneys' fees and costs. Settlement Class Members who do not object to the Settlement may appear and address the Court at the Final Fairness Hearing.

XI. RELEASE.

11.1 Upon the Effective Date, each Settlement Class Member, including the Representative Plaintiffs, shall be deemed to have, and by operation of the Final Approval Order and Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims against all Released Persons, as defined in ¶¶ 1.32–1.33. Further, upon the Effective Date, and to the fullest extent permitted by law, each Settlement Class Member, including the Representative Plaintiffs, shall, either directly, indirectly, representatively, as a member of or on behalf of the general public or in any capacity, be permanently barred and enjoined from commencing, prosecuting, or participating in any recovery in any action in this or any other forum (other than participation in the settlement as provided herein) in which any Released Claim(s) is/are asserted.

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

12.1 The Effective Date of the settlement shall be the date on which the last of the following events occurs:

- (a) the Court has entered the Order of Preliminary Approval and Publishing of Notice of a Final Fairness Hearing, as required by ¶ 10.1;
- (b) Premera has not exercised its option to terminate the Settlement Agreement under the separate Letter Agreement and the time for Premera to do so has elapsed;
- (c) the Court has entered the Final Approval Order and Judgment granting final approval to the settlement as set forth herein; and
- (d) the Final Approval Order and Judgment has become Final, as defined in ¶ 1.12.

12.2 If all of the conditions specified in ¶ 12.1 hereof are not satisfied, the Settlement Agreement shall be cancelled and terminated subject to ¶ 12.3 unless Class Counsel and Premera's counsel mutually agree in writing to proceed with the Settlement Agreement.

12.3 In the event that the Settlement Agreement is not approved by the Court or the settlement set forth in the Settlement Agreement is terminated in accordance with its terms, (a) the Settling Parties shall be restored to their respective positions in the Litigation and shall jointly request that all scheduled litigation deadlines be reasonably extended by the Court so as to avoid prejudice to any Settling Party or Settling Party's counsel, and (b) the terms and provisions of the Settlement Agreement and statements made in connection with seeking approval of the Agreement shall have no further force and effect with respect to the Settling Parties and shall not be used in the Litigation or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of the Settlement Agreement shall be treated as vacated, *nunc pro tunc*. Notwithstanding any statement in this Settlement Agreement to the contrary, no order of the Court or modification or reversal on appeal of any order reducing the amount of attorneys' fees, costs, expenses, and/or incentive awards shall constitute grounds for cancellation or termination of the Settlement Agreement. Further, notwithstanding any statement in this

Settlement Agreement to the contrary, Premera shall be obligated to pay amounts already billed or incurred for costs of notice to the Settlement Class and Settlement Administration and shall not, at any time, seek recovery of same from any other party to the Litigation or from counsel to any other party to the Litigation.

XIII. Confidentiality.

13.1 It is agreed that until the filing of the motion for preliminary approval, the Settlement Agreement and its terms as well as the related Letter Agreement and its terms shall be confidential and shall not be disclosed to any Person other than Representative Plaintiffs and their counsel unless disclosure is required by applicable disclosure laws, required by auditors or attorneys, or agreed to by the Settling Parties.

13.2 The Settling Parties shall agree to the content of a joint press release in the form attached as Exhibit G, which shall be released contemporaneously with the filing of a motion for preliminary approval. If the Settling Parties subsequently agree that a second joint press release is warranted to further notify Settlement Class Members of the settlement benefits, the Settling Parties shall agree to the specific timing of a second joint press release aimed at reminding the Settlement Class Members that the end of the Claims Period is approaching. No Settling Party shall issue any other press release concerning the Settlement Agreement without the other party's prior written consent, or an order of the Court.

13.3 All agreements made and orders entered during the course of this matter relating to the confidentiality of information shall survive this Agreement. The Settling Parties shall continue to comply with the Protective Order entered in this case.

13.4 Class Counsel may make public statements regarding the settlement (i) in any future pleadings and/or Court filings in the cases or any other case related to the Released Claims, (ii) on any resume or future pleadings in any proceeding relating to Class Counsel's experience and results, and (iii) Class Counsel's websites, in order to inform visitors to their websites of the case status, with links to the Settlement Website. Nothing herein shall bar or otherwise limit Class

Counsel's communications with Representative Plaintiffs, any Settlement Class Member, or any individual requesting information about the Settlement.

13.5 Nothing in this Section XIII - Confidentiality shall be interpreted to limit representations that the Settling Parties or their attorneys may make to the Court to assist it in its evaluation of the Settlement; nor shall it prohibit Class Counsel from communicating directly with a Settlement Class Member or Settlement Class Members. Premera may also provide necessary and accurate information about the settlement to its officers, directors, and other persons or entities as required by applicable laws or regulations.

XIV. Miscellaneous Provisions.

14.1 The Settling Parties (i) acknowledge that it is their intent to consummate this Agreement; and (ii) agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Settlement Agreement, and to exercise their best efforts to accomplish the terms and conditions of this Settlement Agreement.

14.2 The Settling Parties intend this settlement to be a final and complete resolution of all disputes between them with respect to the Litigation. The Settlement comprises claims which are contested and shall not be deemed an admission by any Settling Party as to the merits of any claim or defense. The Settling Parties each agree that the settlement was negotiated in good faith by the Settling Parties and reflects a settlement that was reached voluntarily after consultation with competent legal counsel. The Settling Parties reserve their right to rebut, in a manner that such party determines to be appropriate, any contention made in any public forum that the Litigation was brought or defended in bad faith or without a reasonable basis.

14.3 Neither the Settlement Agreement, nor the settlement contained herein, nor any act performed or document executed pursuant to or in furtherance of the Settlement Agreement or the settlement (i) is or may be deemed to be or may be used as an admission of, or evidence of, the validity or lack thereof of any Released Claim, or of any wrongdoing or liability of any of the Released Persons; or (ii) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Released Persons in any civil, criminal or administrative

proceeding in any court, administrative agency or other tribunal. Any of the Released Persons may file the Settlement Agreement and/or the Final Approval Order and Judgment in any action that may be brought against them or any of them in order 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.

14.4 The terms and provisions of this Agreement may be amended, modified, or expanded by written agreement of the Settling Parties and approval of the Court; provided, however, that, after entry of the Preliminary Approval Order, the Parties may, by written agreement, effect such amendments, modifications, or expansions of this Agreement and its implementing documents (including all Exhibits hereto) without further notice to the Settlement Class or approval by the Court if such changes are consistent with the Court's Preliminary Approval Order and do not materially alter, reduce, or limit the rights of Settlement Class Members under this Agreement.

14.5 The Settlement Agreement, together with the Exhibits attached hereto, constitutes the entire agreement among the parties hereto, and no representations, warranties or inducements have been made to any party concerning the Settlement Agreement other than the representations, warranties and covenants contained and memorialized in such document. Except as otherwise provided herein, each party shall bear its own costs. This Agreement supersedes all previous agreements made by the Settling Parties.

14.6 Class Counsel, on behalf of the Settlement Class, is expressly authorized by the Representative Plaintiffs to take all appropriate actions required or permitted to be taken by the Settlement Class pursuant to the Settlement Agreement to effectuate its terms, and also are expressly authorized to enter into any modifications or amendments to the Settlement Agreement on behalf of the Settlement Class which they deem appropriate in order to carry out the spirit of this Settlement Agreement and to ensure fairness to the Settlement Class.

14.7 Each counsel or other Person executing the Settlement Agreement on behalf of any party hereto hereby warrants that such Person has the full authority to do so.

14.8 The Settlement Agreement may be executed in one or more counterparts. 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.

14.9 The Settlement Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the parties hereto.

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

14.11 The Settlement Agreement shall be considered to have been negotiated, executed, and delivered, and to be wholly performed, in the State of Washington, and the rights and obligations of the parties to the Settlement Agreement shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of Washington without giving effect to choice of law principles.

14.12 As used herein, “he” means “he, she, they, or it;” “his” means “his, hers, theirs, or its,” and “him” means “him, her, their, or it.”

14.13 All dollar amounts are in United States dollars (“USD”).

14.14 Cashing a settlement check is a condition precedent to any Settlement Class Member’s right to receive settlement benefits. All settlement checks shall be void one hundred twenty (120) days after issuance and shall bear the language: “This check must be cashed within one hundred twenty (120) days, after which time it is void.” If a check becomes void, the Settlement Class Member shall have until two hundred seventy (270) days after the Effective Date to request re-issuance. If no request for re-issuance is made within this period, the Settlement Class Member will have failed to meet a condition precedent to recovery of settlement benefits, the Settlement Class Member’s right to receive monetary relief shall be extinguished, and Premera

shall have no obligation to make payments to the Settlement Class Member for expense reimbursement under ¶ 4.3–4.5 or any other type of monetary relief. The same provisions shall apply to any re-issued check. For any checks that are issued or re-issued for any reason more than one hundred eighty (180) days from the Effective Date, requests for re-issuance need not be honored after such checks become void.

14.15 Unless otherwise specified in writing, any notice sent in connection with this Agreement shall be transmitted by U.S. Mail or Federal Express or an equivalent overnight delivery service as follows:

To Named Plaintiffs and Class Counsel:

Kim D. Stephens

Tousley Brain Stephens, PLLC
1700 Seventh Avenue, Suite 2200
Seattle, WA 98101-4416
Telephone: 206.682.5600

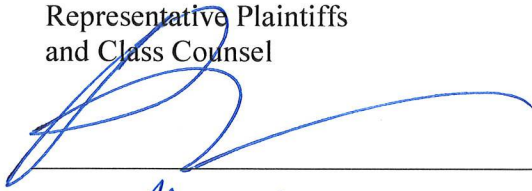
To Premera and Premera's counsel:

Paul G. Karlsgodt

BakerHostetler
1801 California Street, Suite 4400
Denver, CO 80202-2662
Telephone: 303.861.0600

IN WITNESS WHEREOF, the parties hereto have caused the Settlement Agreement to be executed, by their duly authorized attorneys.

Representative Plaintiffs
and Class Counsel



Dated: May 29, 2019

By:

Premiera's counsel and Duly Authorized
Signatory



Dated: May 29, 2019

By: Paul Karlsgodt

Dated: _____, 2019

By:

Dated: _____, 2019

By:

SETTLEMENT AGREEMENT EXHIBIT A

Injunctive Relief

Premera commits to pay for and implement the business practices described below for a period of three (3) years from the date of final approval of the Settlement Agreement (the “Settlement Term”) unless otherwise noted.

1. Before the end of the Settlement Term, and for a period of three (3) years after deployment, Premera shall deploy the following data protection steps:
 - a. All claims data from Blue Card applications that handle “host” claims that have not been accessed within a three (3)-year period will be archived in a separate, secured, logically air-gapped environment;
 - b. All Home claims data, as defined in Premera’s environment, from Premera’s payer administration systems that have not been accessed by Premera within a five (5)-year period will be archived to a separate, secured, logically air-gapped environment. Should Premera require data to be brought back into its production environment, it may do so for the intended need (e.g., claim adjustment, investigations, or at the direction of Legal).
 - c. All claims data in the separate, secured environment will be subject to adequate protection, including dedicated servers and whole disk encrypted drives.
 - d. Access to all claims data in the separate, secured environment will be restricted in an adequate manner, including requiring levels of management and, as appropriate, legal approval.
2. For the duration of the Settlement Term, Premera shall continue to encrypt Sensitive Data at rest using a platform equipped to provide such encryption. Such Sensitive Data comprises:
 - a. First Name and
 - b. Last Name and an addition of
 - c. Date of Birth (month and day) or
 - d. Social Security Number or
 - e. Health ID (including Medicaid, Medicare, and Insurance).
3. For the duration of the Settlement Term, Premera shall implement and maintain two-factor authentication for remote access to Premera’s environment by affiliate or vendor personnel. Additionally, Premera will commit, during vendor security

assessments, to require business record documentation that demonstrates that the vendor deploys two-factor authentication for remote access to the internal Premera network by personnel of the affiliate or vendors.

4. For the duration of the Settlement Term, Premera shall perform network monitoring to include (a) detection of anomalous data extraction; and (b) alerting and investigation of all such anomalies by the Security Operations Center.
5. For the duration of the Settlement Term, Premera shall undertake an annual IT security audit using the current HITRUST framework and a HITRUST-certified auditor.
6. For the duration of the Settlement Term, Premera shall spend at least \$14 million per year on core cybersecurity operations, investments, and initiatives whose primary purpose is to improve or maintain information protection.
7. For three (3) years following implementation, Premera shall collect and maintain logs of covered information systems in real-time, allowing for processing and aggregation of logs in the security device chain as follows: Premera will maintain logs for a period of one (1) year in an active state; and Premera will maintain logs in a cold state for years two (2) and three (3). Premera will document and account for any periods of outage. Covered information systems include all servers and infrastructure involved in the protection of PII and PHI, including Intrusion Detection Systems (“IDS”), database activity monitoring systems, authentication systems, firewalls, and other end user access control systems. Premera will enlist a third-party assessor to ascertain compliance with this requirement.
8. For the duration of the Settlement Term, Premera shall remediate or otherwise provide compensating controls for Material Weakness or Significant Deficiency security audit findings, as defined in Premera’s environment, from internal Premera IT auditors within one (1) year of a solution becoming available.
9. For the duration of the Settlement Term, Premera shall conduct adversarial simulations at least once per year for the Settlement Term to include simulation of compromised privileged credentials for both the network and database systems.
10. For the duration of the Settlement Term, Premera shall perform end-point vulnerability scans in the Premera environment for the Settlement Term. As to remediation, when Premera finds a critical vulnerability, Premera shall:
 - a. Remediate vulnerabilities within ninety (90) days of a solution becoming available; or
 - b. For those critical vulnerabilities where a solution poses a significant, negative impact on the business or operation involved, Premera will ensure that appropriate compensating controls are in place or implemented to mitigate the risks associated with such critical vulnerabilities.

11. Premera shall achieve full implementation of the following Mandiant remediation recommendations by the end of second quarter 2019, and shall maintain such practices for the duration of the Settlement Term:
 - a. Removing local administrator privileges for Windows domain accounts not requiring them;
 - b. Strengthening Premera's Windows password policy to protect against password cracking and brute force attacks;
 - c. Enhancing Windows event logging;
 - d. Reducing exposure of Windows credentials in memory;
 - e. Enhancing network device logging capabilities;
 - f. Restricting the use of Windows service accounts;
 - g. Reducing privileges for the AT service account;
 - h. Restricting access to Exchange servers;
 - i. Preventing certain workstation-to-workstation communication within the Windows environment;
 - j. Implementing the Restricted Administration feature to limit the exposure of privileged Windows domain credentials during the Remote Desktop Protocol process;
 - k. Restricting servers from directly connecting to non-whitelisted Internet IP addresses;
 - l. Adding privileged domain users to the Protected Users security group;
 - m. Securing and restricting the use of local administrator accounts on Windows systems;
 - n. Implementing authentication policy siloing to limit high-privileged account authentication and system access;
 - o. Enhancing Premera's ability to search for and collect host-based forensic artifacts of malicious activity across the environment;
 - p. Enhancing the existing Security Information and Event Management solution with additional sources of evidence;
 - q. Deploying the Enhanced Mitigation Experience Toolkit to end-user Windows systems;
 - r. Deploying the Sysmon utility to key servers;
 - s. Improving PowerShell auditing on Windows systems by upgrading the Windows Management Framework interface;
 - t. Disabling split tunneling to enforce remote access with multi-factor authentication;
 - u. Disabling personal social media and email access; and
 - v. Deploying a Public Key Infrastructure.

12. For the duration of the Settlement Term, Premera shall retain for three (3) years forensic images of any computer on Premera's physical network found to be infected with malware (e.g., Premera identifies a malicious payload and/or determines that malicious code has been executed) that is capable of remote access or sending data to unauthorized parties in the environment in which

Premera finds it.

13. Premera shall keep these information security practices in place for the Settlement Term:
 - a. Continue to operate a Cyber Security Operations Center, whether in-house or through a third party, 24x7x365;
 - b. Continue to employ someone, either in a permanent or interim role, in the Chief Information Security Officer position; such person will have senior executive leadership experience in information technology, and a specialization in IT Security and/or a combination of IT Compliance, Information Security and Disaster Recovery experience;
 - c. Require that remote access to the Premera network and via virtual machine access by Premera associates will be governed by two-factor authentication, and that all remote access by business partners will be protected by multi-factor authentication;
 - d. Mandate Information Security training for all associates, including Phishing training and exercises;
 - e. Keep in place those enhanced email protection and filtering solutions for all associates (email SPAM, phishing, and anti-malware) Premera has implemented; and
 - f. Keep in place the application whitelisting on critical systems, workstations, and servers that Premera has implemented.

SETTLEMENT AGREEMENT EXHIBIT B

A proposed Settlement has been reached with Premera Blue Cross (“Premera”) over the security incident that Premera announced on March 17, 2015, where Premera’s computer network system was the target of an external criminal-cyberattack that began in May 2014 (the “Security Incident”). Plaintiffs claim that Premera did not adequately protect their personal information. Defendant denies any wrongdoing. No judgment or determination of wrongdoing has been made.

Who is Included? Records indicate you are included in this Settlement as a Class Member. The Class includes persons who were notified on or around March 2015, that their Personal Information that was stored in Premera’s computer network systems was compromised in the Security Incident as publicly disclosed on March 17, 2015.

What does the Settlement Provide? Premera will establish a \$32 Million Settlement Fund that will be used to pay for two years of free Credit Monitoring and Insurance Services, cash payments of up to \$10,000 for reimbursement of Out-of-Pocket Losses or cash payments of \$50 as alternative settlement compensation (the “Default Settlement Payment”), cash payments of \$50 for Class Members who were California residents at the time they were Premera insured and attorney fees and costs of notice and administration. Defendant has also agreed and began undertaking certain remedial measures and enhanced security measures, which they will continue to implement, valued at over \$ million. All cash payments may be adjusted pro rata depending on the number of Class Members that participate in the Settlement.

How To Get Benefits: You must submit a Claim Form, including any required documentation. The earliest deadline to file a Claim Form is Month XX, 2019. You may file a Claim online at www. .com or get a paper Claim Form at the website or by calling toll free 1-888-888-8888 and file by mail. You may also return the enclosed Claim Form to file a claim for Credit Monitoring and Insurance Services, the Default Settlement Payment, and the California Settlement Payment. **When filing your Claim use your unique Claim Number (printed on the attached Claim Form).**

Your Other Options. If you file a Claim Form, object to the Settlement and attorneys’ fees and expenses, or do nothing, you are choosing to stay in the Settlement Class. You will be legally bound by all orders of the Court and you will not be able to start, continue or be part of any other lawsuit against Premera or related parties about the Security Incident. If you don’t want to be legally bound by the Settlement or receive any benefits from it, you must exclude yourself by Month XX, 2019. If you do not exclude yourself, you may object to the Settlement and attorneys’ fees and expenses by Month XX, 2019. The Court has scheduled a hearing in this case for Month XX, 2019, to consider whether to approve the Settlement, attorneys’ fees and costs of up to \$14 million, Service Awards of up to \$5,000 for the Representative Plaintiffs, as well as any objections. You or your own lawyer, if you have one, may ask to appear and speak at the hearing at your own cost, but you do not have to. For complete information about all of your rights and options, as well as Claim Forms, the Long Form Notice and Settlement Agreement visit www. .com, or call 1-888-888-8888.

In re Premera Blue Cross Customer Data Security Litigation
c/o [NAME]
[ADDRESS]
[CITY, STATE ZIP]

SETTLEMENT AGREEMENT EXHIBIT C

In Re Premera Blue Cross Customer Data Security Litigation
U.S. District Court, District of Oregon, Case Number 3:15-md-2633-SI

Notice of Premera Blue Cross Security Incident Class Action Settlement

*A federal court has authorized this Notice. This is not a solicitation from a lawyer.
Please read this Notice carefully and completely.*

THIS NOTICE MAY AFFECT YOUR RIGHTS. PLEASE READ IT CAREFULLY.

- A Settlement has been proposed in a class action lawsuit against Premera Blue Cross (“Premera” or “Defendant”), arising out of the security incident that Premera announced on March 17, 2015, wherein Premera’s computer network system was the target of an external criminal-cyberattack that began in May 2014 (the “Security Incident”).
- If you received a notice from Premera about the Security Incident in or around March 2015, you are included in this Settlement as a “Class Member.”
- Under the Settlement, Premera has agreed to establish a \$32 million Qualified Settlement Fund to: (1) pay for credit monitoring services and identity theft insurance, (2) provide cash payments to Class Members for reimbursement of certain documented out-of-pocket losses and up to \$20 per hour for up to twenty hours for time spent addressing or remedying issues plausibly traceable to the Security Incident, (3) provide cash payments of up to \$50 as alternative settlement compensation to Class Members who do not make claims for out-of-pocket losses, (4) provide cash payments of up to \$50 to qualifying Class Members as compensation under the California Confidentiality of Medical Information Act (“CMIA”), and (5) the costs of the settlement administration, court-approved attorneys’ fees and expenses, and service awards for named Plaintiffs. In addition, Premera has agreed to spend at least \$42 million over the next three years on enhanced security measures. Your legal rights will be affected whether you act or do not act. You should read this entire Notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
FILE A CLAIM FORM EARLIEST DEADLINE: [xxxx xx, 2019]	<p>Submitting a Claim Form is the only way that you can receive any of the benefits provided by this Settlement, including Credit Monitoring and Insurance Services; reimbursement of Out-of-Pocket Losses of money, expenses incurred, and/or time spent addressing or remedying issues plausibly traceable to the Security Incident; a Default Settlement Payment; and a California Settlement Payment.</p> <p>If you submit a Claim Form, you will give up the right to sue the Defendant and certain related parties in a separate lawsuit about the legal claims this Settlement resolves.</p>
EXCLUDE YOURSELF FROM THIS SETTLEMENT DEADLINE: [xxxx xx, 2019]	<p>This is the only option that allows you to sue, continue to sue, or be part of another lawsuit against the Defendant, or certain related parties, for the claims this Settlement resolves.</p> <p>If you exclude yourself, you will give up the right to receive any benefits from this Settlement.</p>
OBJECT TO OR COMMENT ON THE SETTLEMENT DEADLINE: [xxxx xx, 2019]	<p>You may object to the Settlement and Attorneys’ fees and expenses by writing to the Court and informing it why you don’t think the Settlement or the requested attorney’s fees and expenses should be approved. You also may write the Court to provide comments or reasons why you support the Settlement.</p> <p>If you object, you also may file a Claim Form to receive Settlement benefits, but you will give up the right to sue the Defendant in a separate lawsuit about the legal claims this Settlement resolves.</p>
GO TO THE FINAL FAIRNESS HEARING DATE: xxxx xx, 2019	<p>You can attend the Final Fairness Hearing where the Court may hear arguments concerning approval of the Settlement. If you wish to speak at the Final Fairness Hearing, you must make a request to do so in your written objection or comment. You are <u>not</u> required to attend the Final Fairness Hearing.</p>
DO NOTHING	<p>If you do nothing, you will not receive any of the Settlement benefits and you will give up your rights to sue Defendant and certain related parties for the claims this Settlement resolves.</p>

- These rights and options—and the deadlines to exercise them—are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the Settlement and the requested attorneys’ fees and expenses. No Settlement benefits or payments will be provided unless the Court approves the Settlement and it becomes final.

This Settlement affects your legal rights even if you do nothing.
Questions? Go to www.premera.com or call 1-888-888-8888.

BASIC INFORMATION

1. Why did I get this Notice?

A federal court authorized this Notice because you have the right to know about the proposed Settlement of this class action lawsuit and about all of your rights and options before the Court decides whether to grant final approval to the Settlement. This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

The Honorable Michael H. Simon of the United States District Court for the District of Oregon, is overseeing this class action. The case is known as *In Re: Premera Blue Cross Customer Data Security Incident Litigation*, Case No. 3:15-md-2633-SI (the “Action”). The people who filed this lawsuit are called the “Plaintiffs” and the company they sued, Premera Blue Cross, is called “Premera” or the “Defendant.”

2. What is this lawsuit about?

On or about March 17, 2015, Premera announced that its computer network system was the target of an external criminal-cyberattack that began in May 2014, which is believed to have been perpetrated by an Advanced Persistent Threat group originating from China (the “Security Incident”). Certain data that could have been accessed by the cyberattackers included personal information for patients of Premera customers, including names, addresses, birthdates, social security numbers, protected health information, telephone numbers, and the names of employers.

The Plaintiffs claim that Defendant failed adequately to protect their personal information and that they were injured as a result. Defendant denies any wrongdoing, and no court or other entity has made any judgment or other determination of any wrongdoing or that the law has been violated. Defendant denies these and all other claims made in the Action. By entering into the Settlement, the Defendant is not admitting that it did anything wrong.

3. Why is this a class action?

In a class action, one or more people called class representatives sue on behalf of all people who have similar claims. Together all of these people are called a Class or Class Members. One court resolves the issues for all Class Members, except for those Class Members who exclude themselves from the Class.

The class representatives in this case are the Plaintiffs: Elizabeth Black, Catherine Bushman, Krishnendu Chakraborty, Maduhchanda Chakraborty, Ralph Christopherson, Anne Emerson, William Fitch, Eric Forseter, Mary Fuerst, Debbie Hansen-Bosse, Stuart Hirsch, Ilene Hirsh, Howard Kaplowitz, Barbara Lynch, and Kevin Smith.

4. Why is there a Settlement?

The Plaintiffs and the Defendant do not agree about the claims made in this Action. The Action has not gone to trial and the Court has not decided in favor of the Plaintiffs or the Defendant. Instead, the Plaintiffs and the Defendant have agreed to settle the Action. The Plaintiffs and the attorneys for the Class (“Class Counsel”) believe the Settlement is best for all Class Members because of the risks and uncertainty associated with continued litigation and the nature of the defenses raised by the Defendant.

WHO IS INCLUDED IN THE SETTLEMENT

5. How do I know if I am part of the Settlement?

If you received a postcard Notice of this Settlement, you have been identified by the Settlement Administrator as a Class Member. More specifically, you are a Class Member, and you are affected by this Settlement, if your Personal Information was stored on Premera’s computer network systems that may have been accessed in the Security Incident.

6. Are there exceptions to being included in the Settlement?

Yes, the Settlement does not include: the Defendant, its subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendant or its parents have a controlling interest and their current or former officers and directors; the Judge presiding over the Action, and members of his family; and any individual who timely and validly requests to be excluded from the Settlement Class.

7. What if I am still not sure whether I am part of the Settlement?

If you are still not sure whether you are a Class Member, you may go to the Settlement website at www.■■■■.com, or call the Settlement Administrator’s toll-free number at [1-888-888-8888](tel:1-888-888-8888).

THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY

Questions? Go to www.■■■■.com or call [1-888-888-8888](tel:1-888-888-8888).

This Settlement affects your legal rights even if you do nothing.

8. What does the Settlement provide?

The Settlement will provide Class Members with the following benefits:

- Credit Monitoring and Insurance Services;
- Cash Payments for reimbursement of Out-of-Pocket Losses;
- Default Settlement Payments;
- California Settlement Payments; and
- Certain remedial measures and enhanced security measures that Premera will or has taken as a result of this Action.

9. Tell me more about the Credit Monitoring and Insurance Services.

Credit Monitoring and Insurance Services provide a way to discover and to protect yourself from unauthorized use of your personal information. If you already have credit monitoring services, you may still sign up for this additional protection. The Credit Monitoring and Insurance Services provided by this Settlement are separate from, and in addition to, the two years of credit monitoring and identity resolution services offered by Premera in 2015. You are eligible to make a claim for the Credit Monitoring and Insurance Services being offered through this Settlement even if didn't sign up for the previous services. If you already have a similar service from another provider, you can request that this service start after your other service expires.

Credit Monitoring and Insurance Services are being provided by Identity Guard. These Credit Monitoring and Insurance Services include:

- Three Bureau Credit Monitoring providing notice of changes to your profile;
- Authentication Alerts when someone attempts to make a change to your personal account information within Identity Guard's network;
- Authentication Alerts when someone attempts to make a change to your personal account information within the covered network;
- High Risk Transaction Alerts that provide notice of high-risk transactions including but not limited to account takeovers, wire transfers, tax refunds, payday loan applications, and cell service applications.
- Dark Web Monitoring providing notification if your social security number, credit card numbers, financial account numbers, health insurance number, and more are found on the Dark Web;
- Threat Alerts powered by IBM Watson providing proactive alerts about potential threats relevant to you found by IBM Watson's AI (for example, breaches, phishing scams, and malware vulnerabilities);
- Customer Support and Victim Assistance provided by Identity Guard;
- Up to \$1 Million reimbursement insurance from AIG covering losses due to identity theft, stolen funds, etc.;
- Anti-Phishing & Safe Apps for iOS & Android Mobile devices; and
- Safe browsing software for PC & Mac to help protect your computer against malicious content with an add-on for your Safari, Chrome, and Firefox web browsers that delivers proactive malware protection by blocking various malware delivery channels including phishing, malvertisements, and Flash, as well as content and tracking cookies to help protect personal information.

More information about the Credit Monitoring and Insurance Services being provided by Identity Guard through this Settlement is available at www.identityguard.com/ [REDACTED].

10. Tell me more about the Cash Payments for reimbursement of Out-of-Pocket Losses.

If you spent money remedying or addressing identity theft and fraud that was plausibly traceable to the Security Incident, or you spent money to protect yourself from future harm because of the Security Incident, you may make a claim for reimbursement of up to \$10,000 in Out-of-Pocket Losses.

Out-of-Pocket Losses consist of unreimbursed losses or expenditures that you actually incurred on or after May 5, 2014 through the date of your claim submission, that are plausibly traceable to the Security Incident, including expenses related to identity theft or fraud that is traceable to the Security Incident. For example, late fees, declined payment fees, overdraft fees, returned check fees, customer service fees, card cancellation or replacement fees, credit-related costs associated with purchasing credit reports, credit monitoring or identity theft protection, costs to place a freeze or alert on credit reports, and costs to replace a driver's license, state identification card or a social security number due to fraud plausibly traceable to the Security Incident. Other losses or costs plausibly traceable to the Security Incident may also be eligible for reimbursement.

Out-of-Pocket Losses may include hours for time spent taking actions intended to remedy fraud, identity theft, or other misuse of your Personal Information that is plausibly traceable to the Security Incident, which may also be eligible for reimbursement. If you spent time remedying or addressing issues plausibly traceable to the Security Incident, you may submit a claim for a cash payment of \$20 per

Questions? Go to www.identityguard.com/ or call 1-888-888-8888.
This Settlement affects your legal rights even if you do nothing.

hour for up to twenty hours of time (up to \$400) by submitting a Claim Form with Reasonable Documentation related to such lost time. If you do not provide Reasonable Documentation related to your lost time, but you have Reasonable Documentation of fraud, identity theft, or other misuses of your Personal Information traceable to the Security Incident, you may instead qualify for a cash payment of \$20 per hour for up to five hours of time (up to \$100) by self-certifying the amount of time you spent on the Claim Form. This is referred to as “Self-Certified Time.”

Claims for cash payments for Out-of-Pocket Losses must be supported by Reasonable Documentation, with the exception of claims for Self-Certified Time. Reasonable Documentation means written documents supporting your claim, such as credit card statements, bank statements, invoices, telephone records, and receipts.

Individual cash payments may be reduced *pro rata* depending on the number of Class Members that participate in the Settlement.

11. Tell me more about Default Settlement Payments.

If you do not submit a claim for Out-of-Pocket Losses, you may instead request alternative compensation of up to \$50 or more. This is referred to as the “Default Settlement Payment.” To receive the Default Settlement Payment, you must submit a Claim Form electing to receive the Default Settlement Payment, and you must verify that you are not seeking any additional compensation for Out-of-Pocket Losses.

You are not required to provide Reasonable Documentation with your Claim Form to receive the Default Settlement Payment. If you file a Claim Form for Out-of-Pocket Losses and it is rejected by the Settlement Administrator, and you do not correct it, your claim for Out-of-Pocket Losses will instead be considered a claim for the Default Settlement Payment.

Individual cash payments may be reduced *pro rata* depending on the number of Class Members that participate in the Settlement. Those who submit claims may also be eligible for additional payments if the entire settlement fund is not exhausted. See Section 23, below.

12. Tell me more about California Settlement Payments.

If, as of March 17, 2015, you resided in California and you received a notice from Premera that your information may have been accessed in the Security Incident, you may submit a claim for up to an additional \$50 or more as compensation under the California Confidentiality of Medical Information Act (“CMIA”).

To receive such California Settlement Payments, you must submit a Claim Form electing to receive the California Settlement Payment. Individual cash payments may be reduced *pro rata* depending on the number of Class Members that participate in the Settlement.

13. Tell me more about the Defendant’s remedial measures and enhanced security measures.

Premera has committed to spending \$14 million per year for three years on core cybersecurity operations, investments, and initiatives whose primary purpose is to improve or maintain information protection. This includes:

- Archiving data that has not been accessed in five years to a separate environment that is not connected to the internet.
- Encrypting social security number and other sensitive data.
- Increased network monitoring and logging of monitored activity.
- Annual third-party security audits.
- Stronger passwords, reduced employee access to sensitive data, and enhanced email protection.
- Operating a Cyber Security Operations Center 24x7x365.

14. What am I giving up to get a Settlement payment or stay in the Class?

Unless you exclude yourself, you are choosing to remain in the Class. If the Settlement is approved and becomes final, all of the Court’s orders will apply to you and legally bind you. You won’t be able to sue, continue to sue, or be part of any other lawsuit against Defendant and related parties about the legal issues in this Action that are released by this Settlement. The specific rights you are giving up are called Released Claims (see next question).

15. What are the Released Claims?

In exchange for the Settlement, Class Members agree to release Defendant and its respective past or present parents, subsidiaries, divisions, and related or affiliated entities of any nature whatsoever, whether direct or indirect, as well as each of Premera’s and these entities’ respective predecessors, successors, directors, officers, employees, principals, agents, attorneys, insurers, and reinsurers, and includes, without limitation, any Person related to any such entity who is, was or could have been named as a defendant in any of the actions related to the Security Incident in the Litigation, (“Released Persons”) from any and all claims and causes of action including, without limitation, any causes of action for or under 18 U.S.C. § 2701 *et seq.*, and all similar statutes in effect in any states in the United

Questions? Go to www.premera.com or call 1-888-888-8888.
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States; the Fair Credit Reporting Act, and all similar statutes in effect in any states in the United States; State Consumer Laws, as alleged in ¶ 217 of plaintiffs' First Amended Consolidated Complaint, and all similar statutes in effect in any states in the United States; negligence; negligence *per se*; breach of contract; breach of implied contract; breach of fiduciary duty; breach of confidence; invasion of privacy; misrepresentation (whether fraudulent, negligent or innocent); unjust enrichment; bailment; wantonness; failure to provide adequate notice pursuant to any breach notification statute or common law duty; and including, but not limited to, any and all claims for damages, injunctive relief, disgorgement, declaratory relief, equitable relief, attorneys' fees and expenses, pre-judgment interest, credit monitoring services, the creation of a fund for future damages, statutory damages, punitive damages, special damages, exemplary damages, restitution, the appointment of a receiver, and any other form of relief that either has been asserted, or could have been asserted, by or on behalf of any Representative Plaintiff or Class Member against any of the Released Persons based on, relating to, concerning, or arising out of the Security Incident and alleged theft of personal information or the allegations, facts, or circumstances described in the Litigation, and any and all "Unknown Claims" that have been or could have been asserted in the Action or in any other action or proceeding before any court, arbitrator(s), tribunal or administrative body (including but not limited to any state, local or federal regulatory body), regardless of whether the claims or causes of action are based on federal, state, or local law, statute, ordinance, regulation, contract, common law, or any other source, and regardless of whether they are known or unknown, foreseen or unforeseen, suspected or unsuspected, or fixed or contingent, arising out of, or related or connected in any way with the claims or causes of action of every kind and description that were brought, alleged, argued, raised or asserted in any pleading or court filing in the Action. Released Claims shall not include the right of any Class Member or any of the Released Persons to enforce the terms of the settlement contained in the Settlement Agreement and shall not include the claims of Class Members who have timely and properly opted out of the Settlement Agreement and thus excluded themselves from the Settlement Class.

The Released Claims do not include claims against the cyber attackers who committed the criminal acts involved in the Security Incident and persons or entities that intentionally misuse the Personal Information stolen in the Security Incident for unlawful purposes).

More information is provided in the Class Action Settlement Agreement and Release which is available at [www. \[REDACTED\].com](http://www. [REDACTED].com).

HOW TO GET SETTLEMENT BENEFITS—SUBMITTING A CLAIM FORM

16. How do I make a claim for Settlement Benefits?

You must complete and submit a Claim Form by **xxxx xx, 2019**. Claim Forms may be submitted online at [www. \[REDACTED\].com](http://www. [REDACTED].com), or printed from the website and mailed to the Settlement Administrator at the address on the form. Claim Forms are also available by calling **1-888-888-8888** or by writing to *PBC Security Incident Settlement*, P.O. Box [REDACTED], [REDACTED], [REDACTED]. The quickest way to file a claim is online.

If you received a Notice by mail, use your Unique Identification Number to file your Claim Form. If you lost or do not know your Unique Identification Number, please call 1-888-888-8888 to obtain it.

You may file a claim for Credit Monitoring and Insurance Services, Out-of-Pocket Losses or the Default Settlement Payment, and a California Payment.

17. How do I make a claim for Credit Monitoring and Insurance Services?

If you received a Notice in the mail, you may use the Claim Form provided to file a claim for Credit Monitoring and Insurance Services. Simply provide your email address (optional), tear the Claim Form at the perforation and place it in the mail on or before **xxxx xx, 2019**. If you prefer not to provide your email address on the tear-away Claim Form mailed to you, you may instead submit a Claim Form online or download and mail a Claim Form to the Settlement Administrator.

Instructions for filling out a claim for Credit Monitoring and Insurance Services are included on the Claim Form. You may access the Claim Form at [www. \[REDACTED\].com](http://www. [REDACTED].com).

The deadline to file a claim for Credit Monitoring and Insurance Services is **xxxx xx, 2019**.

18. How do I make a claim for a cash payment for reimbursement of my Out-of-Pocket Losses?

To file a claim for a cash payment of up to \$10,000 for reimbursement of Out-of-Pocket Losses, you must submit a valid Claim Form electing to receive a payment for Out-of-Pocket Losses. The Claim Form requires that you sign the attestation regarding the information you provided and that you include Reasonable Documentation, such as credit card statements, bank statements, invoices, telephone records, and receipts.

To file a claim for cash payment of up to \$400 for Out-of-Pocket Losses for time spent remedying or addressing issues plausibly traceable to the Security Incident, you must submit a valid Claim Form electing to receive a payment for Out-of-Pocket Losses for time lost. The Claim Form requires that you sign the attestation regarding the information you provided and that you include Reasonable Documentation, such as credit card statements, bank statements, invoices, telephone records, and receipts.

Questions? Go to [www. \[REDACTED\].com](http://www. [REDACTED].com) or call **1-888-888-8888**.
This Settlement affects your legal rights even if you do nothing.

If you submitted Reasonable Documentation of fraud, identity theft, or other misuse of your Personal Information plausibly traceable to the Security Incident, but you do not provide Reasonable Documentation for time lost, you may instead file a claim for a cash payment of up to \$100 for Self-Certified Time. To file a claim for cash payment of up to \$100 for Out-of-Pocket Losses for Self-Certified Time, you must self-certify the amount of your lost time on the Claim Form.

You may file a claim for Out-of-Pocket Losses in addition to Credit Monitoring and Insurance Services and California Settlement Payment, but you cannot make a claim for both Out-of-Pocket Losses and the Default Settlement Payment.

If your claim for Out-of-Pocket Losses is rejected by the Settlement Administrator and you do not correct it, your claim for Out-of-Pocket Losses will instead be considered a claim for the Default Settlement Payment.

Instructions for filling out a claim for Out-of-Pocket Losses are included on the Claim Form. You may access the Claim Form at www._____.com.

The deadline to file a claim for Out-of-Pocket Losses is **xxxx xx, 2019**.

19. How do I make a claim for a cash payment for the Default Settlement Payment?

If you received a Notice in the mail, you may use the Claim Form provided to file a claim for the Default Settlement Payment, Credit Monitoring and Insurance Services, and California Settlement Payment (if applicable).

To file a claim for cash payment of up to \$50 for the Default Settlement Payment, you must submit a valid Claim Form electing to receive the Default Settlement Payment. You must also verify that you are not seeking any additional compensation for Out-of-Pocket Losses. Simply tear the Claim Form at the perforation and place it in the mail on or before **xxxx xx, 2019**. If you wish to receive your payment via PayPal, Venmo, Amazon credit, or eCheck instead of a check, simply provide your email address (optional). If you prefer not to provide your email address on the tear-away Claim Form mailed to you, you may instead submit a Claim Form online or download and mail a Claim Form to the Settlement Administrator.

Instructions for filling out a claim for the Default Settlement Payment are included on the Claim Form. You may access the Claim Form at www._____.com.

The deadline to file a claim for Default Settlement Payment is **xxxx xx, 2019**.

You may file a claim for the Default Settlement Payment in addition to claims for Credit Monitoring and Insurance Services and for the California Settlement Payment, but you cannot make a claim for both Default Settlement Payment and Out-of-Pocket Losses.

20. How do I make a claim for a cash payment for the California Settlement Payment?

If you received a Notice in the mail, you may use the Claim Form provided to file a claim for the Default Settlement Payment or Out-of-Pocket Losses, in addition to Credit Monitoring and Insurance Services, and California Settlement Payment (if applicable).

To file a claim for cash payment of up to \$50 for California Settlement Payment, you must submit a valid Claim Form electing to receive such California Settlement Payment. Simply tear the Claim Form at the perforation and place it in the mail on or before **xxxx xx, 2019**. If you wish to receive your payment via PayPal, Venmo, Amazon credit, or eCheck instead of a check, simply provide your email address (optional). If you prefer not to provide your email address on the tear-away Claim Form mailed to you, you may instead submit a Claim Form online or download and mail a Claim Form to the Settlement Administrator.

Instructions for filling out a claim for California Settlement Payment are included on the Claim Form. You may access the Claim Form at www._____.com.

The deadline to file a claim for California Settlement Payment is **xxxx xx, 2019**.

You may file a claim for California Settlement Payment in addition to claims for Credit Monitoring and Insurance Services and claims for either Out-of-Pocket Losses or the Default Settlement Payment.

21. What happens if my contact information changes after I submit a claim?

If you change your mailing address or email address after you submit a Claim Form, it is your responsibility to inform the Settlement Administrator of your updated information. You may notify the Settlement Administrator of any changes by calling **1-888-888-8888** or by writing to:

PBC Security Incident Settlement

P.O. Box _____

, _____

22. When and how will I receive the benefits I claim from the Settlement?

If you make a valid claim for Credit Monitoring and Insurance Services, the Settlement Administrator will send you information on how to activate your credit monitoring after the Settlement becomes final. If you received a notice in the mail, keep it in a safe place as you

Questions? Go to www._____.com or call **1-888-888-8888.
This Settlement affects your legal rights even if you do nothing.**

will need the Unique Identification Number provided on the Notice to activate your Credit Monitoring and Insurance Services at the **Identity Guard** website.

Checks for valid claims for Out-of-Pocket Losses, Default Settlement Payments, and California Settlement Payment will be provided by the Settlement Administrator via mail and PayPal, Venmo, Amazon credit or eCheck after the Settlement is approved and becomes final.

It may take longer than one year for the Settlement to be approved and become final. Please be patient and check **www. .com** for updates.

23. What happens if money remains after all of the Settlement Claims are paid?

Any money left in the Qualified Settlement Fund after 150 days after the distribution of payments to Class Members will be distributed among all Class Members with valid claims on a *per capita* basis. To the extent such payments do not exhaust the Qualified Settlement Fund, additional Credit Monitoring and Insurance Services will be provided to those who have filed a valid claim for such services. To the extent any money remains in the Qualified Settlement Fund and it is not economically viable to re-distribute any remaining funds to Class Members, any such residual funds will be distributed to a 26 U.S.C. § 501(c)(3) non-profit recipient, approved by the Court, or as otherwise directed by the Court.

THE LAWYERS REPRESENTING YOU

24. Do I have a lawyer in this case?

Yes, the Court has appointed Kim D. Stephens of Tousley Brain Stephens PLLC, James Pizzirusso of Hausfeld LLP, Tina Wolfson of Ahdoot & Wolfson, PC, Karen Hanson Reibel of Lockridge Grindal & Nauen PLLP, and Keith Dubanevich of Stoll Berne, as Class Counsel to represent you and the Class for the purposes of this Settlement. You may hire your own lawyer at your own cost and expense if you want someone other than Class Counsel to represent you in this Action.

25. How will Class Counsel be paid?

Class Counsel will file a motion asking the Court to award them attorneys' fees and expenses in an amount up to \$14,000,000. They also will ask the Court to approve \$5,000 service awards to each of the **20** named Plaintiffs for participating in this Action and for their efforts in achieving the Settlement. If awarded, these amounts will be deducted from the Qualified Settlement Fund before making payments to Class Members. The Court may award less than these amounts.

Class Counsel's application for attorneys' fees, expenses, and service awards will be made available on the Settlement website at **www. .com** before the deadline for you to comment or object to the Settlement. You can request a copy of the application by contacting the Settlement Administrator, at 1-**888-888-8888**.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you are a Class Member and want to keep any right you may have to sue or continue to sue the Defendant on your own based on the claims raised in this Action or released by the Released Claims, then you must take steps to get out of the Settlement. This is called excluding yourself from – or “opting out” of – the Settlement.

26. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must complete and sign a Request for Exclusion. The Request for Exclusion must be in writing and identify the case name *In re Premera Blue Cross Customer Data Security Litigation*, U.S.D.C. Case No. 3:15-md-2633-SI; state the name, address and telephone number of the Settlement Class Members seeking exclusion; be physically signed by the Person(s) seeking exclusion; and must also contain a statement to the effect that “I/We hereby request to be excluded from the proposed Settlement Class in *In re Premera Blue Cross Customer Data Security Litigation*, U.S.D.C. Case No. 3:15-md-2633-SI.” A valid Request for Exclusion requires you to state your full name, current mailing address, and telephone number; be physically signed by you; and contain a statement to the effect that “I hereby request to be excluded from the proposed Settlement Class in *In re Premera Blue Cross Customer Data Security Litigation*, Case No. 3:15-md-2633-SI **AG (DFWx)**.” The Request for Exclusion must be submitted electronically on the Settlement Website, or (ii) postmarked or received by the Settlement Administrator at the address below no later than **xxxx xx, 2019**:

PBC Security Incident Settlement

P.O. Box

You cannot exclude yourself by telephone or by e-mail.

Questions? Go to **www. .com or call **1-888-888-8888**.
This Settlement affects your legal rights even if you do nothing.**

28. If I exclude myself, can I still get Credit Monitoring and Insurance Services and a Settlement payment?

No. If you exclude yourself, you are telling the Court that you don't want to be part of the Settlement. You can only get free Credit Monitoring and Insurance Services and a cash payment if you stay in the Settlement and submit a valid Claim Form.

29. If I do not 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 and Released Persons for the claims that this Settlement resolves. You must exclude yourself from this Action to start or continue with your own lawsuit or be part of any other lawsuit against the Defendant or any of the Released Persons. If you have a pending lawsuit, speak to your lawyer in that case immediately.

OBJECT TO OR COMMENT ON THE SETTLEMENT**30. How do I tell the Court that I do not like the Settlement or amount of attorneys' fees?**

If you are a Class Member, you can tell the Court that you do not agree with all or any part of the Settlement or requested attorneys' fees and expenses. You can give reasons why you think the Court should not approve the Settlement or attorneys' fees and expenses. To object, you must mail a letter stating that you object to the Settlement in *In re Premier Blue Cross Customer Data Security Litigation*, Case No. 3:15-md-2633-SI. Be sure to include (1) your full name, current mailing address, and telephone number; (2) a signed statement that you believe you are a member of the Settlement Class; (3) the specific reasons you are objecting to the Settlement; (4) all documents or writings that you wish the Court to consider; and (5) a statement indicating whether you or your attorney intends to appear at the Final Fairness Hearing. Mail your objection to both addresses listed below postmarked by **xxxx xx, 2019**:

Clerk of the Court
United States District Court
District of Oregon
1000 S.W. Third Ave.
Portland, OR 97204

PBC Security Incident Settlement
P.O. Box _____
_____, _____

31. What is the difference between objecting and requesting exclusion?

Objecting is simply telling the Court you do not like something about the Settlement or requested attorneys' fees and expenses. You can object only if you stay in the Class (that is, do not exclude yourself). Requesting exclusion is telling the Court you do not want to be part of the Class or the Settlement. If you exclude yourself, you cannot object to the Settlement because it no longer affects you.

THE FINAL FAIRNESS HEARING**32. When and where will the Court decide whether to approve the Settlement?**

The Court will hold a Final Fairness Hearing on **xxxx xx, 2019** at **__ : __ .m.** before the Honorable Michael H. Simon, United States District Judge for the District of Oregon, Mark O. Hatfield United States Courthouse, Room 1527, 1000 Southwest Third Avenue Portland, Oregon 97204.

At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate and decide whether to approve: the Settlement; Class Counsel's application for attorneys' fees, costs and expenses; and the service awards to the Plaintiffs. If there are objections, the Court will consider them. The Court will also listen to people who have asked to speak at the hearing.

33. Do I have to come to the Final Fairness Hearing?

No. Class Counsel will answer any questions the Court may have. However, you are welcome to attend at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you mail your written objection on time the Court will consider it.

34. May I speak at the Final Fairness Hearing?

Yes. If you wish to attend and speak at the Final Fairness Hearing, you must indicate this in your written objection (see Question **30**). Your objection must state that it is your intention to appear at the Final Fairness Hearing and must identify any witnesses you may call to testify or exhibits you intend to introduce into evidence at the Final Fairness Hearing. If you plan to have your attorney speak for you at the Fairness Hearing, your objection must also include your attorney's name, address, and phone number.

Questions? Go to **www._____.com** or call **1-888-888-8888**.
This Settlement affects your legal rights even if you do nothing.

IF YOU DO NOTHING**35. What happens if I do nothing at all?**

If you are a Class Member and you do nothing, you will not receive any Settlement benefits. You will give up rights explained in Questions 15 and 16, including your right to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Defendant or any of the Released Persons about the legal issues in this Action that are released by the Settlement Agreement.

GETTING MORE INFORMATION**36. How do I get more information?**

This Notice summarizes the proposed Settlement. Complete details are provided in the Settlement Agreement. The Settlement Agreement and other related documents are available at www.____.com, by calling 888-888-8888 or by writing to **PBC Security Incident Settlement**, P.O. Box _____, _____. Publicly-filed documents can also be obtained by visiting the office of the Clerk of the United States District Court for the District of Oregon or reviewing the Court's online docket.

If you have questions you may contact Class Counsel at:

Tousley Brain Stephens PLLC c/o PBC Security Incident Settlement P.O. Box _____ _____, _____ info@____.com	Hausfeld LLP c/o PBC Security Incident Settlement P.O. Box _____ _____, _____ info@____.com
Ahdoot & Wolfson, PC c/o PBC Security Incident Settlement P.O. Box _____ _____, _____ info@____.com	Lockridge Grindal & Nauen PLLP c/o PBC Security Incident Settlement P.O. Box _____ _____, _____ info@____.com
Stoll Berne c/o PBC Security Incident Settlement P.O. Box _____ _____, _____ info@____.com	

**PLEASE DO NOT CONTACT THE COURT REGARDING THIS NOTICE.
THE COURT CANNOT ANSWER ANY QUESTIONS.**

Questions? Go to www.____.com or call 1-888-888-8888.
This Settlement affects your legal rights even if you do nothing.

SETTLEMENT AGREEMENT EXHIBIT D

You Can Get Cash Payments and FREE Credit Monitoring & Insurance Services To Help Protect You Against the Possible Unlawful Use of Your Personal Information That May Have Been Taken in the Premera Blue Cross Security Incident.

A proposed Settlement has been reached with Premera Blue Cross (“Premera”) over the security incident that Premera announced on March 17, 2015, where Premera’s computer network system was the target of an external criminal-cyberattack that began in May 2014 (the “Security Incident”). Plaintiffs claim that Premera did not adequately protect their personal information. Defendant denies any wrongdoing. No judgment or determination of wrongdoing has been made.

Who is Included? The Class includes persons who were notified on or around March 2015 that their Personal Information that was stored in Premera’s computer network systems was compromised in the Security Incident as publicly disclosed on March 17, 2015.

What does the Settlement Provide? Premera will establish a \$32 Million Settlement Fund that will be used to pay for two years of free Credit Monitoring and Insurance Services, cash payments of up to \$10,000 for reimbursement of Out-of-Pocket Losses or cash payments of up to \$50 or more as alternative settlement compensation (the “Default Settlement Payment”), cash payments of up to \$50 or more for Class Members who were California residents as of March 17, 2015, and attorneys’ fees and costs, including notice and administration costs. In addition, Premera has agreed to spend at least \$42 million over the next three years on enhanced security measures. All cash payments may be adjusted pro rata depending on the number of Class Members that participate in the Settlement.

How To Get Benefits: You must submit a Claim Form, including any required documentation. The earliest deadline to file a Claim Form is **Month XX, 2019**. You may file a Claim online at www. .com or get a paper Claim Form at the website or by calling toll free **1-888-888-8888** and file by mail.

Your Other Options. If you file a Claim Form, object to the Settlement and attorneys’ fees and expenses, or do nothing, you are choosing to stay in the Settlement Class. You will be legally bound by all orders of the Court and you will not be able to start, continue or be part of any other lawsuit against Premera or related parties about the Security Incident. If you don’t want to be legally bound by the Settlement or receive any benefits from it, you must exclude yourself by **Month XX, 2019**. If you do not exclude yourself, you may object to the Settlement and attorneys’ fees and expenses by **Month XX, 2019**. The Court has scheduled a hearing in this case for **Month XX, 2019**, to consider whether to approve the Settlement, attorneys’ fees and costs of up to \$14 million, Service Awards of up to \$5,000 for the Representative Plaintiffs, as well as any objections. You or your own lawyer, if you have one, may ask to appear and speak at the hearing at your own cost, but you do not have to. For complete information about all of your rights and options, as well as Claim Forms, the Long Form Notice and Settlement Agreement visit www. .com, or call **1-888-888-8888**.

SETTLEMENT AGREEMENT EXHIBIT E

CLAIM FORM FOR PREMIERA BLUE CROSS SECURITY INCIDENT SETTLEMENT BENEFITS

In re Premiera Blue Cross Customer Data Security Litigation, Case No. 3:15-md-2633-SI

USE THIS FORM TO MAKE A CLAIM FOR CREDIT MONITORING AND INSURANCE SERVICES; CASH PAYMENTS FOR REIMBURSEMENT OF OUT-OF-POCKET LOSSES OR THE DEFAULT SETTLEMENT PAYMENT, AND CALIFORNIA SETTLEMENT PAYMENT

The DEADLINE to submit this Claim Form is: [150 DAYS FROM NOTICE COMPLETION DATE]

I. GENERAL INSTRUCTIONS

If you were notified that your private information (“Personal Information”) could have been accessed in the Security Incident wherein Premiera’s computer network system was the target of an external criminal-cyberattack that began in May 2014, you are a “Class Member.” If you received a notice about this class action Settlement addressed to you, then the Settlement Administrator has already determined that you are a Class Member.

As a Class Member, you are eligible to receive two years of free Credit Monitoring and Identity Theft Insurance Services (“Credit Monitoring & Insurance Services”), up to a \$10,000 cash payment for reimbursement of costs or expenditures actually incurred and that are plausibly traceable to the Security Incident (“Out-of-Pocket Losses”) or up to \$50 of alternative settlement compensation (“Default Settlement Payment”), and a cash payment of up to \$50 if you were a California resident as of March 17, 2015 and you received a notice from Premiera that your information could have been accessed in the Security Incident, as compensation under the California Confidentiality of Medical Information Act (“California Settlement Payment”).

The free Credit Monitoring & Insurance Services will be the Individual Total Plan provided by Identity Guard, valued at \$19.99 per month. If you already subscribed to the Individual Total Plan with Identity Guard, two additional years will be added to your current plan for free. If you already have a similar service from another provider, you can request that this service start after your other service expires.

To claim the Credit Monitoring & Insurance Services, you need only provide your email address and the unique claim number provided to you in the notice that you received by mail.

Cash payments amounts may be reduced *pro rata* (proportionately) depending on how many people submit such claims. Additional payments may also be sent. Complete information about the Settlement and its benefits are available at www.█.com.

This Claim Form may be submitted electronically *via* the Settlement Website at www.█.com or completed and mailed to the address below. Please type or legibly print all requested information, in blue or black ink. Mail your completed Claim Form, including any supporting documentation, by U.S. mail to:

[Admin Contact Info]

In order to make a claim for Out-of-Pocket Losses you must (i) fill out the information below and/or on a separate sheet submitted with this Claim Form; (ii) sign the attestation at the end of this Claim Form (section VII); and (iii) include Reasonable Documentation supporting each claimed cost along with this Claim Form. Out-of-Pocket Losses will be deemed plausibly traceable to the Security Incident by the Settlement Administrator if the Out-of-Pocket Losses occurred on or after May 5, 2014 through the date of your claim submission, and the Settlement Administrator determines that the Out-of-Pocket Losses were incurred as a result of the Security Incident.

Cost Type (Fill all that apply)	Approximate Date of Loss	Amount of Loss
<input type="radio"/> Unreimbursed fraud losses or charges	<div> <div> <div></div><div></div><div></div> </div> <div> <div></div><div></div><div></div> </div> <div> <div></div><div></div><div></div> </div> </div> <div>(mm/dd/yy)</div>	<div> <div>\$</div> <div></div><div></div><div></div><div></div><div></div><div></div> <div>.</div> <div></div><div></div><div></div> </div>
Description of Supporting Reasonable Documentation (Identify what you are attaching and why): <i>Examples: Account statement with unauthorized charges highlighted; Correspondence from financial institution declining to reimburse you for fraudulent charges</i>		
<input type="radio"/> Professional fees incurred in connection with identity theft or falsified tax returns	<div> <div> <div></div><div></div><div></div> </div> <div> <div></div><div></div><div></div> </div> <div> <div></div><div></div><div></div> </div> </div> <div>(mm/dd/yy)</div>	<div> <div>\$</div> <div></div><div></div><div></div><div></div><div></div><div></div> <div>.</div> <div></div><div></div><div></div> </div>
Description of Supporting Reasonable Documentation (Identify what you are attaching and why): <i>Examples: Receipt for hiring service to assist you in addressing identity theft; Accountant bill for re-filing tax return</i>		
<input type="radio"/> Lost interest or other damages resulting from a delayed state and/or federal tax refund in connection with fraudulent tax return filing	<div> <div> <div></div><div></div><div></div> </div> <div> <div></div><div></div><div></div> </div> <div> <div></div><div></div><div></div> </div> </div> <div>(mm/dd/yy)</div>	<div> <div>\$</div> <div></div><div></div><div></div><div></div><div></div><div></div> <div>.</div> <div></div><div></div><div></div> </div>
Description of Supporting Reasonable Documentation (Identify what you are attaching and why): <i>Examples: Letter from IRS or state about tax fraud in your name; Documents reflecting length of time you waited to receive your tax refund and the amount</i>		
<input type="radio"/> Credit freeze	<div> <div> <div></div><div></div><div></div> </div> <div> <div></div><div></div><div></div> </div> <div> <div></div><div></div><div></div> </div> </div> <div>(mm/dd/yy)</div>	<div> <div>\$</div> <div></div><div></div><div></div><div></div><div></div><div></div> <div>.</div> <div></div><div></div><div></div> </div>
Description of Supporting Reasonable Documentation (Identify what you are attaching and why): <i>Examples: Notices or account statements reflecting payment for a credit freeze</i>		

- ☐ Credit monitoring that was ordered after May 5, 2014 through the date on which the Credit Monitoring & Insurance Services become available through this Settlement

/ /
 (mm/dd/yy)

\$.

Description of Supporting Reasonable Documentation (Identify what you are attaching and why):

Example: Receipts or account statements reflecting purchases made for Credit Monitoring & Insurance Services

- ☐ Miscellaneous expenses such as notary, fax, postage, copying, mileage, and long-distance telephone charges

/ /
 (mm/dd/yy)

\$.

Description of Supporting Reasonable Documentation (Identify what you are attaching and why):

Example: Phone bills, gas receipts, postage receipts; detailed list of locations to which you traveled (i.e. police station, IRS office), indication of why you traveled there (i.e. police report or letter from IRS re: falsified tax return) and number of miles you traveled

- ☐ Other (provided detailed description)

/ /
 (mm/dd/yy)

\$.

Description of Supporting Reasonable Documentation (Identify what you are attaching and why):

Please provide detailed description below or in a separate document submitted with this Claim Form

- ☐ **Time Expenditures:** Hours for time spent taking actions intended to remedy fraud, identity theft, or other misuse of Personal Information

IMPORTANT: To make a claim for reimbursement of Out-of-Pocket Losses for Time Expenditures, you must: (i) check the appropriate box in the "Out-of-Pocket Losses for Time Expenditures" Section below, and indicate whether you have provided Reasonable Documentation of your lost time, or whether you are claiming Self-Certified time, (ii) state the number of hours you spent addressing or remedying the issues caused by the Security Incident, and (iii) sign the attestation at the end of this Claim Form.

Description of Supporting Reasonable Documentation (Identify what you are attaching and why):

**OUT-OF-POCKET LOSSES FOR TIME EXPENDITURES
(REQUIRED FOR CLAIMS FOR OUT-OF-POCKET LOSSES FOR TIME EXPENDITURES)**

You can make a claim of up to twenty (20) hours of time at \$20 per hour for time spent addressing or remediating issues caused by the Security Incident by submitting Reasonable Documentation of your lost time. If you do not submit Reasonable Documentation supporting your time expenditures but can submit Reasonable Documentation of a fraud, identity theft, or other alleged misuse of your Personal Information plausibly traceable to the Security Incident, you may instead make a claim for Self-Certified Time of up to five (5) hours of time at \$20 per hour for time spent addressing or remediating issues caused by the Security Incident.

To make a claim for reimbursement of Out-of-Pocket Losses for Time Expenditures, you must: (i) indicate by checking the appropriate box below, whether you have provided Reasonable Documentation of your lost time, or whether you are instead claiming Self-Certified Time, (ii) state the number of hours you spent addressing or remediating the issues caused by the Security Incident; and (iii) sign the attestation at the end of this Claim Form.

Please check only one box:

☐

I have provided Reasonable Documentation of my lost time.

OR

☐

Self-Certified Time: I have **not** provided Reasonable Documentation of my lost time and am instead claiming Self-Certified Time.

Please State Number of Hours Here:

Out-of-Pocket Losses for Time Expenditures will be deemed plausibly traceable to the Security Incident by the Settlement Administrator if the Out-of-Pocket Losses for Time Expenditures occurred on or after May 5, 2014, and the Settlement Administrator determines that the Out-of-Pocket Losses for Time Expenditures were incurred as a result of the Security Incident.

Note: If your claim for Out-of-Pocket Losses is rejected by the Settlement Administrator for any reason and you do not cure the defect, you will receive a Default Settlement Payment instead.

V. DEFAULT SETTLEMENT PAYMENT

If you wish to receive the Default Settlement Payment, simply check the box below, sign the verification that you are not seeking compensation for Out-of-Pocket Losses, and return this Claim Form.

DEFAULT SETTLEMENT PAYMENT VERIFICATION
(REQUIRED FOR CLAIMS FOR THE DEFAULT SETTLEMENT PAYMENT)

☐

I, _____, verify that I am not seeking compensation for Out-of-Pocket Losses, and would like to receive the Default Settlement Payment.

A check will be mailed to the address you provided in Section II, above, as long as the Net Settlement Fund is not depleted by the claims for other cash payments. You cannot receive a cash payment for reimbursement of Out-of-Pocket Loss and the Default Settlement Payment (see section IV above).

If you would prefer to receive your Default Settlement Payment via Paypal, Venmo, Amazon credit, or eCheck, please provide your email address associated with your account in the space provided in Section II, above, and return this Claim Form.

VI. CALIFORNIA SETTLEMENT PAYMENT

In addition to Credit Monitoring & Insurance Services and reimbursement of Out-of-Pocket Losses or the Default Settlement Payment, you may file a claim for the California Settlement Payment of up to \$50 if, as of March 17, 2015, you were a California resident, and you received a notice from Premera that your information could have been accessed in the Security Incident.

If you qualify and wish to receive the California Settlement Payment, simply check the box below, and return this Claim Form.

☐

Yes, I would like to receive the California Settlement Payment.

If you would prefer to receive your California Settlement Payment via Paypal, Venmo, Amazon credit, or eCheck, please provide your email address associated with your account in the space provided in Section II, above, and return this Claim Form.

VII. ATTESTATION
(REQUIRED FOR CLAIMS FOR OUT-OF-POCKET LOSSES)

I, _____, declare that I expended the Out-of-Pocket Losses claimed above.
 [Name]

I declare under penalty of perjury under the laws of _____ and of the United States of America that the foregoing is true and correct. Executed on _____, in _____, _____.
 [Date] [City] [State]

 [Signature]

SETTLEMENT AGREEMENT EXHIBIT F

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

IN RE: PREMIERA BLUE CROSS
CUSTOMER DATA SECURITY BREACH
LITIGATION

This Document Relates to All Actions.

Case No. 3:15-md-2633-SI

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

ORDER GRANTING PRELIMINARY APPROVAL OF SETTLEMENT

WHEREAS, the Settling Parties to the above-described class action (“Action”) have applied for an order, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, regarding certain matters in connection with a proposed settlement of the Action, in accordance with a Class Action Settlement Agreement and Release (the “Settlement” or Settlement Agreement”) entered into by the Settling Parties as of May 29, 2019 (which, together with its exhibits, is incorporated herein by reference) and dismissing the Action upon the terms and conditions set forth in the Settlement Agreement;

WHEREAS, all defined terms used in this Order have the same meanings as set forth in the Settlement;

WHEREAS, Class Counsel have conducted an extensive investigation into the facts and law relating to the matters alleged in the Action;

WHEREAS, the Settling Parties reached a settlement as a result of extensive arm’s-length negotiations between the Settling Parties and their counsel, occurring over the course of a number of months and three separate, in-person mediation sessions with respected mediators; and

WHEREAS, the Court has carefully reviewed the Settlement Agreement, including the exhibits attached thereto and all files, records, and prior proceedings to date in this matter, and good cause appearing based on the record; and

IT IS HEREBY ORDERED that:

The Settlement, including the exhibits attached thereto, are preliminarily approved as fair, reasonable, and adequate, in accordance with Rule 23(e) of the Federal Rules of Civil Procedure, pending a final hearing on the Settlement as provided herein.

1. Stay of the Action. Pending the Final Fairness Hearing, all proceedings in the Action, other than proceedings necessary to carry out or enforce the terms and conditions of the Settlement Agreement and this Order, are hereby stayed.

2. Provisional Class Certification for Settlement Purposes Only. For purposes of the Settlement only, the Court finds and determines that the Action may proceed as a class action

under Rule 23(b)(3) of the Federal Rules of Civil Procedure, and that: (a) the Class certified herein numbers over 10.6 million people, and joinder of all such persons would be impracticable, (b) there are questions of law and fact that are common to the Class, and those questions of law and fact common to the Class predominate over any questions affecting any individual Class Member; (c) the claims of the Plaintiffs are typical of the claims of the Class they seek to represent for purposes of settlement; (d) a class action on behalf of the Class is superior to other available means of adjudicating this dispute; and (e) as set forth below, Plaintiffs and Class Counsel are adequate representatives of the Class. Defendant retains all rights to assert that this action may not be certified as a class action, other than for settlement purposes.

3. Class Definition. The Court hereby certifies, for settlement purposes only, a Class consisting of: all persons in the United States whose Personal Information was stored on Premera's computer network systems that was compromised in the Security Incident as publicly disclosed on March 17, 2015. Excluded from the Settlement Class are: (1) the Judge presiding over the Action, and members of his family; (2) the Defendant, its subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendant or its parents have a controlling interest and their current or former officers and directors; (3) Persons who properly execute and submit a request for exclusion prior to the expiration of the Opt-Out Period; and (4) the successors or assigns of any such excluded Persons.

4. Representative Plaintiffs. For purposes of the Settlement only, the Court finds and determines, pursuant to Rule 23(a) of the Federal Rules of Civil Procedure, that Plaintiffs¹ ("Representative Plaintiffs") will fairly and adequately represent the interests of the Class in enforcing their rights in the Action and appoints them as Representative Plaintiffs. The Court preliminarily finds that they are similarly situated to absent Class Members and have Article III standing to pursue their claims, and are therefore typical of the Class, and that they will be adequate class representatives.

¹ Plaintiffs include Elizabeth Black, Catherine Bushman, Krishnendu Chakraborty, Maduhchanda Chakraborty, Ralph Christopherson, Anne Emerson, William Fitch, Eric Forsetter, Mary Fuerst, Debbie Hansen-Bosse, Stuart Hirsch, Ilene Hirsh, Howard Kaplowitz, Barbara Lynch, and Kevin Smith.

5. Class Counsel. For purposes of the Settlement, the Court appoints Kim D. Stephens of Tousley Brain Stephens PLLC, James Pizzirusso of Hausfeld LLP, Tina Wolfson of Ahdoot & Wolfson, PC, Karen Hanson Riebel of Lockridge Grindal & Nauen PLLP, and Keith Dubanevich of Stoll Berne as Class Counsel to act on behalf of the Class and the Representative Plaintiffs with respect to the Settlement. The Court authorizes Class Counsel to enter into the Settlement on behalf of the Class Representatives and the Class, and to bind them all to the duties and obligations contained therein, subject to final approval by the Court of the Settlement.

6. Administration. The firm of Epiq is appointed as Settlement Administrator to administer the notice procedure and the processing of claims, under the supervision of Class Counsel.

7. Class Notice. The form and content of the proposed Notice of Premera Blue Cross Security Incident Settlement (“Long Form Notice”), Summary Notice (“Summary Notice”), and Claim Form for Premera Blue Cross Security Incident Benefits (“Claim Form”) submitted by the Settling Parties as Exhibits A, C, and E, respectively, to the Settlement Agreement, are hereby approved. Prior to the dissemination of Class Notice, the Settlement Administrator shall establish a dedicated Settlement Website and shall maintain and update the website through the Claims Period (“Settlement Website”).

8. Notice Date. The Court directs that the Settlement Administrator cause a copy of the Summary Notice be mailed and emailed to all members of the Class who have been identified by Defendant through its records and are included in the Class Member List, which Defendant is to provide to the Settlement Administrator within thirty (30) calendar days of entry of this Order. The mailing is to be made by first class United States mail and via email for Class Members where Premera has an existing email address, within forty-five (45) calendar days following the entry of the Preliminary Approval Order, and to be completed within sixty (60) days following the entry of this Order. The Settlement Website shall include, and make available for download, copies of the Settlement Agreement, Long Form Notice, Summary Notice, and Claim Form, in forms available for download.

9. Findings Concerning Notice. The Court finds and determines that (a) mailing and emailing the Summary Notice, (b) reminder emails to those Settlement Class Members (if available), and (c) publication of the Settlement Agreement, Long Form Notice, Summary Notice, and Claim Form on the Settlement Website, all pursuant to this Order, constitute the best notice practicable under the circumstances, constitute due and sufficient notice of the matters set forth in the notices to all persons entitled to receive such notices, and fully satisfies the requirements of due process, Rule 23 of the Federal Rules of Civil Procedure, 28 U.S.C. § 1715, and all other applicable laws and rules. The Court further finds that all of the notices are written in simple terminology, and are readily understandable by Class Members. The Court also appoints Cameron Azari as Notice Specialist.

10. Deadline to Submit Claim Forms. Class Members will have until 150 calendar days from the Notice Date to submit their Claim Forms (“Claims Deadline”), which is due, adequate, and sufficient time.

11. Exclusion from Class. Any person falling within the definition of the Class may, upon request, be excluded or “opt out” from the Class. Any such person who desires to request exclusion from the Class must submit a fully-completed Request For Exclusion. To be valid, the Request for Exclusion must be (i) submitted electronically on the Settlement Website, or (ii) postmarked or received by the Settlement Administrator on or before the end of the Opt-Out Period, which shall expire ninety (90) days following the Notice Date. In the event the Settlement Class Members submit a Request for Exclusion to the Settlement Administrator via US Mail such Request for Exclusion must be in writing and must identify the case name *In re Premera Blue Cross Customer Data Security Breach Litigation*, Case No. 3:15-md-2633-SI; state the name, address and telephone number of the Settlement Class Members seeking exclusion; be physically signed by the Person(s) seeking exclusion; and must also contain a statement to the effect that “I/We hereby request to be excluded from the proposed Settlement Class in *In re Premera Blue Cross Customer Data Security Breach Litigation*, Case No. 3:15-md-2633-SI.” All persons and entities who submit valid and timely Requests For Exclusion as set forth in this Order and the

Notice shall have no rights under the Settlement, shall not share in the distribution of the Settlement Fund, and shall not be bound by the Settlement or any final judgment entered in this Action.

12. Final Fairness Hearing. A hearing will be held by this Court in the Courtroom of The Honorable Michael H. Simon, United States District Court for the Oregon, Mark O. Hatfield United States Courthouse, Room 1527 100 Southwest Third Avenue Portland, Oregon 97204 at _____ .m. on _____, 2019 (“Final Fairness Hearing”), to determine: (a) whether the Settlement should be approved as fair, reasonable, and adequate to the Class; (b) whether the Final Approval Order should be entered in substance materially the same as Exhibit B to the Settlement Agreement; (c) whether the Representative Plaintiffs’ proposed Settlement Benefits as described in Section IV of the Settlement Agreement should be approved as fair, reasonable, and adequate to the Class; (d) whether to approve the application for service awards for the Representative Plaintiffs (“Service Awards”) or an award of attorneys’ fees and litigation expenses (“Fee Award and Costs”); and (e) any other matters that may properly be brought before the Court in connection with the Settlement. The Final Fairness Hearing is subject to continuation or adjournment by the Court without further notice to the Class. The Court may approve the Settlement with such modifications as the Settling Parties may agree to, if appropriate, without further notice to the Class.

13. Prior to the Final Fairness Hearing, Class Counsel and Defendant shall cause to be filed with the Court an appropriate affidavit or declaration with respect to complying with the provision of notice as set forth in Paragraph 6.2 of the Settlement Agreement.

14. Objections and Appearances. Any Class Member may enter an appearance in the Action, at their own expense, individually or through counsel of their own choice. If a Class Member does not enter an appearance, they will be represented by Class Counsel. Any Class Member who wishes to object to the Settlement, the Settlement Benefits, Service Awards, and/or the Attorneys’ Fee Award and Costs, or to appear at the Final Fairness Hearing and show cause, if any, why the Settlement should not be approved as fair, reasonable, and adequate to the Class,

why a final judgment should not be entered thereon, why the Settlement Benefits should not be approved, or why the Service Awards and/or the Attorneys' Fee Award and Costs should not be granted, may do so, but must proceed as set forth in this paragraph. No Class Member or other person will be heard on such matters unless they have filed in this Action the objection, together with any briefs, papers, statements, or other materials the Class Member or other person wishes the Court to consider, within ninety (90) calendar days following the Notice Date. Any objection must include: (i) the Settlement Class Member's full name, current mailing address, and telephone number; (ii) a signed statement that he or she believes himself or herself to be a member of the Settlement Class; (iii) the specific grounds for the objection; (iv) all documents or writings that the Settlement Class Member desires the Court to consider; and (v) a statement regarding whether they (or counsel of their choosing) intend to appear at the Final Fairness Hearing. Any Class Member who does not make their objections in the manner and by the date set forth in ¶ 14 of this Order shall be deemed to have waived any objections and shall be forever barred from raising such objections in this or any other action or proceeding, absent further order of the Court.


15. Claimants. Class Members who have been identified from Defendant's records and who submit within ninety (90) days of the Notice Date a valid Claim Form approved by the Settlement Administrator may qualify to receive Credit Monitoring and Insurance Services, cash payments for Out-of-Pocket Losses or the Default Settlement Payment, and a California Payment. Any such Class Member who does not submit a timely Claim Form in accordance with this Order shall not be entitled to receive Credit Monitoring and Insurance Services, cash payments for Out-of-Pocket Losses or the Default Settlement Payment, and a California Payment, but shall nevertheless be bound by any final judgment entered by the Court. Class Counsel shall have the discretion, but not the obligation, to accept late-submitted claims for processing by the Settlement Administrator, so long as distribution of the Net Qualified Settlement Fund to Claimants is not materially delayed thereby. No person shall have any claim against Class Counsel or the Settlement Administrator by reason of the decision to exercise discretion whether to accept late-submitted claims.

16. Release. Upon the entry of the Court's order for final judgment after the Final Fairness Hearing, the Representative Plaintiffs and all Class Members, whether or not they have filed a Claim Form within the time provided, shall be permanently enjoined and barred from asserting any claims (except through the Claim Form procedures) against Defendant and the Released Persons arising from the Released Claims, and the Representative Plaintiffs and all Class Members conclusively shall be deemed to have fully, finally, and forever released any and all such Released Claims.

17. Funds Held by Settlement Administrator. All funds held by the Settlement Administrator shall be deemed and considered to be *in custodia legis* of the Court and shall remain subject to the jurisdiction of the Court until such time as the funds are distributed pursuant to the Settlement or further order of the Court.

18. Final Approval Briefing. All opening briefs and supporting documents in support of a request for final approval of the Settlement, the Settlement Benefits, the Service Award, and the Fee Award and Cost must be filed and served at least 10 days prior to the Fairness Hearing.

19. Reasonable Procedures. Class Counsel and Defense Counsel are hereby authorized to use all reasonable procedures in connection with approval and administration of the Settlement that are not materially inconsistent with this Order or the Settlement Agreement, including making, without further approval of the Court, minor changes to the form or content of the Long Form Notice, Summary Notice, and other exhibits that they jointly agree are reasonable or necessary.

20. Extension of Deadlines. Upon application of the Parties and good cause shown, the deadlines set forth in this Order may be extended by order of the Court, without further notice to the Class. Class Members must check the Settlement Website (www.  .com) regularly for updates and further details regarding extensions of these deadlines. The Court reserves the right to adjourn or continue the Final Fairness Hearing, and/or to extend the deadlines set forth in this Order, without further notice of any kind to the Class.

21. If Effective Date Does Not Occur. In the event that the Effective Date does not

occur, certification shall be automatically vacated and this Preliminary Approval, and all other orders entered and releases delivered in connection herewith, shall be vacated and shall become null and void.

IT IS SO ORDERED:

Date: _____

Michael H. Simon
United States District Judge

SETTLEMENT AGREEMENT EXHIBIT G

Proposed Settlement Reached in Premera Data Breach Lawsuit

Portland, OR / **Month Day**, 2019

The parties have reached a settlement in the Premera data breach lawsuit, which arose after Premera was the target of an external criminal-cyberattack that began in May 2014 and resulted in the cyberattackers having access to personal information stored on Premera's computer network system. The settlement, which is still subject to approval by the court, does not include any finding of wrongdoing, and Premera is not admitting any wrongdoing or that any individuals were harmed because of the cyberattack.

Following Premera's announcement of the cyberattack in 2015, the consolidated class action lawsuit was filed in United States District Court for the District of Oregon before the Honorable Michael Simon. This consolidated class action alleges that due to Premera's practices, cyberattackers were able to gain access to the personal information of 10.6 million individuals, including names, dates of birth, social security numbers, and protected health information.

Under the terms of the proposed Settlement, Premera has agreed to pay \$32 million to resolve the litigation. Those funds will pay for an additional two years of premium credit monitoring, and identity protection services, out-of-pocket losses, and cash payments to all class members who make a claim. The fund also will pay for administrative and notice costs related to the settlement, including attorneys' fees. The benefits will not be available until the settlement has been finally approved by the Court and any appeals have been concluded.

In addition, Premera has agreed to guarantee a minimum of \$42 million in funding for its information security program over the next 3 years, and implement and/or maintain a number of specific changes to its information security practices, including:

- Encrypting certain personal information;
- Strengthening specified data security controls;
- Increased network monitoring and logging of monitored activity;
- Annual third-party security audits;
- Stronger passwords, reduced employee access to sensitive data, and enhanced email protections; and
- Moving certain data into archived databases with strict access controls.

Interim lead counsel for the Plaintiffs, Kim Stephens, said "After several years of hard-fought litigation, we are pleased that individuals affected by this data breach will receive compensation for their losses and identity theft protection going forward. The settlement also includes extensive and detailed injunctive relief in the form of substantially reformed and improved information security practices, designed to protect the class members' information from future attacks." "This is a great result that will provide real and meaningful relief to the class," added Keith Dubanevich, interim liaison counsel for Plaintiffs.

Premera's Executive Vice President and Chief Information Officer, Mark Gregory, said, "We are pleased to be putting this litigation behind us, and to be providing additional substantial benefits to individuals whose data was potentially accessed during the cyberattack. Premera takes the security of its data and the personal information of its customers seriously and has worked closely with state and federal

regulators and their information security experts. The company recently achieved an industry-leading HITRUST certification, demonstrating its ability to identify risks, protect assets, detect attacks, and respond and restore capabilities should the need arise.”

The plaintiffs filed a motion for preliminary approval of the settlement today. If granted, class members will receive further notice of the settlement terms, including details regarding the timing and process through which to file a claim for settlement benefits.

A third-party settlement administrator will manage the settlement, which will be overseen by the Court in this litigation. The settlement administrator will be the best resource for questions about the settlement, including how to register for the credit monitoring or identity protection services offered, or how to submit claims for out-of-pocket costs or alternative compensation. If the Court preliminarily approves the settlement, the settlement administrator will set up a website regarding this settlement.

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SOURCE: United States District Court for the District of Oregon

PRESS ONLY: Kim D. Stephens; Tousley Brain Stephens PLLC; kstephens@tousley.com
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