

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Settlement Agreement”) is made and entered into by, and between Jason Brown, Laszlo Bozso, Meris Dudzic and April Ingram-Fleming (“**Plaintiffs**”), on behalf of themselves and the **Disclosure Settlement Class** (defined below), and Defendant Lowe’s Companies, Inc. (hereafter “**Defendant**” or “**Lowe’s**”). Plaintiffs, **Disclosure Class Members** (defined below), and Defendant are collectively referred to as the “**Parties.**”

This is a partial settlement, and is intended to resolve the Disclosure Class claims as referenced herein. For the claims specifically made subject to this agreement, as set forth herein, the Parties desire to fully, finally, and forever resolve, discharge, and settle all released rights and claims.

RECITALS

WHEREAS, on May 16, 2013, Plaintiffs commenced the lawsuit styled *Brown, et al. v. Lowe’s Companies, Inc. et al.*, Civil Action No. 5:13-CV-00079-RLV-DCK, in the Western District of North Carolina, Statesville Division (the “Litigation”), alleging, *inter alia*, that Lowe’s willfully failed to comply with the disclosure and authorization requirements in the Fair Credit Reporting Act, 15 U.S.C. § 1681b(b)(2) before obtaining a consumer report about them and others for employment purposes; and

WHEREAS, Plaintiffs Brown, Bozso, and Dudzic filed a motion for class certification on July 8, 2013 (Doc. 28); Defendant Lowe’s filed a motion to dismiss on July 11, 2013 (Doc. 31); and the parties on July 16, 2013 filed a joint motion requesting that the Court stay briefing on the Motion for Class Certification so as to allow for resolution of the pending motions to dismiss as well as discovery, which motion the Court granted (Doc. 38); and

WHEREAS, Plaintiffs Brown, Bozso, and Dudzic filed briefs opposing the motions to dismiss on August 19, 2013 and Defendants replied on August 29; on September 30, 2014, the Court issued a Memorandum and Order denying the motions to dismiss;

WHEREAS, Plaintiffs Brown, Bozso and Dudzic filed an Amended Class Action Complaint on October 7, 2014 (Doc. 48); Defendants filed Answers on October 24 (Docs. 50, 51); and Plaintiffs Brown, Bozso and Dudzic filed a Second Amended Class Action Complaint on January 22, 2015 (Doc. 56); and the Defendants subsequently filed new motions to dismiss and for judgment on the pleadings (Docs. 77, 81); and

WHEREAS, on October 9, 2014, Plaintiff April Ingram-Fleming filed a separate suit against Lowe's in the Middle District of Florida, Case No. 8:14-cv-2569-SDM-MAP; and the matter was ordered transferred to this Court where it was consolidated with the existing case, pursuant to this Court's Order dated February 20, 2015 (Doc. 64); and

WHEREAS, on February 20, 2015, this Court granted a Joint Motion to Stay pending mediation (Doc. No. 63), which stay was subsequently extended, to allow the parties to engage in protracted mediation efforts; and the parties engaged in an arms'-length mediation and negotiation process with the qualified mediator Hunter R. Hughes of the Atlanta law firm Rogers & Hardin LLP including a mediation session on May 27, 2015, and a lengthy process of exchanging information and negotiating; and Lowe's and Plaintiffs reached an agreement in principle on July 29, which was then memorialized into a Memorandum of Understanding;

NOW, THEREFORE, IT IS AGREED, by and among the Parties, that all of the claims made by Plaintiffs against Lowe's on their own behalf, and on behalf of the Disclosure Class Members, should be settled, compromised, and dismissed on the merits, and with prejudice, under the terms and conditions set forth below, subject to approval by the Court, without (1) any

admission or concession by Plaintiffs and the Disclosure Class Members that the Litigation lacks merit, or (2) any admission or concession by Defendant of liability or wrongdoing, and that any defense to the claims at issue in the Litigation lack merit.

I. DEFINITIONS

As used in this Settlement Agreement, the terms defined below shall have the meanings assigned to them when capitalized in the same fashion as in this Part I. Any other terms relating to the consumer reporting industry shall have the customary meaning assigned to them by the consumer reporting industry.

1.1 **“Attorneys’ Fees and Costs”** means Attorneys’ fees approved by the Court for Class Counsel’s attorneys fees accrued or proper pursuant to this Settlement, and all costs awarded Class Counsel thereby, including, but not limited to, costs associated with documenting the Settlement, securing the Court’s approval of the Settlement, and expenses for any experts. Class Counsel will request attorneys’ fees and reimbursement for litigation expenses not to exceed one-third of the Maximum Settlement Amount. Defendant has agreed not to oppose Class Counsel’s request for fees and reimbursement of costs as set forth above. Any portion of the Attorneys’ Fees and Costs not awarded to Class Counsel will remain in the settlement fund for the benefit of class members.

1.2 **“CAFA Notice”** means notice of this proposed settlement to appropriate federal and state officials, as provided by the Class Action Fairness Act of 2005, 28 U.S.C. §§1332(d), 1453, and 1711–1715, and specifically 28 U.S.C. § 1715.

1.3 **“Claims Administrator”** means the third-party class action settlement claims administrator selected by Class Counsel and approved by the Court. The Claims Administrator shall mail the Court-approved Notices to all Disclosure Class Members, shall receive and process election forms and requests for exclusion, and shall calculate and pay the settlement awards to

qualifying Disclosure Class Members out of a qualified settlement fund and issue all IRS tax forms that are required, if any. The Parties each represent that they do not have any financial interest in the Claims Administrator or otherwise have a relationship with the Claims Administrator that could create a conflict of interest. All reasonable costs and expenses incurred by the Claims Administrator will be paid by Defendant.

1.4 **“Class Counsel”** means the following law firms, which acted as counsel of record for Plaintiffs during the Litigation:

- Caddell & Chapman;
- Consumer Litigation Associates, P.C.;
- O’Toole, McLaughlin, Dooley & Pecora, Co., LPA;
- Lyngklip & Associates Consumer Law Center, PLC;
- Sellers, Hinshaw, Ayers, Dortch & Lyons, P.A.;
- Wenzel, Fenton, Cabassa, P.A.; and
- Wallace & Graham, P.A.

1.5 **“Consumer”** means an “individual, as defined by 15 U.S.C. §1681a(b) and (c).

1.6 **“Court”** means the United States District Court for the Western District of North Carolina, Statesville Division.

1.7 **“Defendant”** means Lowe’s Companies, Inc.

1.8 **“Defendant’s Counsel”** means Hunton & Williams LLP.

1.9 **“Disclosure Claim”** means any claim of a Disclosure Class Member for alleged violation of 15 U.S.C. § 1681b(b)(2) or comparable provision of a FCRA State Equivalent.

1.10 **“Disclosure Settlement Class”** means the following: “All natural persons residing in the United States (including all territories and other political subdivisions) (a) who

submitted an employment application to Lowe's, and (b) who were the subject of a consumer report procured by Lowe's for employment purposes between (1) October 9, 2012 and May 6, 2015, or (2) October 9, 2012 and July 5, 2015, if he or she applied for employment at Lowe's corporate headquarters through an external source, or (3) October 9, 2012 and July 9, 2015, if he or she applied for employment with Lowe's corporate headquarters at a kiosk. Excluded are all counsel of record, and any judge or magistrate assigned to this matter together with their immediate family members and judicial staff."

1.11 "**Disclosure Class Members**" means those persons included in the Disclosure Settlement Class.

1.12 "**Effective Date**" means the date on which the Court's Approval Order becomes final because (i) no objections have been made to the Settlement and no party has sought to intervene, or (ii) if any objection or motion to intervene was made, no appeal has been filed and thirty (30) days have lapsed since entry of the Judgment. If any such appeal is filed, Effective Date means the date on which all appeals are finally resolved, upholding of the Settlement. For purposes of this definition, the term "appeal" includes any writ proceedings. The Court's determination, or approval, of Attorneys' Fees shall not affect the Effective Date, nor shall it be used as a basis for determining the Effective Date.

1.13 "**Election Form**" means the form attached as Exhibit C, or substantial equivalent, by which an eligible Disclosure Class Member may elect to receive a gift card or, for certain eligible Disclosure Class Members, a check in a cash amount in lieu of a gift card.

1.14 "**FCRA**" means the federal Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.*, and any subsequent amendments thereto.

1.15 “**FCRA State Equivalents**” means any statute, regulation, or common law rule of any state, U.S. territory, the District of Columbia, or Puerto Rico, that has the purpose, or effect, of regulating the collection, reporting, or use of consumer information, background investigations, background checks, and related actions.

1.16 “**Final Approval**” means the final approval of the Settlement Agreement by the Court at, or following, the Final Fairness Hearing, and entry on the Court’s docket of the Final Approval Order.

1.17 “**Final Approval Order**” means a final order and judgment entered by the Court giving Final Approval to the Settlement Agreement and dismissing, with prejudice, the Disclosure Claim, and entering a judgment according to the terms set forth in this Settlement Agreement. A proposed form of the order is attached hereto as **Exhibit E**.

1.18 “**Final Fairness Hearing**” means the hearing at which the Court will consider, and finally decide, whether to approve this Settlement, enter the Final Approval Order, and make such other rulings as are contemplated by this Settlement. The Final Fairness Hearing shall not be scheduled for a date less than ninety (90) days following the mailing of CAFA Notice as set forth in this Settlement Agreement.

1.19 “**Gross Individual Settlement Award**” means the value of the Settlement Benefits for each individual Disclosure Class Member before Class Counsel’s attorneys’ fees, litigation expenses and any class representative service awards are deducted.

1.20 “**Litigation**” means the consolidated action styled *Brown, et al. v. Lowe’s Companies, Inc. et al.*, Civil Action No. 5:13-CV-00079-RLV-DCK, Western District of North Carolina, Statesville Division.

1.21 “**Mail Notice**” means notice (in a form substantially similar to that attached to this Settlement Agreement as **Exhibit A**, and as finally approved by the Court) that will be mailed to the proposed Disclosure Class Members under the Notice Plan.

1.22 “**Maximum Settlement Amount**” means the sum of all Gross Individual Settlement Awards awarded under this Agreement. The “Maximum Settlement Amount” is “all inclusive,” including any penalties and damages associated with or related to the alleged Disclosure Claim by or of Disclosure Class Members; interest, attorneys’ fees, costs and expenses as approved by the Court; settlement payments; and taxes, if any (including state and federal income taxes, social security contributions, and unemployment taxes).

1.23 “**Notice and Administration Expenses**” means the fees, costs, and expenses incurred by the Claims Administrator that are reasonably necessary to carry out its obligations under this Settlement Agreement.

1.24 “**Notice Plan**” means the plan for disseminating notice to proposed Disclosure Class Members as described in this Settlement Agreement.

1.25 “**Opt-Out Form**” means a document substantially in the form attached hereto as **Exhibit B**, or substantial equivalent, by which a Disclosure Class Member may request to be excluded from the Settlement in accordance with Section V below.

1.26 “**Parties**” means Plaintiffs, Disclosure Class Members, and Defendant.

1.27 “**Payment Notice**” means the notice (in a form substantially similar to that attached to this Settlement Agreement as **Exhibit F**, and as finally approved by the Court) sent to Disclosure Class Members at the time payment is made by check or gift card.

1.28 “**Plaintiffs**” mean Jason Brown, Laszlo Bozso, Meris Dudzic and April Ingram-Fleming.

1.29 “**Preliminary Approval**” means preliminary approval of the Settlement Agreement by the Court, conditional certification of the Disclosure Settlement Class for purposes of this Settlement only, and approval of the method and content of notice to the Settlement Class.

1.30 “**Preliminary Approval Order**” means the order entered by the Court granting Preliminary Approval, a proposed form of which is attached hereto as **Exhibit D**.

1.31 “**Released Parties**” means and refers to, Lowe’s Companies, Inc. and its present, former and future officers, directors, partners, employees, agents, attorneys, servants, heirs, administrators, executors, members, member entities, shareholders, predecessors, successors, affiliates, subsidiaries, parents, representatives, trustees, principals, insurers, and assigns, individually, jointly and severally. “Released Parties” expressly excludes any consumer reporting agency, regardless of how it may otherwise be categorized.

1.32 “**Settlement**” means the agreement between the Plaintiffs (on behalf of themselves, and as proposed representatives of the Disclosure Class Members) and Defendant to fully, finally, and forever settle and compromise Plaintiffs’ and the Disclosure Class Members’ Disclosure Claims in the Litigation, as memorialized in this Settlement Agreement and documents attached hereto.

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

1.34 “**Settlement Benefits**” means the payments to the Disclosure Class Members that are structured as described further in Section VII below.

II. **NO ADMISSION OF LIABILITY OR ELEMENTS OF CLASS CERTIFICATION**

2.1 **Defendant’s Denial of Wrongdoing or Liability.** Defendant has asserted, and continues asserting, defenses in this Litigation and has expressly denied, and continues denying,

any fault, wrongdoing, violation of law, or liability arising from the misconduct alleged in the Litigation. Defendant further denies the validity of each claim and prayer for relief asserted in the Litigation. The Parties expressly acknowledge and agree that neither the fact of, nor any provision in, this Settlement Agreement, nor any of the implementing documents or actions taken under them, nor Defendant's willingness to enter into this Settlement Agreement, nor the content or fact of any negotiations, communications, and/or discussions associated with the Settlement shall constitute, or be construed as, an admission by, or against, Defendant, or any of the Released Parties, of any fault, wrongdoing, violation of law, or liability, the validity of any claim, or allegation raised in the Litigation, or any infirmity of any defenses asserted by Defendant in the Litigation.

2.2 No Admission by Defendant of Elements of Class Certification. Except for purposes of settling the Litigation as provided herein, Defendant denies class certification is appropriate and reserves its right to contest class certification for purposes other than Settlement of the Litigation. Consequently, nothing in this Settlement Agreement shall be construed as an admission by Defendant, and any of the Released Parties, that this Litigation, or any other action alleging similar claims and relief, is amenable to class certification. Furthermore, nothing in this Settlement Agreement shall prevent Defendant from seeking to decertify any certified classes if Final Approval of this Settlement is not obtained, or is not upheld on appeal.

III. MOTION FOR PRELIMINARY APPROVAL

Class Counsel shall file this Settlement Agreement with the Court, together with a Joint Motion for Preliminary Approval seeking entry of an order that would, for settlement purposes only: (a) certify a conditional settlement class under Federal Rule of Civil Procedure 23 composed of Plaintiffs and Disclosure Class Members as defined in Sections 1.28 and 1.11 of this Settlement Agreement; (b) preliminarily approve this proposed Settlement Agreement; (c)

approve the proposed Mail Notice to the proposed Disclosure Class Members in a form substantially similar to that attached to this Settlement Agreement as **Exhibit A**; (d) certify Plaintiffs as representatives of the Disclosure Settlement Class; (e) appoint Class Counsel; and, (f) appoint the Claims Administrator.

If the Court denies Preliminary Approval, the Parties agree to negotiate in good faith, including returning to mediation with Hunter Hughes if necessary, to resolve any issues the Court identifies as precluding Preliminary Approval.

IV. NOTICE PLAN

4.1 Preparation and Production of Settlement Class Lists

4.1.1 Within 10 business days of Preliminary Approval, Defendant will produce in electronic form a list including Disclosure Class Members' last known names and addresses and the last four digits of the class member's social security number. Class Counsel will have three business days to approve the class list and confirm agreement in writing to Lowe's counsel. The Parties understand this information will be obtained from Defendant's data, and from data in the care, custody, or control of Lowe's and that Class Counsel's failure to raise an objection to the class list in that period will be deemed to have accepted it. The Claims Administrator will be bound by a confidentiality agreement. Mail Notice will be sent to Disclosure Class Members' last known addresses as updated through the National Change of Address database. As necessary, the Claims Administrator will verify or update last known addresses by using generally recognized databases, such as Accurint or Experian Address Update. To obtain last known address information in accordance with 15 U.S.C. § 1681b(a)(1), the Parties may jointly move the Court to permit the Claims Administrator to obtain information from these sources. Any disputes regarding information about the Disclosure Class Members shall be submitted to the Court before the Final Fairness Hearing.

4.1.2 Lowe's estimates that there are 450,533 Disclosure Class Members.

4.2 Notice Process

4.2.1 For purposes of providing Court-approved Mail Notice, and demonstrating the best practicable notice has been given to Disclosure Class Members, Mail Notice will be accomplished as provided below.

4.2.2 Disclosure Class Members shall receive Mail Notice in the same, or substantially the same, form as the Mail Notice attached to this Settlement Agreement as **Exhibit A**.

4.2.3 **Mail Notice.** Within thirty (30) days following Preliminary Approval, the Claims Administrator shall cause Mail Notice to be sent *via* first-class, U.S. mail, postage prepaid, to all Disclosure Class Members. Within thirty (30) days after mailing Mail Notice, the Claims Administrator will re-distribute Mail Notice *via* first-class U.S. mail, postage prepaid, to updated addresses for Disclosure Class Members as made known to the Claims Administrator by address change notifications from the U.S. Postal Service, or as otherwise reasonably obtained by the Claims Administrator. Not later than twenty (20) days before the Final Fairness Hearing, the Claims Administrator shall cause proof of mailing of Mail Notice to be filed with the Court. Following exhaustion of the procedures set forth in this Subsection, the Parties, and the Claims Administrator, shall have no further obligation to send Mail Notice to Disclosure Class Members.

4.2.4 **Internet Notice.** The Claims Administrator shall establish a Settlement Website at a website address that includes information about the Settlement. The Settlement Website will be accessible no later than five (5) days after Mail Notice is initially mailed as described in Subsection 4.2.3. The Settlement Administrator must set forth the following information on the Settlement Website: (i) the full text of the Settlement Agreement; (ii) the Mail Notice; (iii) the

Election form, in PDF format; (iv) the Opt-out Form, in PDF Format; (v) the Preliminary Approval Order and other relevant orders of the Court; (vi) other documents from the Litigation that the Parties jointly determine to be appropriate; (viii) a mutually agreed section of frequently asked questions and (e) contact information for Class Counsel and the Claims Administrator. Additional material content will not be included on the Settlement Website without prior written consent of all Parties. No later than twenty (20) days before the Final Fairness Hearing, the Claims Administrator shall cause proof of the establishment and maintenance of the Settlement Website to be filed with the Court. Any disputes under this Subsection of this Agreement shall be resolved by the Court.

4.2.5 Telephone Assistance Program. To answer questions from Disclosure Class Members, the Claims Administrator shall establish and staff a toll-free telephone number. The toll-free number will 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. No later than twenty (20) days before the Final Fairness Hearing, the Claims Administrator shall cause proof of the establishment and maintenance of the Telephone Assistance Program to be filed with the Court. The Telephone Assistance Program described in this Subsection shall be maintained by the Claims Administrator until sixty (60) days following the mailing of the last Payment Notice under Subsection 7.1.4 of this Settlement Agreement.

4.2.6 Notice under Class Action Fairness Act of 2005 (“CAFA Notice”). No later than ten (10) days after this Settlement Agreement is filed with the Court, Defendant will serve CAFA Notices as required under 28 U.S.C. § 1715(a). Defendant will bear the cost associated with sending CAFA Notice. Defendant shall file with the Court a certification indicating the date when CAFA Notice was served.

V. PROCEDURES FOR CLAIMS, OPT-OUTS, AND OBJECTIONS

5.1 Opt-Out Procedures.

Mail Notice shall include the Opt-out form providing information about how a Settlement Class Member may opt out of the Settlement, as well as the potential implications of doing so, including that opting out may potentially preclude later participation in other actions against the Released Parties regarding claims made in the Litigation.

5.1.1 A Settlement Class Member may submit a request to be excluded from the Disclosure Settlement Class by sending either the Opt-out Form or other written request for exclusion to “Exclusion Requests – *Brown v. Lowe’s*” to the Claims Administrator at its mailing address. A Disclosure Class Member’s opt-out request must include his or her original signature, current postal address and telephone number, the last four digits of the Disclosure Class Member’s Social Security Number, and a specific statement to the effect that the proposed Disclosure Class Member wants to be excluded from the Disclosure Settlement Class. Opt-out requests must be postmarked no later than twenty-one (21) days before the Final Fairness Hearing. In no event shall persons who purport to opt out of the Disclosure Settlement Class as a group, aggregate, or class, involving more than one proposed Disclosure Class Member, be considered valid opt outs.

5.2 List of Opt Outs. No later than five (5) business days after the deadline for submission of requests to opt out of the Settlement, the Claims Administrator shall provide to Class Counsel and Defendant’s Counsel the identity of Disclosure Class Members who have properly opted out of the Settlement, together with copies of any written requests to opt out of the Settlement.

5.3 Representation of Opt-Outs. Class Counsel and Plaintiff agree this Settlement Agreement is fair, reasonable, and in the best interest of the Disclosure Class Members. If

Disclosure Class Members opt out of the Settlement, Class Counsel believes such Disclosure Class Members should not be represented by Class Counsel.

5.4 Objections from Disclosure Class Members. The Parties agree and understand that any Settlement Class Member who does not opt out, but who instead wishes to object to the Settlement, or any other matters as described in the Mail Notice, may do so by filing with the Court a written notice of his or her intention to object. The Parties will ask the Court to require each written objection notice to include each objection and the basis therefor, the objecting Settlement Class Member's signed verification of membership in the Settlement Class, and any papers in support of his or her objection. The Parties will also ask the Court to require each written objection notice to be filed with the Court and served on Class Counsel and Defendant's Counsel at the addresses provided in the Mail Notice so they are received by Class Counsel and Defendant's Counsel no later than twenty-one (21) days before the Final Fairness Hearing. The Parties will also ask the Court to require any objections to any request for Attorneys' Fees to be supplemented up to seven (7) days after Class Counsel files a motion requesting Attorneys' Fees. Finally, the Parties will also ask the Court to require any written objection to the Settlement to indicate if the Settlement Class Member, or his or her counsel, intend to appear at the Final Fairness Hearing, and that any lawyer who intends to appear at the Final Fairness Hearing must enter a written Notice of Appearance of Counsel with the Clerk of the Court no later than the date set by the Court in its Preliminary Approval Order that includes the full caption and case number of each previous class action case in which that counsel has represented an objector.

If a Settlement Class Member's objection is submitted through an attorney, the Parties will also ask the Court to require the objection to include, in addition to the information set forth in the previous paragraph: (a) the identity and number of the Disclosure Class Members

represented by objector's counsel; (b) the number of such represented Disclosure Class Members who have opted out of the Class; and (c) the number of such represented Disclosure Class Members who have remained in the Settlement Class and have not objected.

VI. FINAL FAIRNESS HEARING AND FINAL APPROVAL

6.1 Final Fairness Hearing. The Parties will jointly request that the Court hold the Final Fairness Hearing to consider approval of the Settlement of the Litigation as provided for herein approximately one hundred (100) days after Preliminary Approval, but in no event, earlier than 90 days after CAFA Notice is served. On or before a date at least ten (10) days before the Final Fairness Hearing, Class Counsel shall file a motion for entry of the Final Approval Order. The Parties agree the Final Approval Order constitutes a final judgment dismissing the Disclosure Claim with prejudice. The Parties will cooperate, and take all necessary steps, to effectuate Final Approval of the Settlement.

6.2 Final Approval. All relief contemplated by this Settlement Agreement is expressly contingent upon the Settlement Agreement receiving the Court's Final Approval. If the Court rejects the Settlement, the Parties agree to work in good faith to resolve any differences they may have regarding any revised Settlement Agreement to be resubmitted to the Court, and if the Parties are unable to resolve any such differences on their own, the Parties further agree to engage Hunter Hughes for the purpose of helping the Parties to resolve any disputes about the terms and conditions of any revised Settlement Agreement to be re-submitted to the Court.

VII. SETTLEMENT BENEFITS

7.1 Monetary Payments owed to Disclosure Class Members.

7.1.1 Election of Gift Card or Cash. Each Disclosure Class Member must affirmatively elect to receive either a Lowe's gift card, or, if eligible, a cash payment in lieu of a

gift card by submitting a valid election form. No Disclosure Class Member will receive the gift card or cash payment unless they have confirmed their current address.

7.1.2 Eligibility to Receive Gift Card. Subject to the adjustment required by the terms of section 7.1.3, Disclosure Class Members who submit a valid Election Form and live within twenty-five (25) miles of a Lowe's store will receive a gift card.

7.1.3 Eligibility to Receive Cash in Lieu of Gift Card. Subject to the adjustment required by the terms of section 7.1.3, Disclosure Class Members who submit a valid Election Form and live more than twenty-five (25) miles from a Lowe's store may elect to receive a Gross Individual Settlement Award in the form of a check in lieu of the gift card. The amount of the Gross Individual Settlement Award for check elections shall be 71.4% of the amount for gift card elections, as further described below.

7.1.4 Determination of Gross Individual Settlement Award. Each Gross Individual Settlement Award on a gift card will be \$70 if 87,429 Disclosure Class Members elect gift cards and no Disclosure Class Members elect a cash payment. The total monetary value reflected that disbursement is the Maximum Settlement Amount. The Claims Administrator will adjust and determine the exact amount of each gift card and cash payment such that the amount of the Cash payment shall always remain 71.4% of the amount of the gift card and such that the Maximum Settlement Amount will remain unchanged. Before determining the final amount of each gift card and cash payment, the Claims Administrator shall first deduct from the Maximum Settlement Amount all attorneys' fees, costs, and service awards awarded by the Court pursuant to sections 8.1 and 8.2, below.

7.1.5 Additional Terms and Conditions. Gift cards will be subject to the same Terms and Condition as of August 31, 2015 as the gift cards Lowe's sells in the ordinary course of its retail business.

All Disclosure Class funds from checks not cashed or that are otherwise stale after 90 days from mailing shall be used to reimburse Lowes its costs of notice and administration. All cash funds remaining thereafter, if any, will be paid to a mutually agreed *cy pres* beneficiary in the Charlotte, North Carolina area as approved by the Court.

Upon 100 days after the mailing of the gift cards to Disclosure Class members, the Claims Administrator shall notify the Parties of any gift cards that are returned as undeliverable. Lowe's is thereafter permitted to cancel or destroy the undeliverable gift cards.

The Claims Administrator shall establish and follow a procedure agreeable to the Parties to ensure the security and proper distribution of the gift cards provided to Disclosure Class Members and shall mail a Payment Notice as appropriate to class members.

7.2 Taxes and Tax Expenses. The Claims Administrator will be responsible for issuing (a) W-9 Forms and (b) 1099 Forms only if required.

VIII. ATTORNEYS' FEES, SERVICE AWARDS AND NOTICE AND ADMINISTRATION EXPENSES

8.1 Attorneys' Fees and Costs. Class Counsel are permitted to request Attorneys' fees and costs not to exceed one-third of the Maximum Settlement Amount, which Lowe's will not oppose. Attorneys' fees will be determined proportionately against each Settlement Fund.

8.2 Service Award to Plaintiffs. Each Named Plaintiff may petition the Court for a service award not to exceed \$5,000, which Lowe's agrees not to oppose. This amount shall be paid from the Maximum Settlement Amount.

8.3 Notice and Administration Expenses. The expense of Class Administration and Notice shall be separately paid by Lowe's over and above the Maximum Settlement Amount; provided, however that uncashed checks to Disclosure Class members shall be first applied to such expenses before any remaining sum is distributed to a *cy pres* beneficiary selected by Class Counsel and approved by Lowe's.

IX. RELEASE OF CLAIMS

9.1 Disclosure Settlement Class Release. Upon the Effective Date, and in exchange for the relief described in this Settlement Agreement, Disclosure Class Members, including any persons who did not validly opt out of the Settlement, on behalf of themselves and their respective spouses, heirs, executors, trustees, guardians, wards, administrators, representatives, agents, attorneys, partners, successors, predecessors and assigns, and all those acting, or purporting to act, on their behalf completely, finally and forever release and discharge the Released Parties of, and from, any and all claims pursuant to § 1681b(b)(2) of the federal Fair Credit Reporting ("FCRA") and FCRA State Equivalents. Each Disclosure Class Member shall release any claim for attorneys' fees beyond those mutually agreed upon between Lowe's and Class Counsel, or as necessary to litigate a claim for actual damages, based on any alleged violation of § 1681b(b)(2) of the FCRA or FCRA State Equivalents.

The release does not include First Advantage Corporation or LexisNexis Screening Solutions, Inc.

The release does not include any claim brought under 15 U.S.C. § 1681b(b)(3).

X. TERMINATION OPTION

10.1 If greater than 3% of all Disclosure Class Members elect to Opt Out of the settlement pursuant to Fed. R. Civ. P. 23(c)(2), Lowe's may at its option elect to terminate the settlement within ten (10) business days after the deadline to opt out.

10.2 Lowe's Rights to Terminate Agreement. Lowes shall have the unilateral right in its sole discretion to individually terminate this Settlement Agreement, declare it null and void, and have no further obligations under this Settlement Agreement to the Plaintiffs, Settlement Class Members, or Class Counsel if any of the following conditions subsequently occurs: (1) the Court fails or declines to grant Preliminary or Final Approval pursuant to the material terms of this Settlement Agreement; (2) more than 3% of the Settlement Class Members request to opt-out of the Settlement pursuant to Section V; (3) the Court materially modifies the terms of the Release or the Released Parties; (4) the Effective Date does not occur for any reason, including the entry of an order by any court that would require either material modification or termination of the Settlement Agreement or the Final Approval Order.

10.3 Plaintiffs' Rights to Terminate Agreement. Plaintiffs shall have the unilateral right in their sole discretion to individually terminate this Settlement Agreement, declare it null and void, and have no further obligations under this Settlement Agreement to Lowes if any of the following conditions subsequently occurs: (1) the Court fails or declines to grant Preliminary or Final Approval pursuant to the material terms of the Settlement Agreement; (2) the number of Disclosure Class Members is greater than the estimate of class size stated herein by more than 3%, unless Lowes agrees to increase the gross amount of the Maximum Settlement Fund in proportion to the class size increase; (3) the Court materially modifies the terms of the Release or the Released Parties; (4) the Effective Date does not occur for any reason, including the entry of

an order by any court that would require either material modification or termination of the Settlement Agreement or the Final Approval Order.

10.4 Failure by the Court to approve attorneys' fees, costs or the service awards in the amounts sought, or at all, shall not be grounds for Plaintiffs to withdraw from the Settlement, and shall not delay the Settlement's becoming Final, and shall not delay the Effective Date of the releases. Plaintiffs recognize and understand that the court may not approve any service award to them whatsoever and that their support of the Settlement is in no way contingent on any service award. Plaintiffs represent and warrant that no promises of any kind have been made to them with respect to any service award.

XI. CONFIDENTIALITY

Plaintiffs, Defendant, Class Counsel, and Defendant's counsel shall not (i) initiate or cause the initiation of any communications concerning the settlement with any media organization and/or (ii) respond to or cause a response to be made to any communications concerning the settlement with any media organization. As used in this Section, "media organization" shall include, without limitation, print, broadcast, television, satellite and internet media.

The Parties and their counsel agree that if they are contacted by a media organization then they will only state that this matter has settled.

XII. MISCELLANEOUS PROVISIONS

12.1 Admissibility of Settlement Agreement. This Settlement Agreement shall not be offered, nor be admitted, into evidence in the Litigation, or any action, or proceeding, except (1) the hearings necessary to obtain and implement Court approval of the Settlement, or (2) any hearing to enforce the terms of this Settlement Agreement.

12.3 Successors and Assigns. The terms of this Settlement Agreement shall apply to, and bind, the Parties, as well as their heirs, successors and assigns.

12.4 Communications with Consumers in the Ordinary Course of Business. Defendant reserves the right to continue communicating with Consumers, including its customers, employees, or prospective employees, and Disclosure Class Members, in the ordinary course of business. To the extent Consumers initiate communications regarding this Settlement Agreement, Defendant and its counsel may confirm the fact of a settlement and refer inquiries to the Claims Administrator.

12.5 Cooperation. The Parties and their counsel agree to cooperate fully in seeking Court approval for this Settlement Agreement, use their best efforts to effectuate the consummation of the Settlement, and protect the Settlement Agreement by applying for appropriate orders enjoining others from initiating, or prosecuting, any action arising out of, or related to, facts or claims alleged in the Litigation, if so required.

12.6 Entire and Voluntary Agreement. The Parties intend the Settlement Agreement to be a final and complete resolution of the Litigation. The Parties agree the terms and conditions of the Settlement Agreement were negotiated at arm's length, and in good faith, and were reached voluntarily after consultation with competent legal counsel. There shall be no presumption for, or against, any Party that drafted all, or any portion, of this Settlement

Agreement. This Settlement Agreement includes the entire agreement and understanding concerning the subject matters between the Parties addressed herein, and supersedes all prior negotiations and proposals, whether written or oral. The Parties and their agents and attorneys, have not made any promise, representation or warranty that is not included in this Settlement Agreement, and the other documents referred to in this Settlement Agreement, to induce Plaintiff, Class Counsel, and Defendant to execute the Settlement Agreement. The Parties represent they have not executed this Settlement Agreement, or any other documents, in reliance on any promise, representation or warranty that is not included, or referred to, in this Settlement Agreement.

12.7 Headings for Convenience Only. The headings in this Settlement Agreement are for the convenience of the reader only, and shall not affect the meaning, or interpretation, of this Settlement Agreement.

12.8 Amendments. This Settlement Agreement may only be amended, or modified, by a written instrument signed by Defendant, Plaintiff, and Class Counsel, or their respective successors-in-interest, or by express agreement made before the Court and on the record.

12.9 Authorization of Counsel. Class Counsel, on behalf of the Settlement Class, are expressly authorized by Plaintiffs, and the Disclosure Class Members, to take all appropriate action required, or permitted, to be taken by the Settlement Class under the Settlement Agreement to effectuate its terms, and also are expressly authorized to modify or amend the Settlement Agreement on behalf of the Settlement Class as they deem reasonably necessary or appropriate. Each attorney, or other person, executing this Settlement Agreement on behalf of any Party warrants that such attorney, or other person, has full authority to do so.

12.10 Court's Jurisdiction. The Parties intend to ask the Court to retain jurisdiction with respect to implementation and enforcement of the terms of this Settlement Agreement.

12.11 Construction. Before declaring any provision of this Settlement Agreement invalid, the Parties intend to ask the Court to first attempt to construe the provision valid to the fullest extent possible consistent with applicable precedent, so as to find all provisions of this Settlement Agreement valid and enforceable.

12.12 Rights against Third Parties. Nothing in this Settlement Agreement is intended to impair any rights that Defendant and its insurers may have, including, but not limited to, any subrogation rights, rights of indemnity, or claims, against Defendant's third party consumer reporting agency that provided consumer reports to it during the time period at issue in this lawsuit, or any other third party.

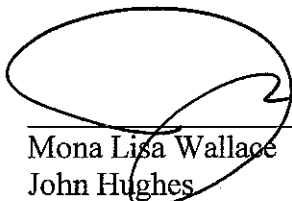
12.13 No Claims Arising from this Settlement Agreement. No person shall have any claim against any Released Party, nor counsel for any Released Party, Plaintiff, or Settlement Class Counsel, based on distribution of benefits made in accordance, or in substantial accordance, with this Settlement Agreement, as well as Order(s) by the Court related to the Settlement.

12.14 Applicable Law. This Settlement Agreement shall, in all respects, be interpreted, construed and governed by, and under the laws of the State of North Carolina, without regard for its choice of law provisions therein. All judicial proceedings regarding this Settlement Agreement shall be brought only in the Court. Any notice period set forth in this Settlement Agreement shall be calculated under the Federal Rules of Civil Procedure and the Local Rules of the U.S. District Court for the Western District of North Carolina.

12.15 Counterparts. This Settlement Agreement may be executed in one, or more, counterparts and by facsimile. All executed counterparts and each of them shall be deemed to be one and the same instrument. Counsel for the Parties shall exchange, among themselves, signed counterparts, and a complete set of executed counterparts shall be filed with the Court.

IN WITNESS THEREOF, and intending to be legally bound, the Parties hereto have caused this Settlement Agreement and Release to be executed by their duly authorized representatives.

FOR PLAINTIFFS AND THE PUTATIVE CLASS:



DATED: _____

12/7/15

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EXHIBITS:

- A. Mail Notice**
- B. Opt-Out Form**
- C. Election Form**
- D. Preliminary Approval Order**
- E. Final Approval Order**
- F. Payment Notice**