

SETTLEMENT AGREEMENT AND RELEASE

I. PREAMBLE

1. This Settlement Agreement is made and entered into as of the dates of Execution set forth below, by and among (1) Plaintiff Emanuel Bermudez, individually and on behalf of the Settlement Class, (2) Settlement Class Members, (3) Palmer, Riefler & Associates, and (4) Walmart, Inc.

II. DEFINITIONS

1. “**Action**” means the pending action styled *Thomas Cook and Emanuel Bermudez, individually and on behalf of all others similarly situated v. Palmer, Reifler & Associates, and Wal-Mart Stores, Inc.*, United States District Court for the Middle District of Florida, Case No. 3:16-cv-00673-BJD-JRK.

2. “**Agreement**” means this Settlement Agreement and Release.

3. “**Approved Claims**” means claims that have been timely submitted by class members to the Claims Administrator and approved for payment.

4. “**Attorneys’ Fees and Litigation Expenses**” means the attorneys’ fees and litigation expenses to be requested by Class Counsel subject to Court approval in accordance with this Agreement.

5. “**CAFA Notice**” refers to the notice requirements imposed by 28 U.S.C. § 1715(b).

6. “**Claim**” or “**Claim Form**” means the claim form to be submitted by Settlement Class Members in order to receive a Settlement Award pursuant to this Agreement, subject to approval by the Court, substantially in the form attached hereto as Exhibit 1.

7. “**Claimant**” means any Settlement Class Member who submits a Claim.

8. “**Claims Administrator**” means American Legal Services Inc., subject to approval by the Court. The Claims Administrator shall be responsible for providing the class Notice as well as services related to administration of the Settlement.

9. “**Claim Filing Deadline**” means the period of time in which a Settlement Class Member must submit a Claim Form to be eligible to receive a Settlement Award as part of the Settlement. The last day of the Claim Filing Deadline will be sixty (60) days following the Notice Deadline.

10. “**Class Counsel**” means Keogh Law, Ltd. and The Consumer Protection Firm.

11. “**Class Period**” means the period from May 26, 2012 through the date of class certification.

12. “**Court**” means the United States District Court for the Middle District of Florida, Jacksonville Division.

13. **“Defendants”** means collectively Palmer Recovery Attorneys f/k/a Palmer, Riefler & Associates and Walmart, Inc.
14. **“Execution”** means the signing of this Agreement by all signatories hereto.
15. **“Final Approval Hearing”** means the hearing during which the Court considers the Parties’ request to enter the Final Approval Order granting final approval of the Settlement and to determine the amount of Attorneys’ Fees and Litigation Expenses awarded to Class Counsel and the amount of the Settlement Class Representative Incentive Payment.
16. **“Final Approval Order”** means the final judgment and order of dismissal approving the Settlement and dismissing the Action with prejudice, substantially in the form of the proposed Final Approval Order attached hereto as Exhibit 2, which this Settlement contemplates will be entered and approved by the Court. The Parties shall also submit a Fed. R. Civ. Proc. 58 judgment attached hereto as Exhibit 2a. “Final Approval” occurs on the date that the Court enters the Final Approval Order.
17. **“Notice”** means the notices of proposed class action settlement that the Parties will ask the Court to approve in connection with the motion for Preliminary Approval of the Settlement, substantially in the form attached hereto as Exhibit 3.
18. **“Notice and Administration Costs”** means any and all costs associated with Claims administration and administering the Settlement, including but not limited to mailing costs, printing costs, taxes and tax-related expenses incurred by or in connection with the creation of the Settlement Fund, all costs of providing notice to persons in the Settlement Class (including, but not limited to, costs for obtaining contact information for the members of the Settlement Class via subpoena or otherwise), costs for Notice, Website Notice, internet publication, and any different or additional notice that might be ordered by the Court, the cost of maintaining a designated post office box and/or operating the Settlement Website for receiving Claim Forms, and any other costs associated with administering the Settlement.
19. **“Notice Deadline”** means the date the Court sets for Notice to be provided to the Settlement Class in accordance with the Agreement. The Parties agree that the Notice Deadline shall be 120 days following the entry of the Preliminary Approval Order, unless extended by the Court.
20. **“Opt-Out Request”** means a request by a Settlement Class Member to exclude himself or herself from the Settlement Class using the procedures set forth in this Agreement.
21. **“Opt-Out Period”** means the period that begins the day after the earliest date on which the Notice is first sent, and that ends no later than 30 days prior to the Final Approval Hearing. The deadline for the Opt-Out Period will be specified in the Notice.
22. **“Parties”** means Plaintiff, PRA, and Walmart.
23. **“Plaintiff”** means Emanuel Bermudez.

24. “**PRA**” means Palmer Recovery Attorneys f/k/a Palmer, Riefler, & Associates, as well as any parent, subsidiary, or affiliate of PRA, and the officers, directors, agents, servants, representatives or employees of PRA.

25. “**PRA WN/DNC List**” means the list of approximately 31,748 unique cellular telephone who had a wrong number notation or DNC notation as described above.

26. “**Preliminary Approval Order**” means, without material change, an order preliminarily approving the Settlement in the form substantially in the form of Exhibit 4. “Preliminary Approval” occurs on the date that the Court enters the Preliminary Approval Order.

27. “**QSF**” means the Qualified Settlement Fund to be set up in accordance with this Agreement.

28. “**Release**” means all of the releases contained in this Agreement.

29. “**Released Claims**” means all claims to be released as set forth in the Release.

30. “**Released Parties**” means and refers to the Defendants Palmer Recovery Attorneys f/k/a Palmer Reifler & Associates, Walmart Inc., and their subsidiaries, parent companies, agents, vendors, predecessors in interest and/or ownership, successors in interest and/or ownership, partners, licensees, assignees, insurers, including claims under any and all insurance policies, and estates, and each of the foregoing’s respective past, present, and future officers, directors, attorneys, shareholders, indemnitees, predecessors, successors, trusts, trustees, partners, associates, principals, divisions, employees, insurers, any and all insurance policies, members, agents, representatives, brokers, consultants, heirs, and assigns.

31. “**Releasing Settlement Class Members**” means Plaintiff and all Settlement Class Members, other than those who submit timely and proper Out-Out Requests, and each of their respective executors, representatives, heirs, spouse, partners, predecessors, assigns, beneficiaries, successors, bankruptcy trustees, agents, attorneys, and all those who claim through them or on their behalf, and, if relevant, any co-signer, co-buyer or co-borrower or guarantors.

32. “**Settlement**” means the compromise and settlement of the Action as contemplated by this Agreement.

33. “**Settlement Award**” means a cash payment that may be available to eligible Settlement Class Members who submit an Approved Claim pursuant to this Agreement.

34. “**Settlement Class**” means the individuals defined and identified as follows:

A. Wrong-Number Class: (1) All persons in the United States (2) to whose cellular telephone number (3) PRA placed or caused to be placed a non-emergency telephone call (4) on behalf of Walmart (5) using an artificial or prerecorded voice (6) within 4 years of the complaint (7) where PRA called the wrong number, such as where PRA listed that number on its Wrong Number List.

B. Call after Wrong-Number Notation Class: (1) All persons in the United States (2) to whose cellular telephone number (3) PRA placed or caused to be placed a non-emergency telephone call (4) on behalf of Walmart (5) using an artificial or prerecorded voice (6) within 4 years of the complaint (7) where PRA called the wrong number after it was already informed it had the wrong number, such as where the number was previously added to PRA's Wrong-Number List.

C. DNC Class: (1) All persons in the United States (2) to whose cellular telephone number (3) PRA placed or caused to be placed a non-emergency telephone call (4) on behalf of Walmart (5) using an artificial or prerecorded voice (6) within 4 years of the complaint (7) where PRA called after receiving a do not call request, such as where the number was previously added to PRA's Do Not Call List.

These individuals include, but are not limited to, those associated with the 31,748 unique cellular telephone who had a wrong number notation or Do-Not-Call notation as defined above.

The following are excluded from the Settlement Class: (1) the trial judge presiding over this case; (2) PRA, as well as any parent, subsidiary, or affiliate of PRA, and the officers, directors, agents, servants, or employees of PRA; (3) Walmart, as well as any parent, subsidiary, or affiliate of Walmart, and the officers, directors, agents, servants, or employees of Walmart; (4) any of the Released Parties; (5) the immediate families of any such person(s); (6) any Settlement Class Member who has timely opted out of this proceeding; and (7) Plaintiff's Counsel, their employees, and their immediate family.

35. "***Settlement Class Members***" means the Settlement Class Representative and all members of the Settlement Class.

36. "***Settlement Class Representative***" means Emanuel Bermudez, who is the Plaintiff in the Action, and who is also the person who Class Counsel shall request to be appointed by the Court as Class Representative for purposes of the Settlement Class. Plaintiff is also a member of the Settlement Class.

37. "***Settlement Class Representative Incentive Payment***" means the amounts Class Counsel shall request be paid to the Settlement Class Representative in accordance with this Agreement.

38. "***Settlement Effective Date***" means the fifth (5th) business day following the last of the following occurrences:

A. The date the time to appeal or seek permission to appeal or seek other judicial review of the entry of the Final Approval Order has expired with no appeal or other judicial review having been taken or sought; or

B. If an appeal or other judicial review has been taken or sought, the latest of: (i) the date the Final Approval Order is finally affirmed by an appellate court with no possibility of subsequent appeal or other judicial review therefrom; or (ii) the date the appeal(s) or other judicial review therefrom are finally dismissed with no possibility of subsequent appeal or other judicial review; or (iii) if remanded to the District Court or to a lower appellate court following an appeal or other review, the date the Final Approval Order is

entered by the District Court after remand and the time to appeal or seek permission to appeal or seek other judicial review of the entry of that Final Approval Order has expired with no further appeal or other judicial review having been taken or sought. If further appeal is sought after a remand, the time periods in this Sub-Section shall apply.

C. The provisions and deadlines set forth in this Section apply even if there are no objections to the Settlement.

39. “**Settlement Costs**” means all costs incurred by Plaintiff, the Settlement Class, Class Counsel, and the Claims Administrator in connection with the Action, including but not limited to (i) any Attorneys’ Fees and Litigation Expenses approved by the Court; (ii) any Settlement Class Representative Incentive Payment approved by the Court; (iii) Notice and Administration Costs; and (iv) the fees, expenses, and all other costs of the Claims Administrator.

40. “**Settlement Fund**” means the \$3,500,000 cash fund to be established pursuant to this Agreement.

41. “**Settlement Website**” means the website created and managed by the Claims Administrator which will provide Settlement Class Members with access to the Notice, the online Claim Form, and other information regarding the Settlement.

42. “**TCPA**” means the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.*, and any regulations promulgated under it.

43. “**Walmart**” means Walmart Inc., as well as any parent, subsidiary, or affiliate of Walmart, and the officers, directors, agents, servants, or employees of Walmart.

44. “**Website Notice**” means the website notice provided pursuant to this Agreement, substantially in the form attached hereto as Exhibit 4. The Website Notice will be posted on the “Settlement Website.”

45. Capitalized terms used in this Agreement but not defined above shall have the meaning ascribed to them in this Agreement, including the attached exhibits.

III. RECITALS

1. Plaintiff filed the Action on behalf of himself and on behalf of the putative class alleging that PRA and Walmart violated the TCPA by calling him on his cell phone without prior express consent.

2. PRA and Walmart deny all of Plaintiff’s allegations and further deny that the claims alleged are amenable to class-wide treatment.

3. On September 29, 2017, the Parties unsuccessfully participated in private mediation with mediator Mark A. Buckstein pursuant to Court order. ECF No. 53. The Parties were not able to resolve the entire Action at the first mediation.

4. On September 20, 2018, the Parties participated in a second private mediation with mediator Hesha Abrams pursuant to Court order. ECF No. 164. As a result of that mediation session, the Parties reached an agreement to settle the Action as set forth in this Agreement.

5. The Settlement Class Representative believes this Action is meritorious. Class Counsel represent they have conducted a thorough investigation into the facts of this case, and have diligently pursued an investigation of the Settlement Class Members' claims against PRA and Walmart including, but not limited to: (1) reviewing relevant documents; (ii) researching the applicable law and the potential defenses; (iii) conducting depositions; (iv) hiring and consulting with experts; (v) developing the argument for class certification; (vi) advocating for the rights of the putative class; and (vii) preparing for trial. Based on their own independent investigation and evaluation, Class Counsel are of the opinion that the Settlement is fair, reasonable, and adequate and is in the best interest of the Settlement Class Members in light of all known facts and circumstances, including the risk of significant delay, the defenses asserted by PRA and Walmart, class certification risk, trial risk, and appellate risk.

6. PRA and Walmart deny any liability or wrongdoing of any kind associated with the claims alleged and contends that this Action is not appropriate for class action treatment pursuant to Rule 23 of the Federal Rules of Civil Procedure or any other federal or state rule, statute, law, or provision. PRA and Walmart continue to assert that the Action fails to meet the prerequisites necessary for class action treatment under applicable law, especially, but not solely, with respect to predominance and manageability because the need to determine individualized issues make the Action unmanageable consistent with due process. PRA and Walmart further assert that they have complied with all applicable provisions of federal or state statutory and common law. PRA and Walmart further state that despite their good faith belief that they are not liable for any of the claims asserted, and despite their good faith belief that certification is not appropriate, PRA and Walmart will not oppose the Court's certification of the Settlement Class contemplated by this Agreement solely for purposes of effectuating this Settlement. Other than for purposes of this Settlement, PRA and Walmart do not waive their objections to certification of the Settlement Class, or any other class, in this Action as a litigation class.

7. The entry of the Final Approval Order in this Action shall dismiss with prejudice all claims which were or which could have been alleged in the Action against PRA and Walmart, with the exception of any claims which might be retained by Settlement Class Members who exclude themselves from the Settlement, if any, in accordance with the Opt-Out Process described in Section IX of this Agreement. PRA and Walmart shall retain any existing defenses to such excluded claims. The Parties agree to cooperate and take all steps reasonable, necessary and appropriate to obtain preliminary and final approval of this Settlement, to effectuate its terms, and, to the extent of the obligations set forth herein, to dismiss this Action against PRA and Walmart with prejudice.

8. Each of these Recitals is incorporated into this Agreement as if fully set forth herein.

IV. CERTIFICATION OF THE SETTLEMENT CLASS

1. If necessary to implement the Settlement, Class Counsel shall request that the Court enter an order regarding conditional settlement class certification in this Action to cover the Settlement

Class Period and all claims and individuals covered by this Settlement. The form of class certification order shall, subject to Court approval, expressly state that the Parties and Class Counsel agree that certification of the Settlement Class is a conditional certification for settlement purposes only, and that PRA and Walmart retain their rights to object to certification of this Action, or any other class action, under Federal Rule 23 or any other applicable rule, statute, law, or provision.

2. Any certification of the Settlement Class is a conditional certification for settlement purposes only, and if for any reason the Court does not grant final approval of the Settlement, or if final approval is not granted following the appeal of any order by the Court, or if for any reason the Settlement Effective Date does not occur, the certification of the Settlement Class for settlement purposes shall be deemed null and void, and each Party shall retain all of their respective rights as they existed prior to Execution of this Settlement Agreement, and neither this Settlement Agreement, nor any of its accompanying exhibits or any orders entered by the Court in connection with this Settlement Agreement, shall be admissible or used for any purpose in this Action.

3. Any certification of the Settlement Class for settlement purposes is in no way an admission by either PRA or Walmart that class certification is proper in this Action or any other action against PRA or Walmart. Moreover, PRA and Walmart continue to assert that this Action fails to meet the prerequisites necessary for class action treatment under applicable law, especially, but not solely, with respect to predominance and manageability because the need to determine individualized issues make the case unmanageable consistent with due process. The Parties and Class Counsel further agree that, other than to effectuate the Settlement of this Action in this jurisdiction, the certification of the Settlement Class for settlement purposes and all documents related thereto, including this Agreement and all accompanying exhibits and all orders entered by the Court in connection with this Agreement, are only intended to be used under the specific facts and circumstances of this case and are not intended to be used in any other judicial, arbitral, administrative, investigative, or other court, tribunal, forum, or other proceeding against PRA or Walmart.

V. SETTLEMENT CLASS

1. Class Counsel shall request that the Court enter a certification order and certify for settlement purposes only the Settlement Class as defined in this Agreement.

2. This Settlement is conditioned on (1) the Execution of this Agreement by PRA, Walmart, Settlement Class Representative, and Class Counsel; (2) the Court's certifying the Settlement Class for settlement purposes; (3) the issuance of the Preliminary Approval Order; and (4) the issuance of the Final Approval Order.

VI. TERMS OF SETTLEMENT

1. **Settlement Fund.** Subject to the other terms and conditions of this Agreement, and subject to Court approval, Walmart agrees to pay a total Settlement Fund of THREE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$3,500,000) to settle the Action with the Settlement Class pursuant to this Agreement. This Settlement Fund will be used to pay

Approved Claims and any Settlement Costs, as described in this Agreement. Settlement Class Members will be eligible for a cash payment, the amount of which is dependent upon the number of Approved Claims. In no event will Walmart's payment obligations exceed the Settlement Fund and in no event will any money revert back to PRA or Walmart.

2. **Notice and Administration Costs.** Notice and Administration Costs shall be paid from the Settlement Fund, and from no other source. The Parties shall be jointly responsible for supervising the Claims Administrator.

3. **Attorneys' Fees and Litigation Expenses.** Attorneys' Fees and Litigation Expenses approved by the Court shall be paid from the Settlement Fund, and from no other source. Class Counsel shall apply to the Court for an award of reasonable Attorneys' Fees and Litigation Expenses. The Claims Administrator shall pay to Class Counsel the amount of the Attorneys' Fees and Litigation Expenses awarded to Class Counsel by the Court, as directed by written instructions from Class Counsel. In addition, no interest will accrue on such amounts at any time. PRA and Walmart take no position on the amounts to be sought by Class Counsel for an award of Attorneys' Fees and Litigation Expenses, but do not object to a reasonable award of Attorneys' Fees and Litigation Expenses sought in accordance with this Agreement. In the event that the Court does not approve the award of Attorneys' Fees and Litigation Expenses requested by Class Counsel, or the Court awards Attorneys' Fees and Litigation Expenses in an amount less than that requested by Class Counsel, such decision shall not affect the validity and enforceability of the Settlement and shall not be a basis for rendering the entire Settlement null, void, or unenforceable. Class Counsel retains their right to appeal any decision by the Court regarding its award of Attorneys' Fees and Litigation Expenses.

4. **Settlement Class Representative Incentive Payment.** The Settlement Class Representative Incentive Payment shall be paid from the Settlement Fund, and from no other source. Class Counsel shall apply to the Court for a Settlement Class Representative Incentive Payment for the Settlement Class Representative (in addition to any *pro rata* distribution he may receive under this Agreement) for the time and effort he has personally invested in the Action. The Claims Administrator shall pay to Class Counsel the amount of incentive payment awarded by the Court. Class Counsel shall thereafter disburse such funds. In addition, no interest will accrue on such amounts at any time. PRA and Walmart take no position on the amounts to be sought by Class Counsel for the Settlement Class Representative Incentive Payment, but do not object to a reasonable award sought in accordance with this Agreement. The denial by the Court of any such application by Class Counsel shall not affect the validity and enforceability of the Settlement and shall not be a basis for anyone to seek to void the Settlement.

5. **Settlement Award to Settlement Class Members.** The Claims Administrator will manage the claims process in cooperation with Class Counsel and Walmart and in accordance with this Agreement. All Settlement Class Members will be entitled to make a Claim upon the Settlement Fund for a Settlement Award, which shall be paid by check, as set forth in this Agreement. Each Settlement Class Member may make only one Claim, regardless of the number of calls the Settlement Class Member received or how many mobile telephone numbers Defendants allegedly called using an automatic telephone dialing system and/or an artificial or prerecorded voice in connection with efforts to contact the Settlement Class Member. Each Settlement Class Member who submits an Approved Claim shall be awarded a *pro rata* share of the Settlement

Fund after Settlement Costs are deducted. Settlement Awards shall be available to Settlement Class Members on a claims-made basis. To obtain a Settlement Award, the Settlement Class Member must submit a valid and timely Claim Form containing (1) either a valid Claim ID or a telephone number on the PRA WN/DNC List; (2) the Settlement Class Member's full name, mailing address, and e-mail address (if he or she has one); (3) for mailed Claim Forms, the Settlement Class Member's signature and an affirmation under penalty of perjury that all information contained in the Claim Form is true and accurate; (4) for Claim Forms submitted via the Settlement Website, the Settlement Class Member's electronic signature and an affirmation under penalty of perjury that all information contained in the Claim Form is true and accurate; and (5) for Claim Forms submitted via 800 number, an affirmation that by pressing "1" all information recited after the Claim ID is entered is true and accurate. Claim Forms shall be submitted to the Claims Administrator by mail, via 800 number, or via the Settlement Website. Any Claim Form or attempt to cure a deficient claim that includes telephone records establishing receipt of a Notification Call must be submitted via mail. To be deemed timely, Claim Forms must be submitted via the Settlement Website, 800 number, or postmarked prior to or on the last day of the Claim Filing Deadline. For any incomplete claim form, the Claims Administrator will contact the claimant and request that the claimant complete or cure any omissions on the claim form as long as the claim was timely made.

6. **Award Estimates.** Class Counsel shall include in the Notices a good faith estimated range for Settlement Awards.

VII. NOTICE TO THE CLASS

1. The Claims Administrator shall administer the Settlement. Walmart will reasonably cooperate in the notice and administration process.

2. Class Counsel will subpoena Verizon Wireless, T-Mobile, AT&T, Sprint, Virgin Mobile, Straight Talk Wireless, Boost Mobile, Metro PCS, Cricket, and U.S. Cellular for contact information missing from the PRA WN/DNC List for the purpose of providing the best notice practicable to those members of the Settlement Class. Defendants agree that they will not oppose, or cause or encourage, directly or indirectly, others to oppose the subpoenas. The Claims Administrator shall supplement the PRA WN/DNC List with the contact information obtained from the subpoenas ("Supplemented WN/DNC List"). For numbers that did not return contact information for class members, the Claims Administrator shall perform reverse look up using third party databases.

3. The Claims Administrator shall implement the notice program, as set forth in this Section. The Claims Administrator shall, by the Notice Deadline, provide:

A. **Notice.** The Class Administrator shall provide direct notice via First Class Mail to Settlement Class Members for whom it has contact information. Notice shall be by way of a postcard and shall contain a claim ID and shall direct recipients to the Settlement Website. Prior to mailing the postcard notice, the Claims Administrator shall search for updated addresses via the USPS national change of address database. The Claims Administrator shall re-mail one time any Notice returned as undeliverable and shall undertake reasonable means to locate alternative addresses for the returned postcards.

B. *Website Notice.* The Claims Administrator will establish and maintain a Settlement Website dedicated to the Settlement, on which will be posted the Website Notice, Claim Form, a copy of this Agreement, the Preliminary Approval Motion and Order, the operative Complaint, and any other materials the Parties agree to include. These documents shall be available on the Settlement Website beginning five (5) days following the entry of the Preliminary Approval Order and remain until after the stale dates of any Settlement Awards. The Claims Administrator shall also post any motions for attorneys' fees, costs, or incentive awards in connection with this Agreement on the Settlement Website within five (5) days following the filing of such motion. The Settlement Website shall also provide for online submission of Claim Forms and will also allow Settlement Class Members to update their contact information. The Claims Administrator shall secure the URL prtcpcasettlement.com for the Settlement Website, or, if unavailable, shall secure another URL mutually agreed upon by the Parties. The Claims Administrator and Class Counsel shall provide Walmart with an adequate opportunity to review, comment and have input on the text viewable at or available via links from the Settlement Website (other than publicly available documents available at or via such links) prior to the availability for viewing of such Website or the posting of any such text on the Website once the Website is available for viewing.

C. *800 Number/IVR/Telephone Claims.* The Claims Administrator will establish and maintain an 800 number that will answer questions concerning this Agreement and allow Settlement Class Members to request a written claim form or use their Claim ID to make a claim via telephone.

VIII. CAFA NOTICE

1. Walmart shall provide CAFA Notice to the appropriate governmental authorities.

IX. OPT-OUT PROCESS

1. A Settlement Class Member who wishes to exclude himself or herself from this Settlement, and from the Release pursuant to this Settlement, shall submit a written Opt-Out Request to the Claims Administrator at the address designated in the Notice no later than the Claim Filing Deadline. Opt-Out Requests must: (i) be timely submitted by the Claim Filing Deadline; (ii) be signed by the person in the Settlement Class who is requesting to be excluded from the Settlement Class; (iii) include the full name and address of the person in the Settlement Class requesting exclusion; (iv) include the mobile telephone number on which the person seeking exclusion believes they received the call or calls associated with the request for exclusion, and (v) include the following statement: "I request to be excluded from the settlement in the Bermudez TCPA action, and to waive all rights to the benefits of the settlement." No request for exclusion will be valid unless all of the information described above is included, but the exclusion will still be valid even if the telephone number provided does not match the class records of the number called, so long as the other identifying information provided in the Opt-Out Request matches the class records. No person in the Settlement Class, or any person acting on behalf of or in concert or participation with that person in the Settlement Class, may exclude any other person in the Settlement Class from the Settlement Class.

2. The Claims Administrator may invalidate mass-generated opt outs upon application to the Court by the Parties and subsequent approval by the Court.
3. Settlement Class Members may not submit both an Opt-Out Request and a Claim Form. If a Settlement Class Member submits both an Opt-Out Request and a Claim Form, the Claim Form will govern and the Opt-Out Request will be considered invalid unless, prior to the deadline to submit an Opt-Out, the Settlement Class Members confirms in writing their intent to withdraw the claim form in which case the Opt-Out will govern.
4. The Claims Administrator shall maintain a list of persons who have submitted Opt-Out Requests and shall provide such list to the Parties upon written request.
5. All Settlement Class Members will be bound by all determinations and judgments in the Action. In the event that the number of persons in the Settlement Class who validly and timely submit Opt-Out Requests exceeds ten percent (10%) of the class, Walmart, in its sole and absolute discretion, may terminate this Agreement.

X. OBJECTION PROCESS

1. A Settlement Class Member who wishes to object to the Settlement must notify the Court of his or her objection, in writing, on or before the Claim Filing Deadline.
2. The Parties will request that the Court enter an order requiring any Settlement Class Member who wishes to be heard orally at the Final Approval Hearing, or who wishes for any objection to be considered, to file a written notice of objection with the Court by the objection date contained in the Notice, as well as any notice of intention to appear at the Final Approval Hearing. The objection must also be served on counsel of record by the objection date. To state a valid objection to the Settlement, an objecting Settlement Class Member must personally sign the objection and provide the following information in connection with and as part of any objection: (i) full name, current address, and current telephone number; (ii) documentation sufficient to establish membership in the Settlement Class; (iii) a statement of the position the objector wishes to assert, including the factual and legal grounds for the position and objection; and (iv) copies of any other documents that the objector wishes to submit in support of his/her/its position. Subject to approval of the Court, any objecting Settlement Class Member may, but does not need to, appear in person or by counsel at the Final Approval Hearing held by the Court to show cause why the proposed Settlement should not be approved as fair, reasonable, and adequate, or to object to any petitions for attorneys' fees, incentive awards, and reimbursement of reasonable litigation costs and expenses. In this respect, the objecting Settlement Class Member must file with the clerk of the Court, and serve on all counsel designated in the Notice, a notice of intention to appear by the objection deadline or on such other date that may be set forth in the Notice. The notice of intention to appear must include copies of any papers, exhibits, or other evidence that the objecting Settlement Class Member (or his/her/its counsel) will present to the Court in connection with the Final Approval Hearing. Any Settlement Class Member who does not provide a notice of intention to appear in complete accordance with the deadlines and other specifications set out in the Notice, and who has not filed an objection in complete accordance with the deadlines and other specifications set forth in this Settlement and the Notice, subject to the approval of the Court, will be deemed to have waived any objections to the

Settlement and can be barred from speaking or otherwise presenting any views at the Final Approval Hearing.

3. Settlement Class Members who do not file and serve timely written objections in accordance with the procedures set forth in this Agreement have waived any objections to the Settlement and are forever foreclosed from making any objection (whether by appeal or otherwise) to the settlement, or any aspect of the settlement, including, without limitation, the fairness, reasonableness, or adequacy of the proposed settlement, or any award of attorneys' fees or reimbursement of costs and expenses.

XI. DISTRIBUTION PROCESS

1. The Settlement Fund shall be funded through a QSF in accordance with this Agreement. The timing of the payments by Walmart to the QSF is:

A. Within 30 business days following the date on which the Court enters an order granting Preliminary Approval of the Settlement, or within 30 business days of the date on which the Court enters an order approving the QSF, whichever is later, Walmart shall transfer the Notice and Administration Costs to the QSF, who shall distribute that amount to the Claims Administrator. In the event that the Settlement Effective Date does not occur, any amounts actually used by the Claims Administrator for notice and administration shall not be refundable to Walmart. If, however, Walmart has paid into the QSF monies for Notice and Administration Costs which have not been used by the Claims Administrator, those amounts not used by the Claims Administrator shall be refunded to Walmart.

B. Subject to Section XI.1.C., within 14 business days following the Settlement Effective Date, Walmart shall transfer to the QSF the remainder of the Settlement Fund (or such lesser amount as awarded by the Court). Class Counsel shall provide the QSF with the information as to whom the Attorneys' Fees and Litigation Expenses and Settlement Class Representative Incentive Payment should be distributed. Walmart shall not, under any circumstances or for any reason, be obligated to pay any amounts in addition to the Settlement Fund in connection with the Settlement.

2. ***Settlement Award Payments.*** Settlement Awards shall be paid by check or electronic deposit at the election of the class member. Within forty-five (45) days after the Settlement Effective Date, the Claims Administrator shall send the Settlement Award to each eligible Settlement Class Member who timely submits a completed Claim Form. The Claims Administrator shall undertake reasonable means to locate current addresses for all returned checks. Checks will be valid for one-hundred twenty (120) days from the date on the check. The amounts of any checks that remain uncashed more than one-hundred twenty (120) days after the date on the check will be included as part of the Second Distribution (as defined below).

3. ***Subsequent Distributions.*** If, after the expiration date of the checks distributed pursuant to Section XI.2 above, there remains money in the Settlement Fund sufficient to pay for the cost to send subsequent checks to each Settlement Class Member who cashed his or her initial Settlement Award check, such remaining monies will be distributed on a *pro rata* basis to those

Settlement Class Members who cashed his or her initial Settlement Award check (the “Subsequent Distribution”). The Subsequent Distribution shall be made within ninety (90) days after the expiration date of the checks distributed pursuant to Section XI.2 above, and shall be paid in the same manner as the original Settlement Award. Checks issued pursuant to the Subsequent Distribution will be valid for one-hundred twenty (120) days from the date on the check. This process shall be repeated to the extent feasible and practical in light of the costs of administering such subsequent payments based on the judgment of Class Counsel and counsel for Walmart, unless other specific reasons exist that would make such further distribution impossible or unfair. In the event the costs of preparing, transmitting and administering such subsequent payments are not feasible and practical to make individual distributions or other specific reasons exist that would make such further distributions impossible or unfair, Class Counsel and counsel for Walmart shall file recommendations with the Court for distribution of the residual funds. The Court shall have the discretion to approve, deny, amend or modify, in whole or in part, the proposed recommendations for distribution of the residual funds. The Parties agree that any residual funds shall not be used for any litigation purpose or to disparage any Party. The Parties further agree that the Court’s approval, denial, amendment, or modification, in whole or in part, of the recommendations for distribution of the residual funds pursuant to this paragraph shall not constitute grounds for termination of the Settlement pursuant to this Agreement. All costs associated with the disposition of residual funds – whether through additional distributions to Claimants and/or through an alternative plan approved by the Court – shall be borne solely by the Settlement Fund. Under no circumstances shall Walmart be responsible for any costs associated with the disposition of residual funds, whether through additional distributions to Claimants or through an alternative plan approved by the Court.

XII. QUALIFIED SETTLEMENT FUND

1. As required under this Agreement, Walmart shall transfer to the Trustee, as selected by agreement of the Parties, the required portions of the Settlement Fund, to be held as a separate trust constituting a QSF as described in Treasury Regulation §1.468B-1, 26 C.F.R. §1.468B-1. Class Counsel and Walmart jointly shall, and shall cause the Trustee to, take such steps as shall be necessary to qualify the QSF under §468B of the Internal Revenue Code, 26 U.S.C. §468B, and the regulations promulgated pursuant thereto. Walmart shall be considered the “transferor” within the meaning of Treasury Regulation §1.468B-1(d)(1). The Claims Administrator shall be the “administrator” within the meaning of Treasury Regulation §1.468B-2(k)(3). The Parties shall cooperate in securing an order of the Court to establish the QSF in accordance with the terms hereof in conjunction with its Preliminary Approval of the Settlement and Notice as described in the Agreement. The Court shall retain jurisdiction over the administration of the QSF. Walmart shall supply to the Claims Administrator and to the Internal Revenue Service the statement described in Treasury Regulation §1.468B-3(e)(2) no later than February 15th of the year following each calendar year in which Walmart makes a transfer to the QSF. It is intended that the transfers to the QSF will satisfy the “all events test” and the “economic performance” requirement of §461(h)(1) of the Internal Revenue Code, and Treasury Regulation §1.461-1(a)(2). Accordingly, Walmart shall not include the income of the QSF in its income. Rather, the QSF shall be taxed on its modified gross income, excluding the sums transferred to it, and shall make payment of resulting taxes from its own funds. In computing the QSF’s modified gross income, deductions shall be allowed for its administrative costs and other deductible

expenses incurred in connection with the operation of the QSF, including, without limitation, state and local taxes and legal, accounting, and other fees relating to the operation of the QSF.

2. Upon establishment of the QSF, the Trustee shall apply for an employer identification number for the QSF utilizing Internal Revenue Service Form SS-4 and in accordance with Treasury Regulation §1.468B-2(k)(4).

3. If requested by either Walmart or the Claims Administrator, the Claims Administrator, the Trustee and Walmart shall fully cooperate in filing a relation-back election under Treasury Regulation §1.468B-1(j)(2) to treat the QSF as coming into existence as a settlement fund as of the earliest possible date.

4. Following its deposits as described in this Agreement, Walmart shall have no responsibility, financial obligation, or liability whatsoever with respect to the notifications to the Class required hereunder, the processing of Claims and Opt-Out Letters, the allowance or disallowance of claims by Claimants, payments to Class Counsel, investment of QSF funds, payment of federal, state, and local income, employment, unemployment, excise, and other taxes imposed on the QSF or its disbursements, or payment of the administrative, legal, accounting, or other costs occasioned by the use or administration of the QSF, since it is agreed that such deposits shall fully discharge Walmart's obligations to Claimants and Class Counsel and for expenses of administration in respect to the disposition of the Settlement Fund hereunder. Rather, the Claims Administrator shall have sole authority and responsibility for the administration of such funds and income thereon, disbursement to Claimants and Class Counsel, and payment of taxes and administrative costs in accordance with the provisions hereof, subject only to the rights of Walmart or Class Counsel to seek redress for any breach of the terms hereof.

5. The Claims Administrator shall cause to be filed, on behalf of the QSF, all required federal, state, and local tax returns, information returns and tax withholdings statements in accordance with the provisions of Treasury Regulation §1.468B-2(k)(1) and Treasury Regulation §1.468B-2(l)(2)(ii). The Claims Administrator may, at the expense of the QSF, retain legal counsel and an independent, certified public accountant to consult with and advise the Claims Administrator or the Trustee with respect to the preparation and filing of such materials and the federal, state and local tax compliance of the QSF. Either Walmart or the Claims Administrator, independently or jointly, may, but are not required to, apply to the Internal Revenue Service and/or any applicable state taxing authority for an advance ruling as to any issue pertinent to the qualification of the QSF under Internal Revenue Code §468B and Treasury Regulations promulgated thereunder, its tax status under applicable state law, and/or its tax payment, reporting and withholding duties, so long as Walmart and the remaining Parties are reasonably satisfied that such application and ruling will not compromise the confidentiality of settlement evidenced herein as required by this Agreement. Subject to any contrary holdings in any such ruling, Settlement Class Members shall be responsible for payment of appropriate federal, state, and local income taxes on any claim paid out pursuant to this Agreement. The Parties agree that no portion of any distributions from the QSF to the Settlement Class Members is made in satisfaction of any excluded liability as described in Treasury Regulation § 1.468B-1(g), related to Qualified Settlement Funds.

6. The taxable year of the QSF shall be the calendar year in accordance with Treasury Regulation §1.468B-2(j). The QSF shall utilize the accrual method of accounting within the meaning of § 446(c) of the Internal Revenue Code.

7. Based on the Trustee's recommendation and approval by the Parties, the QSF may be invested in United States Treasury bills, money market funds primarily invested in the same, or certificates of deposit (CDs), provided that such portions of the QSF as may reasonably be required to pay current QSF administrative expenses, taxes or disbursements to Claimants or Class Counsel may be deposited in bank accounts which are federally insured to the greatest extent practicable. All federal, state, and local taxes imposed with respect to income earned by, or property of, the QSF, shall be paid from the QSF.

8. The Claims Administrator may amend, either in whole or in part, any administrative provision of this Section or the trust instrument through which the QSF is established to maintain the qualification of the QSF pursuant to the above-described authorities provided that the rights and liabilities of the Parties hereto and the Class are not altered thereby in any material respect.

XIII. COMPREHENSIVE WAIVER, RELEASE, AND DISMISSAL

1. Subject to final approval by the Court of the Settlement, and for good and valuable consideration set forth herein, the receipt and sufficiency of which is hereby acknowledged, all Releasing Settlement Class Members irrevocably release, acquit, and forever discharge PRA, Walmart, and the other Released Parties, of and from any and all claims, rights, causes of action, penalties, demands, damages, debts, accounts, duties, costs and expenses (other than those costs and expenses required to be paid pursuant to this Agreement), liens, charges, complaints, causes of action, obligations, or liability of any and every kind that were asserted in the Action, or that could have been asserted but were not asserted in the Action, or in any other court or forum, whether known or unknown, on the basis of, connected with, arising out of, or related in whole or in part to any or all of the alleged acts, omissions, facts, matters, transactions, circumstances, and occurrences that were directly or indirectly alleged, asserted, described, set forth, or referred to in the Action, whether such allegations were or could have been based on common law or equity, or on any statute, rule, regulation, order, or law, whether federal, state, or local, including but not limited to claims relating to the TCPA and other laws involving the use of automatic telephone dialing system and/or the use of artificial or prerecorded voice (the "Released Claims"). PRA and Walmart do not release any claims they may have against each other arising from or relating to this Action. Releasing Settlement Class Members do not include claims for any calls other than the calls PRA made relating to Walmart.

2. The Released Claims also include a release of all claims for Attorneys' Fees and Litigation Expenses incurred by Releasing Settlement Class Members or by Class Counsel or any other attorney in connection with the Action, and this Settlement, and all claims related to conduct in discovery in the Action.

3. Releasing Settlement Class Members understand and agree that the release of the Released Claims is a full and final general release applying to both those Released Claims that

are currently known, anticipated, or disclosed to Releasing Settlement Class Members and to all those Released Claims that are presently unknown, unanticipated, or undisclosed to any Releasing Settlement Class Members arising out of the alleged facts, circumstances, and occurrences underlying the claims set forth in the Action. Releasing Settlement Class Members acknowledge that the facts could be different than they now know or suspect to be the case, but they are nonetheless releasing all such unknown claims. In exchange for the good and valuable consideration set forth herein, all Releasing Settlement Class Members further waive any and all rights or benefits that they as individuals or the classes may now have as a result of the alleged facts, circumstances, and occurrences underlying the claims set forth in the Action. In exchange for the good and valuable consideration set forth herein, all Releasing Settlement Class Members further waive any and all rights or benefits that they as individuals or as Settlement Class Members may now have as a result of the alleged facts, circumstances, and occurrences underlying the claims set forth in the Action under the terms of Section 1542 (a) of the California Civil Code (or similar statute in effect in any other jurisdiction), which provides as follows:

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

4. The Parties acknowledge that this Settlement, including the releases provided in this Section, reflects a compromise of disputed claims.
5. The Final Approval Order shall dismiss the Action with prejudice and shall incorporate the terms of this release.

XIV. DUTIES OF THE PARTIES WITH RESPECT TO OBTAINING PRELIMINARY COURT APPROVAL

1. Class Counsel shall apply to the Court for the entry of an order granting Preliminary Approval of the Settlement substantially in the following form:
 - A. Preliminarily approving the Settlement;
 - B. Conditionally certify the Settlement Class for settlement purposes in accordance with applicable legal standards and this Agreement;
 - C. Approving as to form and content the proposed Notice;
 - D. Scheduling a fairness hearing on the question of whether the proposed Settlement should be finally approved as fair, reasonable, and adequate as to the Settlement Class;
 - E. Approving William Peerce Howard and Amanda J. Allen of The Consumer Protection Firm, and Keith J. Keogh and Amy L. Wells of Keogh Law, Ltd as Class Counsel;
 - F. Approving Emanuel Bermudez as Settlement Class Representative; and

G. Approving American Legal Services Inc. as Claims Administrator.

H. Approving the Claim Form and the claims process described herein for the Settlement Class.

I. Setting the Claim Filing Deadline for the submission of Claims to end sixty (60) days after the Notice Deadline.

J. Pending determination of whether the Settlement should be finally approved, barring and enjoining all persons in the Settlement Class, individually, and on a representative basis or other capacity, from commencing or prosecuting against any of the Released Parties any action, arbitration, or proceeding in any court, arbitration forum or tribunal asserting any of the Released Claims unless they timely opt-out.

2. PRA and Walmart shall not unreasonably withhold cooperation from Class Counsel to obtain Preliminary Approval. The Parties shall continue to take any steps necessary to stay any pending proceedings so as to preserve the status quo until either the Settlement Effective Date occurs or the Settlement Agreement is voided.

XV. DUTIES OF PARTIES FOLLOWING PRELIMINARY COURT APPROVAL

1. Following Preliminary Approval by the Court of the Settlement, and no later than the filing of the motion for final approval, Class Counsel will submit a proposed Final Approval Order in the form of the Final Approval Order attached hereto as Exhibit 2. The proposed Final Approval Order shall:

A. Approve the Settlement, adjudging the terms thereof to be fair, reasonable, and adequate and directing consummation of its terms and provisions;

B. Find that the Notice as given was the best notice practicable under the circumstances, is due and sufficient notice to the Settlement Class, and fully satisfies the requirements of due process and Federal Rule of Civil Procedure 23;

C. Certify the Settlement Class for settlement purposes in accordance with applicable legal standards and this Agreement;

D. Approve Class Counsel's application for an award of Attorneys' Fees and Litigation Expenses pursuant to this Agreement;

E. Approve the Settlement Class Representative Incentive Payments;

F. Approve the plan of distribution for the Settlement Fund and any interest accrued thereon;

G. Confirm that Settlement Class Representative and the Settlement Class Members (other than those who timely filed valid Opt-Out Requests) have released all Released Claims that are contemplated under this Agreement and are permanently barred and

enjoined from asserting, commencing, prosecuting, or continuing any of the Released Claims that are contemplated under this Agreement against the Released Parties;

H. Dismiss the Action on the merits and with prejudice as to the Settlement Class Representative and the Settlement Class Members (other than those who timely filed valid Opt-Out Requests).

I. Retain jurisdiction of all matters relating to the interpretation, administration, implementation, effectuation and enforcement of this Settlement.

2. PRA and Walmart shall not unreasonably withhold cooperation from Class Counsel to obtain final approval and the dismissal of the Action.

3. The Final Approval Order shall not be considered final until the occurrence of the Settlement Effective Date.

4. Pending determination of whether the Settlement should be granted Final Approval, the Parties agree not to pursue any claims or defenses otherwise available to them in the Action, and no person in the Settlement Class or person acting or purporting to act directly or derivatively on behalf of a person may commence or prosecute against any of the Released Parties any action or proceeding asserting any of the Released Claims. The Preliminary Approval Order will contain an injunction enjoining the prosecution of the Released Claims by any person unless and until after such person is validly excluded from the Settlement Class or is not a Settlement Class Member.

XVI. MUTUAL FULL COOPERATION

1. The Parties agree to cooperate fully with each other to accomplish the terms of this Settlement, including but not limited to execution of all necessary documents, and to take such other action as may reasonably be necessary to implement the terms of this Settlement. The Parties shall use their best efforts, including all efforts contemplated by this Settlement and any other efforts that may become necessary by order of the Court or otherwise, to effectuate the terms of this Settlement. As soon as practicable after Execution of this Settlement, Class Counsel shall, with the reasonable assistance and cooperation of PRA, Walmart and their counsel, take all reasonable and necessary steps to secure the Court's Final Approval Order.

XVII. STATEMENT OF NO ADMISSION

1. Nothing contained in this Agreement shall be construed against PRA or Walmart or deemed an admission of liability, culpability, or wrongdoing on the part of PRA or Walmart, and PRA and Walmart deny liability for any alleged wrongdoing. PRA and Walmart expressly deny liability for the claims asserted and specifically deny and do not admit any of the pleaded facts not admitted in their pleadings in the Action. Nor shall this Agreement constitute an admission by PRA or Walmart as to any interpretation of laws or as to the merits, validity, or accuracy of any claims made against it in the Action. Likewise, nothing in this Agreement shall be construed or deemed an admission by Plaintiff or the Settlement Class with regards to the validity of any of the defenses or affirmative defenses asserted by PRA or Walmart. Each of the Parties has

entered into this Settlement with the intention to avoid further disputes and litigation with the attendant inconvenience and expenses.

2. This Agreement, and all related documents, including the Settlement Agreement, the certification for settlement purposes entered pursuant to this Agreement, and any Claims, Opt-Out Requests, Objections or other materials submitted by Settlement Class Members and all other actions taken in implementation of the Settlement, including any statements, discussions, or communications, and any materials prepared, exchanged, issued, or used during the course of the negotiations leading to this Agreement are settlement documents and shall be inadmissible in evidence and shall not be used for any purpose in this Action or in any other judicial, arbitral, administrative, investigative, or other court, tribunal, forum, or proceeding, or any other litigation against PRA or Walmart, for any purpose, except in an action or proceeding to approve, interpret, or enforce the terms of this Agreement.

3. The Claims Forms, Opt-Out Requests, Objections, and any other evidence produced or created by any Settlement Class Member in connection with the claims resolutions procedures pursuant to this Settlement, and any actions taken by PRA or Walmart in response to such materials do not constitute, are not intended to constitute, and will not be deemed to constitute an admission by PRA or Walmart of any violation of any federal, state, or local law, statute, ordinance, regulation, rule, or executive order, or any obligation or duty at law or in equity.

4. Any certification of the Settlement Class in accordance with the terms of this Agreement is for settlement purposes only. Nothing in this Agreement will be construed as an admission or acknowledgement of any kind that any class should be certified in this Action or in any other action or proceeding. Further, neither this Agreement, nor the Court's actions with regard to this Agreement, will be deemed admissible in this Action and are not intended to be admissible (and Plaintiff and Class Counsel shall not seek their admission), in any other judicial, arbitral, administrative, investigative, or other court, tribunal, forum, or proceeding, or in any other litigation, regarding the propriety of class certification or collective treatment. In the event that this Agreement is not approved by the Court or any appellate court, or otherwise fails to become effective and enforceable, or is terminated, or the Settlement Effective Date does not occur for any reason, PRA and Walmart will not be deemed to have waived, limited, or affected in any way any of its objections or defenses in the Action. Such objections and defenses include, but are not limited to, PRA and Walmart's objections and defenses to any class-wide treatment and nothing in this Agreement or any document related to this Agreement shall be construed as a waiver by either PRA or Walmart of their contention that class certification is not appropriate and is contrary to law in this Action or any other case or proceeding.

XVIII. VOIDING THE AGREEMENT

1. Class Plaintiff and Walmart shall each have the right to unilaterally terminate this Agreement by providing written notice of his, her, their or its election to do so ("Termination Notice") to all other Parties within ten (10) calendar days of any of the following occurrences:

A. The Court rejects or declines to finally approve the Agreement and the parties assert in writing that they are waiving any right to appeal said rejection;

B. An appellate court reverses the Final Approval Order, and the Agreement is not reinstated without substantial and material change by the Court on remand;

C. The Settlement Effective Date does not occur; or

D. Any other ground for termination set forth in this Agreement.

2. All Settlement Class Members will be bound by all determinations and judgments in the Action. In the event that the number of persons in the Settlement Class who validly and timely submit Opt-Out Requests exceeds ten percent (10%) of the class, Walmart, in its sole and absolute discretion, may terminate this Agreement.

3. In the event that this Settlement is not approved, or if for any reason the Settlement Effective Date does not occur, the Settlement Agreement shall be deemed null, void, and unenforceable and shall not be used nor shall it be admissible in any subsequent proceedings either in this Court or in any other judicial, arbitral, administrative, investigative, or other court, tribunal, forum, or other proceeding, or other litigation against PRA or Walmart, and the Parties shall return to their respective positions prior to the Court's consideration of this Settlement.

4. In the event that the Court does not approve the Attorneys' Fees and Litigation Expenses in the amount requested by Class Counsel, or in the event that the Attorneys' Fees and Litigation Expenses requested by Class Counsel is reduced, that finding shall not be a basis for rendering the entire Settlement Agreement null, void, or unenforceable. Class Counsel retains their right to appeal any decision by the Court regarding the Attorneys' Fees and Litigation Expenses.

XIX. SIGNATORIES' AUTHORITY

1. The respective signatories to this Agreement each represent that they are fully authorized to enter into this Settlement on behalf of the respective Parties for submission to the Court for preliminary and final approval.

XX. NO PRIOR ASSIGNMENTS

1. The Parties represent, covenant, and warrant that they have not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or right released and discharged in this Settlement.

XXI. NOTICES

1. Unless otherwise specifically provided herein, all notices, demands, or other communications given hereunder shall be in writing and shall be deemed to have been duly given: (i) on the date given, if given by hand delivery; (ii) within one (1) business day, if sent by overnight delivery services such as Federal Express or similar courier; (iii) on the third business day after mailing by United States registered or certified mail, return receipt requested, or (iv) on the day received for delivery by e-mail. All notices given under this Agreement shall be addressed as follows:

A. To the Class:

Keith J. Keogh
Keogh Law, LTD.
55 W. Monroe St., Ste. 3390
Chicago, IL 60603
Email: keith@keoghlaw.com

B. To PRA:

Ernest H. "Skip" Kohlmyer, III
Shepard, Smith, Kohlmyer & Hand, P.A.
2300 Maitland Center Pkwy., Suite 100,
Maitland, FL 32751
Email: skohlmyer@shepardfirm.com

C. To Walmart:

Shannon Z. Petersen
Sheppard, Mullin, Richter & Hampton LLP
12275 El Camino Real, Suite 200
San Diego, CA 92130
Email: spetersen@sheppardmullin.com

XXII. CONFIDENTIALITY

1. The substance of the negotiations, but not the date or place related to this Agreement (including the negotiations regarding the Term Sheet, negotiations related to the drafting of this Agreement, and any negotiations prior to Preliminary Approval or between the time of preliminary and final approval) will remain strictly confidential and shall not be discussed with anyone other than the Settlement Class Representative, PRA and Walmart, their retained attorneys, their accountants and financial or tax advisers, their retained consultants, the Court, and the mediator Heshia Abrams and her staff, unless otherwise agreed to by Class Counsel, PRA and Walmart, or unless otherwise ordered by the Court. Notwithstanding the other provisions of this Section, Walmart may, if necessary, disclose the Settlement in filings that Walmart, Inc., is required to make with the Securities and Exchange Commission, including 10-Q and 10-K filings, or in other disclosures to investors.

XXIII. PRESS RELEASE

1. No Party, nor their counsel, shall initiate any statements to the media regarding the settlement. The Parties shall agree on a statement to be used in the event of press inquiries regarding the Settlement. The Parties shall not make any other statements to the media regarding this Settlement.

XXIV. DOCUMENTS AND DISCOVERY

1. Class Counsel will maintain confidentiality of documents and data produced by PRA and Walmart in the Action pursuant to any protective order entered in the Action, and within sixty days following the Settlement Effective Date, shall either return such documents and data or certify that such documents and data have been destroyed.

XXV. MISCELLANEOUS PROVISIONS

1. **Construction.** The Parties agree that the terms and conditions of this Settlement are the result of lengthy, intensive arms-length negotiations between the Parties and that this Settlement shall not be construed in favor of or against any party by reason of the extent to which any party or his or its counsel participated in the drafting of this Settlement.

2. **Captions and Interpretations.** Paragraph titles or captions contained in this Agreement are a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any provision of this Agreement. Each term of this Agreement is contractual and not merely a recital.

3. **Modification.** This Agreement may not be changed, altered, or modified, except in a writing signed by the Parties and approved by the Court. Notwithstanding the foregoing, the Parties agree that any dates contained in this Agreement may be modified by agreement of the Parties without Court approval if the Parties agree and cause exists for such modification. This Settlement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties.

4. **Integration Clause.** This Agreement, the exhibits hereto, and any other documents delivered pursuant hereto contain the entire agreement between the Parties relating to the resolution of the Action, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or such Party's legal counsel, are merged in this Agreement. No rights under this Settlement may be waived except in writing and signed by the Party against whom such waiver is to be enforced.

5. **Binding on Assigns.** This Settlement shall be binding upon, and inure to the benefit of, the Parties and their respective heirs, trustees, executors, administrators, successors, and assigns.

6. **Class Counsel Signatories.** It is agreed that because the Settlement Class Members are so numerous, it is impossible or impractical to have each Settlement Class Member execute this Settlement. The Notice will provide all Settlement Class Members with a summary of the Settlement, and will advise all Settlement Class Members of the binding nature of the Release. Excepting only those Settlement Class Members who timely submit a valid Opt-Out Request, such Notice shall have the same force and effect as if this Settlement were executed by each Settlement Class Member.

7. **Counterparts.** This Agreement may be executed by facsimile signature and in any number of counterparts, and when each party has signed and delivered at least one such

counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one and the same Agreement, which shall be binding upon and effective as to all Parties.

8. ***Mediate.*** The Parties agree to mediation with Hesha Abrams to resolve any disagreements over the implementation of the terms of the Settlement, this Agreement, or any other documents necessary to effectuate the Settlement. Unless otherwise ordered by Hesha Abrams, the Parties will split the costs of any such mediation and all Parties will bear their own attorneys' fees. If any such mediation is unsuccessful, the dispute shall be decided by the Court.

9. ***Applicable Law.*** This Agreement shall be governed by Florida law without regard to its choice of law or conflicts of law principles or provisions.

REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK

ACCEPTED AND AGREED:



Emanuel Bermudez

10 Dec 18

Date

ON BEHALF OF PLAINTIFF AND SETTLING CLASS MEMBERS:



Keith Keogh
KEOGH LAW, LTD.

12/10/2018



William Perce Howard
THE CONSUMER PROTECTION FIRM

12/10/2018

Date

ON BEHALF OF PRA:

Ernest H. "Skip" Kohlmyer, III
SHEPARD, SMITH, KOHLMYER
& HAND, P.A.

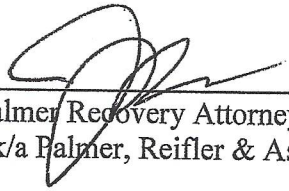
Date

ON BEHALF OF WALMART:

Shannon Z. Petersen
SHEPPARD, MULLIN, RICHTER
& HAMPTON LLP

Date

ACCEPTED AND AGREED:



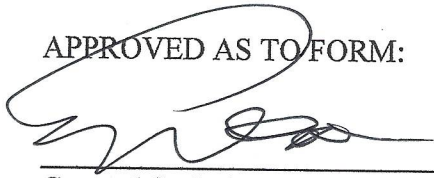
Palmer Recovery Attorneys
f/k/a Palmer, Reifler & Associates

12-14-18
Date

Walmart, Inc.

Date

APPROVED AS TO FORM:



Counsel for Palmer, Reifler & Associates
Ernest H. "Skip" Kohlmyer, III
SHEPARD, SMITH, KOHLMYER
& HAND, P.A.

12-14-18
Date

Counsel for Walmart, Inc.
Shannon Z. Petersen
SHEPPARD, MULLIN, RICHTER
& HAMPTON LLP

Date

ACCEPTED AND AGREED:

Emanuel Bermudez

Date

Palmer, Riefler & Associates

Date



Walmart, Inc.

DEC 17 2018

Date

APPROVED AS TO FORM:

Counsel for Plaintiff and the Class
Keith Keogh
KEOGH LAW, LTD.


Date

Counsel for Plaintiff and the Class
William Peerce Howard
THE CONSUMER PROTECTION FIRM

Date

Counsel for Palmer, Riefler & Associates
Ernest H. "Skip" Kohlmyer, III
SHEPARD, SMITH, KOHLMYER
& HAND, P.A.

Date



Counsel for Walmart, Inc.
Shannon Z. Petersen
SHEPPARD, MULLIN, RICHTER
& HAMPTON LLP

Dec. 18, 2018

Date