

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

MICHAEL ANASTOS, on behalf of
himself and all others similarly situated,

Plaintiff,

v.

Case No. 2277cv00245-A

THE LYON WAUGH AUTO GROUP,

Defendant

STIPULATION OF SETTLEMENT

Michael Anastos, the (“**Plaintiff**”) in the above-captioned action (the “**Action**”), and the named defendant, denominated as the “**The Lyon Waugh Auto Group**,” which is the trade name of an unincorporated group of affiliated automobile dealerships, including certain dealerships located in Massachusetts (as defined in Appendix 1, the “**Dealerships**”) owned and operated by Peabody Motor Sports, Inc., Andover Street Motor Sports, Inc., Off Road Motor Sports, Inc., New England Performance Cars, LLC, and Burlington Motor Sports, Inc. (the “**Corporate Entities**”) (collectively, The Lyon Waugh Auto Group and the Corporate Entities will be referred to as “**Defendant**,” and together with Plaintiff, the “**Parties**,” and each separately a “**Party**” to the Action), by and through their attorneys, have entered into the following Stipulation of Settlement (the “**Settlement Agreement**”), subject to the approval of the **Court** in which the Action is pending pursuant to Mass. R. Civ. P. 23(c).

Recitals

WHEREAS, in or around early December 2021, a cyberattack (the “**Incident**”) partially disrupted information systems utilized by the Dealerships; and

WHEREAS, as part of the efforts to isolate and secure the Dealerships’ systems and investigate the Incident, it was determined that an unauthorized malicious actor accessed and acquired certain files pertaining to customers of the Dealerships and employees of the Corporate Entities (or beneficiaries of such employees), that may have contained some of those individuals’ personally identifiable information (“**PII**”); and

WHEREAS, written notice was provided to customers, employees, and beneficiaries whose PII may have been exposed in the Incident (including Plaintiff), informing them about the Incident and offering to provide, at Defendant’s expense, twenty-four (24) months of credit

monitoring, identity protection, and insurance services offered through IDX, a Zerofox Company (“**IDX**”) (the services offered in such written notice to be referred to as the “**Original Offering**”); and

WHEREAS, on March 14, 2022, Plaintiff filed the Class Action Complaint in the Action (the “**Complaint**”), alleging that Plaintiff’s PII was accessed by cybercriminals in the Incident, thereby causing injury to Plaintiff; and

WHEREAS, the Complaint asserts claims against Defendant for negligence, invasion of privacy in violation of G.L. c. 214, § 1B, breach of implied contract, and unjust enrichment; and

WHEREAS, Plaintiff asserts his claims in the Action on behalf of himself and a putative class of purportedly similarly-situated individuals; and

WHEREAS, Defendant denies and contests all of Plaintiff’s allegations; and

WHEREAS, after careful evaluation of their respective claims and defenses in the Action, the Parties have agreed to settle and resolve, as detailed herein, all claims advanced in the Action on behalf of Plaintiff and a class of all persons who live in Massachusetts, were customers of a **Massachusetts Dealership** (as that term is defined in Appendix 1), or were employed at or are beneficiaries of persons employed at a Massachusetts Dealership, as to whom PII was exposed to cybercriminals in the Incident and the PII exposed to cybercriminals included such persons’ **Social Security Number** (all such persons to be, collectively, the “**Class**,” and each person who is included within the Class to be, individually, a “**Class Member**”); and

WHEREAS, based upon their investigation in the Action, Plaintiff and his counsel have concluded that the terms and conditions of this Settlement Agreement are fair, reasonable, and adequate as to Plaintiff and the Class, and in the best interests of Plaintiff and the Class, after considering (1) the substantial benefits that Plaintiff and the Class Members will receive from settlement of the Action, (2) the attendant risks of continued litigation and the uncertainty of the outcome of the Action, and (3) the desirability of permitting a settlement to be consummated as provided by the terms of this Settlement Agreement; and

WHEREAS, Defendant has at all times denied, and continues to deny, all allegations whatsoever of any wrongdoing, negligence, fault, or liability, and asserts that its actions have been lawful and proper in all respects and in compliance with all applicable legal duties, but in order to avoid the uncertainties, risks and expense of further litigation, Defendant has agreed to settle and terminate all existing or potential claims against it pursuant to the terms and provisions of this Settlement Agreement; provided, however, that in agreeing to settle this Action, Defendant in no way acknowledges or admits any wrongdoing, negligence, fault or liability to the Plaintiff or Class Members, and no inference of any such liability is to be drawn from the participation in this settlement by Defendant, which asserts its intention, absent a settlement, to continue to oppose certification of the Class, and otherwise to continue with a vigorous defense and proceed to further litigation of this Action;

NOW, THEREFORE, IT IS STIPULATED AND AGREED, by and among the Parties, through their respective attorneys, subject to approval of the Court pursuant to Mass. R. Civ. P. 23(c), that in consideration of the benefits flowing to the Parties, all **Settled Class Claims** as

against all **Defendant's Released Parties**, (as those terms are defined below), shall be compromised, settled, released and dismissed with prejudice, upon and subject to the terms and conditions stated below (collectively hereinafter referred to as the "**Settlement**").

Definitions

1. **Definitions.** As used in this Settlement Agreement, capitalized terms will have the meanings set forth below in Appendix 1.

Payments and Other Settlement Consideration Provided by Defendant

2. **Cash payment:** Defendant will pay aggregate cash consideration of Seventy-Three Thousand Five Hundred Thirty Dollars (\$73,530.00) (the "**Cash Payment**"), from which equal individual distributions of Thirty Dollars (\$30.00) (each such distribution to be a "**Cash Distribution**") will be made to every Class Member. To receive a Cash Distribution, a Class Member must complete and return, in paper or electronic form, a **Claim Form**, to be substantially in the form attached hereto as Exhibit D, no later than the **Claim Deadline** (as defined below). Class Members who fail to submit a timely Claim Form will not be entitled to receive Cash Distributions under the Settlement. The Cash Payment and Cash Distribution will be made when and as specified in Paragraphs 14 and 15 below.

3. **Identity theft protection.** Subject to terms and conditions stated below, all Class Members shall be entitled to obtain and receive, if they so elect, identity theft protection, identity theft services and insurance procured by Defendant (at Defendant's expense) from IDX (such services to constitute the "**Settlement Offering**").

(a) **Enrollment in the Settlement Offering.**

(1) No later than thirty (30) days after the **Effective Date** (as that term is defined in Paragraph 13 below), Class Members who enrolled in the Original Offering (the "**Original Enrolled Class Members**") will automatically be enrolled in the Settlement Offering.

(2) Class Members other than Original Enrolled Class Members shall have the option to sign-up for the Settlement Offering. To do so, such Class Member must make that election by contacting IDX in the manner specified in the **Notice** (as that term is defined in Appendix 1) to be sent to Class Members in connection with the Settlement no later than one (1) year after the date on which Notice is distributed to Class Members; provided, however, that no enrollment in the Settlement Offering pursuant to this Paragraph 3(a)(2) shall be effective prior to the Effective Date, and no Settlement Offering benefits will be provided to any Class Member in the event that the Settlement Agreement is terminated pursuant to Paragraph 21 below. Those Class Members who timely enroll in the Settlement Offering pursuant to this Paragraph 3(a)(2) will be referred to herein as the "**Settlement Enrolled Class Members**").

(b) **Duration of the Settlement Offering.**

(1) For each Original Enrolled Class Members, the Settlement Offerings shall remain in effect for three (3) years after the date on which the Original Offering terminates for such Original Enrolled Class Member.

(2) For each Settlement Enrolled Class Members, the Settlement Offering shall be in effect for three (3) years after their respective dates of enrollment in the Settlement Offering.

(c) **Services provided.** The services to be provided by IDX in the Settlement Offering (the “**Identity Theft Protection Services**”) shall consist of the following:

(1) Credit monitoring and **CyberScan** (as that term is defined in Appendix 1);

(2) A \$1,000,000 insurance reimbursement policy, and

(3) Fully managed identity theft recovery services, pursuant to which IDX will help enrolled Class Members resolve issues if their identities are compromised.

(d) **Eligibility for Identity Theft Protection Services.** To be eligible receive the Identity Theft Protection Services specified in Paragraph 3(a), a Class Member must:

(1) Be over the age of 18;

(2) Have established credit in the U.S.;

(3) Have a Social Security Number in the Class Member’s name; and

(4) Have a U.S. residential address associated with the Class Member’s credit file.

If a Class Member does not meet all of these criteria, the Class Member will not be able to register for the credit monitoring services as set forth in Paragraph 3(a)(1) above, but will be eligible to receive CyberScan monitoring, insurance, and the fully managed identity recovery services from IDX as set forth in Paragraph 3(a)(2) and (3).

4. **Reimbursement of documented economic losses.** During a period commencing on the Effective Date and extending thereafter for twenty-four months (the last day of such period to be the “**Economic Loss Termination Date**”), and subject to terms and conditions set forth below, Defendant will reimburse individual Class Members for unreimbursed out-of-pocket costs fairly traceable to the Incident and not attributable to bodily injury or harm (including mental suffering) (such losses to be deemed “**Economic Losses**”) in an amount not to exceed Three Thousand Seven Hundred Fifty Dollars (\$3,750.00) per Class Member, and in the aggregate for all Class Members in an amount not to exceed Three Hundred Sixty-Five Thousand Dollars (\$365,000.00) (the “**Economic Loss Cap**”). Eligible Class Members may only submit claims for

Economic Losses on or before the Economic Loss Termination Date. The Settlement Administrator shall determine Class Members' entitlement to payments for Economic Losses, as set forth below, and Defendant shall pay amounts payable to Class Members to reimburse Economic Losses when and as set forth below.

(a) **Conditions for reimbursement of Economic Losses.** Original Enrollment Class Members and Settlement Enrollment Class Members may submit a claim to be reimbursed for reimbursement for documented Economic Losses related to the Incident that have not been reimbursed by IDX or other third parties (each such claim to be an "**Economic Loss Claim**"), up to an aggregate total of \$3,750.00 per Class Member, provided, however, that no Class Member may submit an Economic Loss Claim unless (1) the Class Member is enrolled in the Settlement Offering pursuant to Paragraph 3(a)(1) or (2); (2) the Class Member has first submitted a claim to IDX seeking reimbursement from the insurance coverage provided in the Settlement Offering (an "**IDX Insurance Claim**"); (3) IDX has denied the IDX Insurance Claim; and (4) the Class Member has exhausted IDX's claims process. Any Class Member whose IDX Insurance Claim is rejected for failure to submit a claim within IDX's required time period may not submit an Economic Loss Claim. If a Class Member submitted a timely IDX Insurance Claim and IDX denied the claim for failure to provide sufficient supporting materials, then an Economic Loss Claim may not be allowed under this Agreement. Economic Loss Claims must be submitted by means of the **Economic Loss Claim Form** attached as Exhibit E and in accordance with the reimbursement terms under the provisions of this Agreement. All Economic Loss Claims must be submitted to the Settlement Administrator on or before the Economic Loss Termination Date.

(b) **Submission of Economic Loss Claims.** Class Members who wish to make a timely and properly supported Economic Loss Claim must provide to the Settlement Administrator, either electronically or in paper format, the information required to evaluate the claim, including:

(1) A fully-completed and signed Economic Loss Claim Form, which must include all required information specified in that form and must certify under penalty of perjury that (i) the Economic Losses claimed are fairly traceable to the Incident; and (ii) the total amount claimed has not been reimbursed by any other person or entity;

(2) If applicable, a signed copy of IRS Form 14039 along with a statement under penalty of perjury that the form was submitted to the Internal Revenue Service;

(3) The bills or invoices documenting the amount of the Claim and proof that the bills or invoices were paid; and

(4) Documentation showing that an IDX Insurance Claim was submitted to IDX, was denied by IDX, and that the IDX claims process was exhausted.

Third-party documentation of Economic Losses is required to establish an entitlement to be reimbursed for the Economic Loss Claim. Economic Losses that are compensated under this Agreement are those that are reasonably and customarily incurred when responding to the type of fraud or identity theft suffered by the Class Member from the Incident. No Economic Loss Claims may be submitted after the Economic Loss Termination Date.

(c) Adjudication of Economic Loss Claims.

(1) The Settlement Administrator shall verify that each person who submits an Economic Loss Claim is a Class Member and shall determine whether and to what extent the Economic Loss Claim adequately documents bona fide Economic Losses that are fairly traceable to the Incident. The Settlement Administrator shall determine whether a Class Member's supporting materials are sufficient to support the existence and amount of an Economic Loss Claim and shall use reasonable procedures to screen claims for abuse, fraud, duplication, or ineligibility.

(2) Within thirty (30) days after receipt of an Economic Loss Claim, the Settlement Administrator shall send a written notice to the submitting Class Members if the Economic Loss Claim is being rejected as incomplete. The submitting Class Member shall have fifteen (15) business days from the date of the Settlement Administrator's notice to correct all deficiencies in the Economic Loss Claim or supporting documentation. If a Class Member fails to correct all deficiencies within fifteen (15) business days after receiving the written notice, the Settlement Administrator shall deny the Class Member's Claim. The Settlement Administrator shall determine whether the Class Member has corrected the deficient claim such that it reflects bona fide Economic Losses actually incurred by the Class Member that are fairly traceable to the Incident.

(3) Economic Losses shall be deemed fairly traceable to the Incident if (i) the alleged wrongdoing occurred on December 4, 2021 or thereafter, (ii) the Class Member executes a statement signed under penalty of perjury indicating that the Economic Losses claimed are fairly traceable to the Incident, (iii) the alleged wrongdoing involved misuse of the type of personal information inadvertently disclosed in the Incident (i.e., name, address, Social Security Number, wage information, and withholding information), and (iv) the Settlement Administrator determines by a preponderance of evidence that it is fairly traceable to the Incident.

(4) No decisions by the Settlement Administrator shall be deemed to constitute a finding, admission, or waiver by Defendant as to any matter of fact, law, or evidence having any collateral effect on any Economic Loss Claim hereunder or in any other proceeding or before any other forum or authority. Further, such decisions shall not be submitted to or admissible in any other proceeding or before any other forum or authority.

(5) If a Class Member disputes a claim determination related to an Economic Loss in writing and requests an appeal, the Parties will meet and confer

in good faith on the appeal. If the Parties are unable to reach an agreement, the dispute will be submitted to a neutral located in the Boston office of JAMS with prior experience as a claims referee, who will serve as the claims referee. A neutral shall not be selected, retained, or compensated until a dispute arises. Defendant will be responsible for the claim referee's fee.

(6) Defendant shall have the right to audit Reimbursement Forms for completeness and validity. In the event that Defendant questions the completeness of the Economic Loss Claim Form or the validity of an Economic Loss Claim, the process set forth in Paragraph 5(c)(5) will be followed.

(d) **Timing for adjudication and payment of Economic Loss Claims.** The Settlement Administrator shall establish an account for payment of Economic Loss Claims (the "**Economic Loss Claim Account**"). Promptly after each successive twelve month anniversary of the Effective Date through and until the Economic Loss Termination Date, (each such date to be a "**Economic Loss Anniversary Date**"), the Settlement Administrator shall make final determinations on all Economic Loss Claims submitted during the preceding twelve months and provide notice to the Parties (the "**Annual Claims Determination Notice**"), including an accounting of the Economic Loss Claims to be paid, if any, and instructions to Defendant to fund the Economic Loss Claim Account in any amount so determined. The Settlement Administrator shall issue each Annual Claims Determination Notice within ninety (90) days of each Economic Loss Anniversary Date through and until the Economic Loss Termination Date. If an Annual Claims Determination Notice specifies an amount to be paid by Defendant to reimburse Economic Loss Claims, Defendant shall cause the amount specified to be deposited into the Economic Loss Claim Account no later than forty-five (45) days after receiving such Annual Claims Determination Notice. Upon Defendant's funding of the Economic Loss Claim Account, the Settlement Administrator shall promptly make payment to the Class Members whose Economic Loss Claims were approved. No Economic Loss Claims may be submitted or accepted after the Economic Loss Termination Date, and no adjudication of Economic Loss Claims shall occur at any time after the adjudication conducted for the twelve-month period ending on the Economic Loss Termination Date. Nothing in this Paragraph 4(d) shall be construed to limit or any right that any Original Enrollment Class Member or Settlement Enrollment Class member may have to pursue and obtain any services or benefits that may be available to them after the Economic Loss Termination Date by reason of their enrollment in the Settlement Offering.

(e) **Pro-Rata Contingencies.** In the event that the aggregate amount of payments for reimbursement of Economic Losses as of any Economic Loss Anniversary Date (including both any payments previously made and any additional payments due to be made after such Economic Loss Anniversary Date) exceeds the Economic Loss Cap, then the value of any payments then due to be made shall be reduced on a pro rata basis, such that the aggregate value of all payments for Economic Losses does not exceed the Economic Loss Cap. All pro rata determinations required by this Paragraph shall be performed by the Settlement Administrator. Once the total value of approved Economic Loss Claims exceeds the Economic Loss Cap, the Settlement Administrator shall cease

processing and paying Claims and the Settlement Administrator shall update the Settlement Website to reflect that Economic Loss claims will no longer be processed or paid.

Notice, Settlement Administration, Objections, and Settlement Approval

5. **Preliminary approval proceedings.** Promptly after execution of this Settlement Agreement, **Class Counsel** (as defined in Paragraph 9(a) below) will submit this Settlement Agreement together with its Exhibits to the Court, and will file an assented-to motion seeking entry of an order substantially in the form attached hereto as Exhibit A (the “**Proposed Preliminary Approval Order**”), requesting, among other things:

- (a) Preliminary approval of the Settlement;
- (b) Approval of **Notice** in the form attached hereto as Exhibit B;
- (c) Approval of a **Summary Notice** in the form attached hereto as Exhibit C;
- (d) Approval of the Claim Form in the form attached hereto as Exhibit D;
- (e) Establishment of (1) a deadline for the Settlement Administrator to deliver Notice to Class Members; and (2) the date (the “**Final Approval Hearing Date**”) on which to conduct a hearing (the “**Final Approval Hearing**”) to determine whether to approve the Settlement and other related matters pursuant to Mass. R. Civ. P. 23(c);
- (f) Establishment of a deadline for Class Members to submit a Claim Form in the manner and form provided for in this Agreement (“**Claim Deadline**”), which shall be no later than thirty (30) days after the date set for the Final Approval Hearing and a deadline to object to the Settlement (“**Objection Deadline**”), which shall be no later than thirty (30) days before the Final Approval Hearing Date; and
- (g) Appointment of the **Settlement Administrator**.

6. **Requirements for delivery of Notice.**

(a) In order to enable the Settlement Administrator to send out notices, Defendant will provide a list of Class Members and their last known address and email to the Settlement Administrator within ten (10) business days after the Court enters the Proposed Preliminary Approval Order. Any personal information relating to Class Members provided to the Settlement Administrator pursuant to this Settlement will be provided solely for the purpose of providing Notice and Summary Notice to Class Members; will be kept in strict confidence, and will not be used for any other purpose.

(b) Within fourteen (14) business days after the Settlement Administrator’s receipt of the list of Class Members from Defendant, the Settlement Administrator will, by first class mail, send the Summary Notice to each Class Member. The last known address of Class Members will be subject to confirmation or updating as follows: (i) the Settlement Administrator will check each address against the United States Postal Service National Change of Address Database before the initial mailing; (ii) the Settlement Administrator

will conduct a reasonable search to locate an updated address for any Class Member whose Summary Notice is returned as undeliverable; (iii) the Settlement Administrator will update addresses and re-mail the Summary Notice based on any forwarding information received from the United States Postal Service; and (iv) the Settlement Administrator will update addresses based on any requests received from Class Members. The Parties agree to cooperate in good faith in connection with the Settlement Administrator's reasonable efforts to locate Class Members for whom Summary Notice is returned as undeliverable.

(c) The Notice and Summary Notice shall conform to all applicable requirements of the Massachusetts Rules of Civil Procedure, specifically Mass. R. Civ. P. 23(c), and any other applicable law, and shall otherwise be in the manner and form agreed upon by the Parties and approved by the Court.

(d) Notice shall consist of the Notice substantially in the form attached hereto as Exhibit B. Summary Notice shall consist of the notice substantially in the form attached hereto as Exhibit C. The Settlement Administrator may make non-substantive changes to the formatting of the Notice and Summary Notice for purposes of printing and/or display on the Settlement website.

(e) The Summary Notice provided to Class Members (1) will inform them that they are eligible to receive a Cash Distribution; (2) will provide them with login details to the Settlement Administrator's online portal to access the Notice and submit a claim; (3) instruct them when and how to contact IDX to obtain the Settlement Offering; and (4) inform them of the Claim Deadline and Objection Deadline and the Final Approval Hearing Date.

(f) Before Summary Notice is mailed to the Class Members, the Settlement Administrator shall create and maintain a settlement website which will contain, at a minimum, the Complaint, this Settlement Agreement, a complete copy of the Notice, the Proposed Preliminary Approval Order, the Claim Form, information on how to contact IDX to obtain the Settlement Offering, and the Economic Loss Claim Form. The settlement website shall remain active until thirty (30) days after the Economic Loss Termination Date.

7. Settlement Administration.

(a) The Settlement Administrator shall be responsible for (1) sending the Summary Notice to Class Members as set forth herein and in the Proposed Preliminary Approval Order; (2) responding to inquiries from Class Members; (3) mailing or transmitting Cash Distributions to Class Members; (4) adjudicating Class Members' Economic Loss Claims; (5) filing any required reports with the Court; and (6) such other tasks as the Parties mutually agree or that the Court orders the Settlement Administrator to perform.

(b) **Defendant's Counsel** (as that term is defined in Appendix 1) and Class Counsel are permitted to communicate with the Settlement Administrator as needed to effectuate the Settlement Administrator's tasks. Defendant's Counsel and Class Counsel

shall cooperate in good faith to ensure that the Settlement Administrator is performing its tasks as instructed. The Parties and their counsel shall be entitled to all reports and accounts of the Settlement Administrator.

(c) The Settlement Administrator shall prepare declarations confirming that Summary Notice has been provided to the Class Members in accordance with this Settlement Agreement and that the Settlement Administrator has complied with the provisions of the Proposed Preliminary Approval Order. Such declarations shall be provided to Class Counsel and Defendant's Counsel and filed with the Court by Class Counsel no later than ten (10) business days prior to the Final Approval Hearing.

(d) The Parties will have the responsibility for determining and resolving all disputes that arise during the Settlement administration process, including without limitation, disputes regarding whether a Class Member fully completed and timely submitted a valid Claim Form.

(e) No Class Member shall have any claim against Defendant's **Released Parties** (as defined at Paragraph 23(a) below) or the Settlement Administrator, or any other person designated by Class Counsel based on the determination or distributions made in accordance with this Settlement Agreement, this Settlement or any order of the Court.

8. **Objections.** Any Class Member may object to the Settlement by submitting a written objection to the Court, Class Counsel, and the Defendant's Counsel on or before the Objection Deadline in the manner and to the addressees specified in the Notice. The Parties shall work collaboratively to resolve any objections in advance of the Final Approval Hearing. Class Members who object to the Settlement may appear and speak at the Final Approval Hearing, either individually through the Class Member appearing on their own behalf, or through counsel retained and compensated individually by the objecting Class Member.

9. **Motions for final approval and for attorneys' fees, expenses and class representative service award:** No later than ten (10) business days before the Final Approval Hearing Date, Plaintiff will file with the Court an assented-to motion (the "**Final Approval Motion**") requesting entry of an order substantially in the form attached hereto as Exhibit F (the "**Proposed Final Order and Judgment**"); seeking, among other things, the following relief:

(a) Appointment of Branstetter, Stranch & Jennings, PLLC; Cohen & Malad, LLP; Turke & Strauss LLP; and Sugarman, Rogers, Barshak & Cohen, P.C., as class counsel ("**Class Counsel**") to represent the Class;

(b) Certification of the Class solely for purposes of this Settlement;

(c) Final approval of the Settlement, as set forth in this Settlement Agreement;

(d) An award of fees and expenses to Class Counsel ("**Class Counsel Fees and Expenses**") in the amount of, and not to exceed, Two Hundred Forty-Seven Thousand Dollars (\$247,000.00) (the "**Class Counsel Fee Request**");

(e) A “**Class Representative Service Award**,” payable to Plaintiff, of up to Three Thousand Dollars (\$3,000.00) from the Court; and

(f) Dismissal, with prejudice, of the Action.

10. **The Final Approval Hearing.** The Final Approval Hearing shall consist of such proceedings as the Court shall deem appropriate to determine whether to allow, in whole or in part, the Final Approval Motion. Class Members may participate in the Final Approval Hearing to the extent permitted and as may otherwise be ordered or directed by the Court.

11. **Defendant’s obligations with respect to Class Counsel Fees and Expenses.** Defendant agrees not to oppose, object to, or seek appellate review of Plaintiff’s request for or the Court’s award of Class Counsel Fees and Expenses in an amount not to exceed the Class Counsel Fee Request. Defendant reserves the right to appeal any award of Class Counsel Fees and Expenses that exceeds the Class Counsel Fee Request. To the extent that any final order of the Court, or any appellate court, orders or approves payment of Class Counsel Fees and Expenses in an amount that is less than Class Counsel Fee Request, neither the Class, nor Defendants, nor any of the Defendants’ Released Parties (as defined in Paragraph 23(a) below) shall have any obligation or liability to compensate Class Counsel or Plaintiff for the difference between the amount so ordered or approved and the Class Counsel Fee Request.

12. **Defendant’s obligations with respect to Class Representative Service Award.**

(a) Defendant agrees not to oppose, object to, or seek appellate review of Plaintiff’s request to the Court to approve a Class Representative Service Award in an amount not to exceed Three Thousand Dollars (\$3,000.00).

(b) Defendant agrees that Plaintiff’s individual claim as a Class Member will be treated in parity with the other Class Members, as described in Paragraphs 2-4 above, as applicable.

13. **Effective Date.** The **Effective Date** of the Settlement shall be the first business day after both of the following have occurred: (a) entry of a final order of the Court approving the Settlement substantially in the form of the Proposed Final Order and Judgment (the “**Court-Approved Final Order and Judgment**”); and (b) the expiration of the period in which to appeal from the Court-Approved Final Order and Judgment (thirty days after the Judgment is docketed) without an appeal having been filed. In the event an appeal is filed, the Parties will cooperate in seeking to have any such appeal(s) resolved as promptly as possible, and the Effective Date shall become the first business day following the expiration of the time for further appellate review of any appellate order affirming the Court-Approved Final Order and Judgment.

Settlement Funding and Distribution

14. **Settlement funding.** Defendant will pay the Cash Payment to the Settlement Administrator no later than forty-five (45) days after the Effective Date.

15. **Payment of Cash Distributions to Class Members.** No later than thirty (30) days after receipt of the Cash Payment (the “**Cash Distribution Date**”), the Settlement Administrator

will pay the Cash Distribution amounts due to each of the Class Members who has submitted a Claim Form by check or electronic transfer, as may be elected by such Class Members when submitting their Claim Forms to the Settlement Administrator.

16. **Uncashed checks.** If a mailing or electronic transfer is returned as undeliverable, the Settlement Administrator will perform a customary skip-trace in an effort to obtain updated address information, and a new check will be sent promptly to any updated address found. No later than ninety (90) days after the Cash Distribution Date, the Settlement Administrator shall send a reminder to Class Members who have not yet cashed their checks issued under this Settlement Agreement. Each Class Member will have one hundred and eighty (180) days from the date on which the settlement checks are issued to negotiate their check, and each check shall bear a legend stating that the check shall be void after one hundred and eighty (180) days. If any settlement check is not negotiated or cashed within ninety (90) days of this reminder, that settlement check shall be void.

17. **Unclaimed Cash Distributions.** Any unclaimed amounts remaining from the Cash Payment 200 days after distribution of the checks shall be distributed in accordance with Mass. R. Civ. P. 23(e) to the Massachusetts IOLTA Committee (“**Cy Pres Recipient**”) to support activities and programs that promote access to the civil justice system for low income residents of the Commonwealth of Massachusetts.

18. **Payment of Class Counsel Fees and Expenses and Class Representative Service Award.** No later than forty-five (45) days after the Effective Date, Defendant will pay the Class Counsel Fees and Expenses and the Class Representative Service Award in the amount ordered pursuant to Paragraph 11 and 12 of this Settlement Agreement.

19. **Payment of Settlement administration costs.** Defendant will promptly pay all **Settlement Administration Costs**, as that term is defined in Appendix 1.

20. **Effect of Defendant’s payments.** Upon passage of the Effective Date and Defendant’s fulfillment of its payment obligations under Paragraphs 14 and 18, the Settlement shall become final and binding (“**Final**”) as to all Parties and all Class Members.

Termination of the Settlement

21. **Termination of the Settlement.** Either Plaintiff or Defendant may terminate the Settlement and this Settlement Agreement by providing written notice of their election to do so (“**Termination Notice**”) to all other Parties, through their counsel, no later than ten (10) business days after the occurrence of any of the following:

- (a) The refusal of the Court to enter the Proposed Preliminary Approval Order in any material respect;
- (b) The refusal of the Court to approve this Settlement Agreement or any material part of it;
- (c) The refusal of the Court to enter the Proposed Final Order and Judgment in any material respect; or

(d) The modification or reversal of the Court-Approved Final Order and Judgment in any material respect by any appellate court of competent jurisdiction (other than any adjustment to Class Counsel Fees and Expenses that might be ordered by an appellate court).

22. **Effect of termination.** In the event the Settlement is terminated pursuant to Paragraph 21, the Parties will revert to their respective status in the Action immediately prior to the execution of the Settlement Agreement and the Parties shall proceed in all respects as if this Settlement Agreement and any related orders had not been entered.

Release and Compromise of Disputed Claims

23. **Release of Settled Class Claims.** Upon the Effective Date, all Class Members shall be deemed to have given the following release of all claims relating to or arising out of the Action:

(a) The parties released shall consist of Defendant, the Dealerships, the Corporate Entities, their past and present shareholders, principals, parent corporations, affiliates, subsidiaries, predecessors and successors, and each of their past and present officers, directors, owners, shareholders, principals, members, partners, employees, contractors, agents, attorneys, insurers, assigns of any of the foregoing, and all persons acting for, by or through any of the foregoing, past or present (collectively, the “**Defendant’s Released Parties**”).

(b) The Class Members, together with any of their heirs, agents, attorneys, or assigns, shall be deemed to have fully, finally, and forever released, relinquished, and discharged the Defendant’s Released Parties of and from any and all claims in law or in equity, of whatever kind or nature including, without limitation, claims for monetary damages, equitable, declaratory, and injunctive relief, restitution and disgorgement, and attorneys’ fees, including those claims asserted or which could have been asserted in the Action including, without limitation, claims arising from, concerning, or in any way relating to the Incident (all such claims that are released by the Class Members as to Defendant’s Released Parties to be the “**Settled Class Claims**”). For avoidance of doubt, Settled Class Claims include any and all claims, demands, actions, causes of action, obligations, damages, liabilities, loss, restitution, fines, costs, penalties or expenses including attorneys’ fees of any kind or nature whatsoever, past or present, ascertained or unascertained, whether or not known, suspected or claimed from the beginning of the Class Period through and including the Effective Date arising from or in any way related to the Incident.

(c) The Class Members shall forever be enjoined from prosecuting any Settled Class Claims against any of the Defendant’s Released Parties, provided however that nothing herein shall in any way restrict or impair any Parties’ right to enforce the terms of the Settlement Agreement and the Settlement. The Class Members and Defendant consent to jurisdiction and venue in any court of competent jurisdiction venued in Essex County, Massachusetts, for purposes of enforcing such injunction. As used in this Paragraph, the terms Class Members and Defendant shall include the past or present respective executors,

administrators, personal representatives, agents, heirs, beneficiaries, legatees, attorneys, insurers and all persons acting for Class Members and Defendant.

(d) The releases given in this Paragraph 23 shall be binding upon all Class Members, even if they have not received a payment under this Settlement, including any Class Members who have, may have, or may claim the right to seek payment of some or all of any amount paid to a Class Member under the Settlement. The releases given to Defendant's Released Parties are without prejudice to the rights of any Class Member to assert any claims that they may have against a Class Member or any other Class Member with respect to any amounts that may have been received by such Class Member or Class Member out of any payments made to or on behalf of the Class under this Settlement.

24. **Acknowledgement of effect of release of Settled Class Claims.** With respect to the claims released in this Settlement Agreement, Defendant, Plaintiff, and all Class Members agree that they are expressly waiving and relinquishing to the fullest extent permitted by law:

(a) The provisions rights and benefits conferred by Section 1542 of the California Civil Code, which provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party;

and

(b) Any law of any state of the United States, federal law or principle of common law which is similar, comparable or equivalent to Section 1542 of the California Civil Code.

25. **Scope of Settlement.** The obligations incurred pursuant to this Settlement Agreement shall be in full and final disposition of the Action and any and all Settled Class Claims as against all Parties to this Settlement Agreement and all Class Members.

26. **Effect of Settlement as to Class Members' claims.**

(a) Upon becoming Final, this Settlement shall be deemed final and conclusive against all Class Members. Whether or not a Class Member receives a Cash Distribution under this Settlement, each Class Member shall be bound by all of the terms of this Settlement Agreement and the Settlement, including the terms of any order and final judgment to be entered in the Action and the releases provided for therein.

(b) The failure of any Class Member to claim or obtain any relief made available under this Settlement Agreement shall not affect the validity, scope, or enforcement of the releases herein, and all Class Members shall remain bound by said releases whether or not they submit a Claim Form pursuant to Paragraph 2 of this Settlement Agreement. As to any Class Member who otherwise would be entitled to submit

a Claim Form or to enroll in the Settlement Offering under this Settlement Agreement and who for any reason fails to submit a timely Claim Form or enroll in the Settlement Offering, all rights of such to receive a cash distribution in this Action or under this Settlement Agreement shall lapse and shall be deemed voluntarily, irrevocably, and permanently waived and forfeited. Defendant shall not be required to remit any additional consideration to any Class Members following or on account of such forfeiture by any Class Member.

(c) Plaintiff and Class Members will be permanently barred and enjoined from filing, commencing, prosecuting, intervening in, participating in as class members or otherwise, or receiving any benefits or other relief from any other lawsuit in any state, territorial or federal court, or any arbitration or administrative or regulatory or other proceeding in any jurisdiction, which asserts claims based on or in any way related to the Settled Class Claims, and the Court shall retain exclusive continuing jurisdiction to enforce said injunction.

(d) Plaintiff and Defendant hereby expressly agree that all provisions of this Paragraph, together and separately, constitute essential terms of this Settlement Agreement.

Miscellaneous Provisions

27. **No admission of wrongdoing.** This Settlement, whether or not consummated, and any proceedings taken pursuant to it:

(a) Shall not be offered or received against Defendant, the Dealerships, or the Corporate Entities as evidence of or construed as or deemed to be evidence of any presumption, concession, or admission by Defendant, the Dealerships, or the Corporate Entities with respect to the truth of any fact alleged by Plaintiff or the validity of any claim that has been or could have been asserted in the Action or in any litigation, or the deficiency of any defense that has been or could have been asserted in the Action in any litigation, or of any liability, negligence, fault, or wrongdoing of Defendant, the Dealerships, or the Corporate Entities;

(b) Shall not be offered or received against Defendant, the Dealerships, or the Corporate Entities as evidence of a presumption, concession or admission of any fault, misrepresentation or omission with respect to any statement or written document approved or made by Defendant, the Dealerships, or the Corporate Entities;

(c) Shall not be offered or received against Defendant, the Dealerships, or the Corporate Entities as evidence of a presumption, concession or admission with respect to any liability, negligence, fault or wrongdoing, or in any way referred to for any other reason as against Defendant, the Dealerships, or the Corporate Entities, in any other civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Settlement; provided, however, that if this Settlement is approved by the Court, Defendant, the Dealerships, or the Corporate Entities may refer to it to effectuate the liability protection granted them hereunder;

(d) Shall not be given issue preclusive or “collateral estoppel” effect so as to establish that any claim or fact alleged in the Complaint was actually litigated or necessarily determined in this Action;

(e) Shall not be offered or received against Defendant, the Dealerships, or the Corporate Entities as evidence of a presumption, concession or admission that the Class is appropriately certified for trial;

(f) Shall not be construed against Defendant, the Dealerships, or the Corporate Entities as an admission or concession that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial; and

(g) Shall not be construed as or received in evidence as an admission, concession or presumption against Plaintiff or any of the Class Members that any of their claims are without merit, or that any defense asserted by Defendant has any merit, or that damages recoverable under the Complaint would not have exceeded the value of the payments and performances provided by Defendant pursuant to Paragraphs 2 through 4 above (such payments and performances to constitute the “**Settlement Consideration**”).

This Settlement Agreement shall in no event be construed or deemed to be evidence of or an admission or concession on the part of Defendant, the Dealerships, or the Corporate Entities with respect to any claim or of any fault or liability or wrongdoing or damage whatsoever, or any infirmity in the defenses that Defendant has asserted. The Parties to this Settlement Agreement recognize that the Action is being voluntarily settled after advice of counsel, and that the terms of the Settlement are fair, adequate and reasonable. This Settlement Agreement shall not be construed or deemed to be a concession by Plaintiff of any infirmity in the claims asserted in the Action.

28. **Non-disparagement.** The Parties and, insofar as is consistent with Mass. R. Prof. Conduct 1.01 and 1.02, Class Counsel and Defendant’s Counsel, agree that they will not publish or utter in any print, audio, video, online, or any other media (including social media) any statements that accuse any Party of wrongdoing or disparage the competency, qualifications, character, honesty, business reputation, trustworthiness, or integrity of any Party.

29. **Exhibits incorporated by reference.** All of the exhibits listed in Appendix 2 and attached to this Settlement Agreement as Exhibits A-F are hereby incorporated by reference as though fully set forth herein.

30. **Authorization.** Each Party represents and warrants that execution and delivery of this Settlement Agreement has been duly authorized by all necessary actions and that the execution and delivery of this Settlement Agreement constitutes a legal, valid and binding obligation of that Party. The persons signing this Settlement Agreement represent and warrant by their signatures that they have authority to sign the Settlement Agreement on behalf of the Party for whom they are signing.

31. **Parties bound.** This Settlement Agreement shall be binding upon and inure to the benefit of Defendant and the Class Members and their respective present and former officers, directors and employees, shareholders, any parent or subsidiary corporations of Defendant, the

Corporate Entities, and the Class Members, and their respective heirs, successors, assigns and transferees.

32. **Representation by counsel.** Each Party has been represented in the negotiation of this Settlement Agreement by independent counsel and has had the Settlement Agreement fully explained by its own counsel and are aware that the Settlement set forth in the Settlement Agreement (a) provides for payment of the Settlement Consideration to and on behalf of the Class and for other costs and expenses only as set forth in this Settlement Agreement; and (b) will terminate any and all rights of Plaintiff and the Class Members to pursue the Settled Class Claims.

33. **No reliance; independent investigation.** Each Party in entering into this Settlement Agreement relies upon its own investigation and judgment in regard to all matters herein contained and has not relied on any representations made by other Parties. This Settlement Agreement is made and entered into by each of the Parties of its own volition and each of the Parties warrants that this Settlement Agreement was made and entered into free of any duress, coercion, or undue influence from any source whatsoever.

34. **Jointly drafted.** Each Party has participated in the drafting and negotiation of this Settlement Agreement. For all purposes, this Settlement Agreement shall be deemed to have been drafted jointly by the Parties. Accordingly, any rule of law or any legal decision that would require interpretation of any claimed ambiguities in this Settlement Agreement against the party that drafted it has no application and is expressly waived. The provisions of this Settlement Agreement shall be interpreted in a reasonable manner so as to effectuate the intent of the Parties, and no rule of strict construction shall be applied against any Party to this Settlement Agreement.

35. **Entire agreement; amendments; construction with other agreements.** This Settlement Agreement constitutes the only existing and binding agreement between the Parties concerning the Settlement and supersedes any prior oral or written agreements concerning the Settlement. The Parties acknowledge that there are no other warranties, promises, assurances or representations of any kind, express or implied, upon which the Parties have relied in entering into this Settlement Agreement, unless expressly set forth herein. This Settlement Agreement, including the provisions of this Paragraph, may not be modified, amended or altered in any way except by written agreement signed by each of the Parties.

36. **Counterparts.** This Settlement Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument. Any of the Parties may execute this Settlement Agreement by signing any such counterpart.

37. **Notices.** Any notices required under this Settlement Agreement may be transmitted by email to the following designated individuals:

To Plaintiff:

Lynn A. Toops
Cohen & Malad, LLP
One Indiana Square, Suite 1400
Indianapolis, IN 46204
Telephone: (317) 636-6481
ltoops@cohenandmalad.com
Counsel for Plaintiff

To Defendant:

Kevin M. McGinty
Mintz, Levin, Cohn, Ferris,
Glovsky and Popeo, P.C.
One Financial Center
Boston, MA 02111
Telephone: (617) 348-1688
kmcginty@mintz.com
Counsel for Defendant

Unless the sender receives email notification that the sent message is undeliverable, notice shall be deemed to have been delivered as of the date and time when the email is sent. In the event of an undeliverable email notice, counsel for the Parties agree to cooperate to facilitate delivery of any required notice.

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

39. **Settlement subject to judicial supervision and approval.** The administration and consummation of the Settlement as embodied in this Settlement Agreement shall be under the authority of the Court and the Court shall retain jurisdiction for the purpose of enforcing the terms of this Settlement Agreement.

40. **Non-waiver.** The waiver by any Party of any breach of this Settlement Agreement by any other Party shall not be deemed a waiver of any other prior or subsequent breach of this Settlement Agreement.

41. **Governing law.** The construction, interpretation, operation, effect and validity of this Settlement Agreement, and all documents necessary to effectuate it, shall be governed by the internal laws of the Commonwealth of Massachusetts without regard to conflicts of laws, except to the extent that federal law requires that federal law governs.

42. **Cooperation.** Class Counsel and Defendant's Counsel agree to cooperate fully with one another in seeking Court approval of (a) the Proposed Preliminary Approval Order; and


(b) the Settlement Agreement and the Settlement, and to promptly agree upon and execute all such other documentation as may be reasonably required to obtain Final approval of the Settlement.

43. **Computation of deadlines.** For purposes of determining deadlines under this Settlement Agreement, any interval measured in “business days” shall exclude (a) weekend days and (b) federal or Massachusetts state holidays. All other intervals shall be measured in calendar days. In the event that an interval specified for performance of any action or obligation required under this Settlement Agreement results in a deadline that falls on a weekend or a federal, or Massachusetts state holiday, that deadline will be deemed to fall on the next business day.

[Signatures appear on next page]


Stipulated and agreed to this 9th the day of March, 2023

PLAINTIFF,
On behalf of himself and the Class,




Michael Anastos

And by his attorneys,



Michael S. Appel, BBO #543898
SUGARMAN, ROGERS, BARSHAK
& COHEN, P.C.
101 Merrimac Street, 9th Floor
Boston, MA 02114
Telephone: (617) 227-3030
appel@sugarmanrogers.com



Lynn A. Toops (to be admitted pro hac vice)
COHEN & MALAD, LLP
One Indiana Square, Suite 1400
Indianapolis, IN 46204
Telephone: (317) 636-6481
ltoops@cohenandmalad.com

DEFENDANT,
THE LYON WAUGH AUTO GROUP,
By and through the undersigned Corporate
Entities,

Peabody Motor Sports, Inc.
By: _____
Title: _____

Andover Street Motor Sports, Inc.
By: _____
Title: _____

Off Road Motor Sports, Inc.
By: _____
Title: _____

New England Performance Cars, LLC
By: _____
Title: _____

Burlington Motor Sports, Inc.
By: _____
Title: _____

And by their attorney,

Kevin M. McGinty (BBO # 556780)
MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
One Financial Center
Boston, Massachusetts 02111
Tel: (617) 542-6000
kmcginty@mintz.com

Stipulated and agreed to this 9th the day of March, 2023

PLAINTIFF,

On behalf of himself and the Class,

Michael Anastos

And by his attorneys,

Michael S. Appel, BBO #543898
SUGARMAN, ROGERS, BARSHAK
& COHEN, P.C.
101 Merrimac Street, 9th Floor
Boston, MA 02114
Telephone: (617) 227-3030
appel@sugarmanrogers.com

Lynn A. Toops (to be admitted pro hac vice)
COHEN & MALAD, LLP
One Indiana Square, Suite 1400
Indianapolis, IN 46204
Telephone: (317) 636-6481
ltoops@cohenandmalad.com

DEFENDANT,

THE LYON WAUGH AUTO GROUP,
By and through the undersigned Corporate
Entities,

Warren Waugh

Peabody Motor Sports, Inc.

By: _____

Title: *managing Partner*

Warren Waugh

Andover Street Motor Sports, Inc.

By: _____

Title: *managing Partner*

Warren Waugh

Off Road Motor Sports, Inc.

By: _____

Title: *managing Partner*

Warren Waugh

New England Performance Cars, LLC

By: _____

Title: *managing Partner*

Warren Waugh

Burlington Motor Sports, Inc.

By: _____

Title: *managing Partner*

And by their attorney,

Kevin M. McGinty (BBO # 556780)

MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.

One Financial Center

Boston, Massachusetts 02111

Tel: (617) 542-6000

kmcginty@mintz.com

APPENDIX 1
DEFINITIONS

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

“**Action**” has the meaning set forth in the introductory Paragraph of this Settlement Agreement.

“**Annual Claims Determination Notice**” has the meaning set forth in Paragraph 4(d) of this Settlement Agreement.

“**Cash Distribution**” has the meaning set forth in Paragraph 2 of this Settlement Agreement.

“**Cash Distribution Date**” has the meaning set forth in Paragraph 15 of this Settlement Agreement.

“**Cash Payment**” has the meaning set forth in Paragraph 2 of this Settlement Agreement.

“**Claim Form**” means a Court-approved form to seek and obtain a Cash Distribution in substantially the form attached hereto as Exhibit D.

“**Claim Deadline**” has the meaning set forth in Paragraph 5(f) of this Settlement Agreement.

“**Class**” has the meaning set forth in the eighth Paragraph of the Recitals.

“**Class Counsel**” has the meaning set forth in Paragraph 9(a) of this Settlement Agreement.

“**Class Counsel Fees and Expenses**” has the meaning set forth in Paragraph 9(d) of this Settlement Agreement.

“**Class Counsel Fee Request**” has the meaning set forth in Paragraph 9(d) of this Settlement Agreement.

“**Class Member**” has the meaning set forth in the eighth Paragraph of the Recitals.

“**Class Representative Service Award**” has the meaning set forth in Paragraph 9(e) of this Settlement Agreement.

“**Corporate Entities**” has the meaning set forth in the introductory Paragraph of this Settlement Agreement.

“**Complaint**” has the meaning set forth in the fourth Paragraph of the Recitals.

“**Court**” means the Superior Court Department of the Massachusetts Trial Court, Essex County.

“**Court-Approved Final Order and Judgment**” has the meaning set forth in Paragraph 13 of this Settlement Agreement.

“**Cy Pres Recipient**” has the meaning set forth in Paragraph 17 of this Settlement Agreement.

“**CyberScan**” means a technology tool provided by IDX to monitor PII of registered users on all layers of the web, and alerts registered users if PII has been breached.

“**Dealerships**” means BMW of Peabody, MINI of Peabody, MINI of Bedford, Acura of Peabody, Jaguar/Land Rover Peabody, Audi of Nashua, Porsche of Nashua, and Mercedes Benz of Burlington.

“**Defendant**” has the meaning set forth in the introductory Paragraph to this Settlement Agreement.

“**Defendant’s Counsel**” means Kevin M. McGinty of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

“**Defendant’s Released Parties**” has the meaning set forth in Paragraph 23(a) of this Settlement Agreement.

“**Economic Loss Anniversary Date**” has the meaning set forth in Paragraph 4(d) of this Settlement Agreement.

“**Economic Loss Cap**” has the meaning set forth in Paragraph 4 of this Settlement Agreement.

“**Economic Loss Claim**” has the meaning set forth in Paragraph 4(a) of this Settlement Agreement.

“**Economic Loss Claim Account**” has the meaning set forth in Paragraph 4(d) of this Settlement Agreement.

“**Economic Loss Claim Form**” has the meaning set forth in Paragraph 4(a) of this Settlement Agreement.

“**Economic Loss Termination Date**” has the meaning set forth in Paragraph 4 of this Settlement Agreement.

“**Economic Losses**” has the meaning set forth in Paragraph 4 of this Settlement Agreement.

“**Effective Date**” has the meaning set forth in Paragraph 13 of this Settlement Agreement.

“**Final**” has the meaning set forth in Paragraph 20 of this Settlement Agreement.

“**Final Approval Hearing**” has the meaning set forth in Paragraph 5(e) of this Settlement Agreement.

“Final Approval Hearing Date” has the meaning set forth in Paragraph 5(e) of this Settlement Agreement.

“Identity Theft Protection Services” has the meaning set forth in Paragraph 3(c) of this Settlement Agreement.

“IDX” has the meaning set forth in the third Paragraph of the Recitals.

“IDX Insurance Claim” has the meaning set forth in Paragraph 4(a) of this Settlement Agreement.

“Incident” has the meaning set forth in the first Paragraph of the Recitals.

“The Lyon Waugh Auto Group” has the meaning set forth in the introductory Paragraph of this Settlement Agreement.

“Massachusetts Dealerships” means BMW of Peabody, MINI of Peabody, Acura of Peabody, Jaguar/Land Rover Peabody, and Mercedes Benz of Burlington.

“Notice” means a Court-approved notice to the Class pursuant to Mass. R. Civ. P. 23 in substantially the form attached hereto as Exhibit B.

“Objection Deadline” has the meaning set forth in Paragraph 5(f) of this Settlement Agreement.

“Original Offering” has the meaning set forth in the third Paragraph of the Recitals.

“Original Enrolled Class Members” has the meaning set forth in Paragraph 3(a)(1) of this Settlement Agreement.

“Parties” has the meaning set forth in the introductory Paragraph of this Settlement Agreement.

“Party” has the meaning set forth in the introductory Paragraph of this Settlement Agreement.

“PII” means personally identifiable information.

“Plaintiff” has the meaning set forth in the introductory Paragraph to this Settlement Agreement.

“Proposed Final Order and Judgment” means the proposed order in the form attached hereto as Exhibit E.

“Proposed Preliminary Approval Order” means an order to be entered by the Court in substantially the form attached hereto as Exhibit A for purposes of addressing the items set forth in Paragraph 5(a)-(g) of the Settlement Agreement.

“**Settled Class Claims**” has the meaning set forth in Paragraph 23(b) of this Settlement Agreement.

“**Settlement**” means the mutually agreed upon undertakings, terms, and conditions contemplated by this Settlement Agreement.

“**Settlement Administration Costs**” means all costs, fees, and expenses, other than fees or expenses of counsel for any Party to this Action or their insurers, associated with or arising out of the administration of the Settlement including, without limitation: (1) the delivery of the Notice to the Class; (2) the processing of Claim Forms submitted by Class Members; (3) the payment of Cash Distributions to Class Members; (4) adjudication of Economic Loss Claims; (5) establishment, maintenance, and administration of any accounts established for purposes of receiving and making payments specified in this Settlement Agreement; (6) reasonable costs, fees, and expenses of the Settlement Administrator; (7) establishing and maintaining a settlement website; and (8) any other duties described under the Settlement Agreement or required by the Court. These notice and administration costs include the reasonable costs and expenses associated with identifying Class Members and effecting delivery of notice to the Class, and the administration of the Settlement, including, without limitation, the actual costs of delivering the notice, communication with Class Members, administrative expenses incurred, and fees charged by the Settlement Administrator in connection with delivering the Notice and Claims Forms, processing the Class Members’ allocations and distributing the Settlement proceeds to Class Members that have filed timely Claim Forms.

“**Settlement Administrator**” means KCC Class Action Services LLC.

“**Settlement Agreement**” has the meaning set forth in the introductory Paragraph above, and includes this document and all attached Exhibits.

“**Settlement Consideration**” means Defendant’s cash and non-cash obligations and performances pursuant to Paragraphs 2-4 of this Settlement Agreement.

“**Settlement Enrolled Class Members**” has the meaning set forth in Paragraph 2(a)(2) of this Settlement Agreement.

“**Settlement Offering**” has the meaning set forth in Paragraph 3 of this Settlement Agreement.

“**Social Security Number**” means a unique nine-digit identification number issued by the Social Security Administration to United States citizens, permanent residents, and temporary (working) residents pursuant to 42 U.S.C. § 405(c)(2).

“**Summary Notice**” means a Court-approved short-form postcard notice to the Class, in substantially the form attached hereto as Exhibit C, which will notify Class Members about the Settlement and provide instructions on how to access or obtain the Notice.

“**Termination Notice**” has the meaning set forth in Paragraph 21 of this Settlement Agreement.

Appendix 2
Schedule of Exhibits to Settlement Agreement

Exhibit A: Proposed Preliminary Approval Order

Exhibit B: Form of Notice

Exhibit C: Form of Summary Notice

Exhibit D: Form of Claim Form

Exhibit E: Form of Economic Loss Claim Form

Exhibit F: Proposed Final Order and Judgment

Exhibit A
Proposed Preliminary Approval Order

Exhibit A
Proposed Preliminary Approval Order

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

**SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT**

MICHAEL ANASTOS, on behalf of
himself and all others similarly situated,

Plaintiff,

v.

THE LYON WAUGH AUTO GROUP,

Defendant

Case No. 2277cv00245-A

[PROPOSED] PRELIMINARY APPROVAL ORDER

WHEREAS, this class action is pending before the Court;

WHEREAS, Michael Anastos (“Plaintiff”), individually and on behalf of the Class, and The Lyon Waugh Auto Group (“Defendant”), have agreed to settle Plaintiff’s claims related to a data breach perpetrated against Defendant in or around early December 2021 (the “Incident”);

WHEREAS, the Parties’ Stipulation of Settlement (“Settlement Agreement”), together with the exhibits attached thereto, sets forth the terms and conditions for a proposed settlement and final judgment resolving the Class’s claims against Defendant relating to the Incident; and

This matter coming before the Court upon the Plaintiff’s motion seeking preliminary approval of the Settlement Agreement under Mass. R. Civ. P. 23(c), and the Court being fully advised in the premises,

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

1. Terms and phrases in this order shall have the same meaning as set forth in the Settlement Agreement.

Exhibit A
Proposed Preliminary Approval Order

2. The Court has jurisdiction over the subject matter of the Action, the Plaintiff, the Class Members, and Defendant.

Settlement Class Certification.

3. Pursuant to Rule 23 of the Massachusetts Rules of Civil Procedure, the Court preliminarily certifies, for settlement purposes only, a class consisting of the following:

All persons who live in Massachusetts, were customers of a Massachusetts Dealership, or were employed at or are beneficiaries of persons employed at a Massachusetts Dealership, as to whom PII was exposed to cybercriminals in the Incident and the PII exposed to cybercriminals included such persons' Social Security Number.¹

4. The Court finds that the requirements of Mass. R. Civ. P. 23(a) are met in that (1) the Class is so numerous (hundreds or more people) that joinder of all members is impracticable, (2) there are questions of law or fact common to the Class (relating to the Incident), (3) the claims or defenses of the representative parties are typical of the claims or defenses of the Class (relating to the Incident), and (4) the representative parties will fairly and adequately protect the interests of the class. The Court also finds that the requirements of Mass. R. Civ. P. 23(b) are met in that questions of law or fact common to the members of the Class (relating to the Incident) predominate over any questions affecting only individual members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy (because the claims all stem from the common Incident).

5. The Court hereby appoints Plaintiff as Class Representative.

6. The Court hereby appoints Branstetter, Stranch & Jennings, PLLC; Cohen & Malad, LLP; Turke & Strauss LLP; and Sugarman, Rogers, Barshak & Cohen, P.C., as Class

¹ "Massachusetts Dealership" means BMW of Peabody, MINI of Peabody, Acura of Peabody, Jaguar/Land Rover Peabody, and Mercedes Benz of Burlington. "PII" means personally identifiable information.

Exhibit A
Proposed Preliminary Approval Order

Counsel.

7. The Court hereby appoints KCC Class Action Services LLC, as Settlement Administrator.

Preliminary Approval

8. The Court, having considered the Settlement Agreement the arguments of counsel, hereby preliminarily approves the Settlement Agreement.

9. The Court finds that the Settlement Agreement falls within the range of possible final approval as fair, reasonable, adequate, and in the best interests of the Class as to their claims against Defendant relating to the Incident.

10. The Court finds that the Settlement Agreement: (a) is the result of serious, informed, non-collusive arms' length negotiations involving experienced counsel familiar with the legal and factual issues of this case; (b) is sufficient to warrant providing notice of the proposed settlement to the Class; (c) meets all applicable requirements of law, including Massachusetts Rule of Civil Procedure 23.

Notice and Administration

11. The Court approves the notice plan and forms of notice to the Class set forth in the Settlement Agreement, as well as the deadline for providing notice. The notice is reasonably calculated to apprise the members of the Class of the pendency of this action, the certification of the Class, the terms of the Settlement Agreement, and the right of Class Members to object to the proposed settlement. The notice is consistent with the requirements of Rule 23 and Due Process, and it constitutes the best notice practicable under the circumstances.

12. The Court also approves the plan for claims administration, including the claim forms attached to the Settlement Agreement, as well as the deadlines for claims.

Exhibit A
Proposed Preliminary Approval Order

13. The Parties may, by agreement, revise the notice and claim form documents in ways that are not material, or in ways that are appropriate to update those documents for purposes of accuracy or formatting.

Objections

14. Any member of the Class may object to the granting of final approval to the Settlement Agreement by submitting a written objection to the Court, Class Counsel, and Defendant's Counsel on or before the Objection Deadline in the manner and to the addresses specified in the notice. Class Members may object on their own or may do so through separate counsel at their own expense.

15. Any Class Member who fails to submit a timely written objection in compliance with the requirements of this order and the Settlement Agreement shall be deemed to have waived any objections and shall be foreclosed from making any objections (whether by appeal or otherwise) to the Settlement.

Final Approval Motion and Hearing

16. The Court schedules a final approval hearing on the Settlement Agreement to be held _____, 2023, at __:__.m to consider: (a) whether the proposed settlement of the Action on the terms and conditions provided for in the Settlement Agreement is fair, reasonable and adequate and should be given final approval by the Court; (b) whether a final judgment should be entered; (c) whether to award payment of attorneys' fees, costs, and expenses to Class Counsel and in what amount; and (d) whether to award payment of a service award to the Plaintiff and in what amount. The Court may adjourn the final approval hearing without further notice to Class Members, but in that event the Settlement Administrator shall post notice of the new final approval hearing date on the settlement website.

Exhibit A
Proposed Preliminary Approval Order

17. No later than ten (10) business days before the final approval hearing date, Class Counsel shall file a motion for final approval of the Settlement Agreement, including approval of attorneys' fees, expenses, and a service award in connection with the Settlement Agreement.

18. All case deadlines are stayed and suspended until further notice from the Court, except for such actions as are necessary to implement the Settlement Agreement and this Order. The Court orders the parties to implement the terms of the Settlement Agreement that are triggered by this preliminary approval.

SO ORDERED.

Justice of the Superior Court

Dated:

Exhibit B
Form of Notice

Exhibit B
Form of Notice

ESSEX COUNTY MASSACHUSETTS SUPERIOR COURT

Notice of Class Action and Proposed Settlement

You may be entitled to receive benefits under this class action settlement.

This notice summarizes the proposed settlement (the “Settlement”) reached in a lawsuit entitled *Anastos v. The Lyon Waugh Auto Group*, No. 2277cv00245-A, pending in the Essex County Massachusetts Superior Court (“Lawsuit”). For the precise terms and conditions of the Settlement, please see the Settlement Agreement available at www.WEBSITE.com, or by contacting the Settlement Administrator at [REDACTED].

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK’S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.

This notice may affect your rights – please read it carefully.

*A state court authorized this notice. This is **not** a solicitation from a lawyer.*

- The lawsuit alleges that on or about December 2021, The Lyon Waugh Auto Group (“Defendant”) was the victim of a cyberattack resulting in the disclosure personally-identifiable information (“PII”), including Social Security numbers, and other information (the “Incident”). Defendant maintains that it had meritorious defenses, and it was prepared to vigorously defend the lawsuit. The Settlement is not an admission of wrongdoing or an indication that Defendant has violated any laws.
- If you are a person who lives in Massachusetts, were a customer of one of Defendant’s Massachusetts Dealerships, or were employed at or are a beneficiary of a person employed at a Massachusetts Dealership, as to whom PII was exposed to cybercriminals in the Incident, and the PII exposed to cybercriminals included a Social Security Number, you are a Class Member.
- **The Settlement provides a \$30.00 Cash Payment to Each Class Member Who Submits a Timely Claim Form by no later than [Claims Deadline].**
- **In addition, Class Members are eligible for the Settlement Offering, which is credit monitoring and identity theft insurance from IDX, by going to [WEBSITE] or calling 1-800-XXX-XXX and following the additional enrollment instructions to activate the plan as instructed. Enrollment will require an activation code that has separately been mailed to you. If you cannot locate that code, you can request information on how to obtain it by calling the number listed above.**
- **In addition, after the Settlement becomes effective (the “Effective Date”), Class Members who elect to receive and are enrolled in the Settlement Offering may also seek reimbursement of up to \$3,750.00 (capped at \$365,000.00 for all Class Members) for documented Economic Losses that Class Members suffered as a result of the Incident that have not be reimbursed. To be eligible for reimbursement, you must submit sufficient evidence of your economic loss and satisfy additional requirements. The deadline to submit**

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Form of Notice

a claim will be two years after the Effective Date.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
<p>SUBMIT A CLAIM FORM FOR \$30.00 CASH PAYMENT</p> <p>DEADLINE: [DATE]</p>	<p>This is the only way for Class Members to receive a \$30.00 Cash Payment from the Settlement. No documentation of any losses is required to receive this payment. All Class Members are entitled to this payment upon submission of a timely Claim Form, regardless of whether the Class Member enrolls in the Settlement Offering or subjects an Economic Loss Claim Form.</p>
<p>ENROLL IN THE SETTLEMENT OFFERING AND BE ELIGIBLE TO CLAIM ECONOMIC LOSS REIMBURSEMENT</p> <p>DEADLINE: [DATE]</p>	<p>This is the only way for Class Members to enroll in the Settlement Offering of credit monitoring and identity theft insurance paid for by Defendant, and to be eligible to submit a claim for Economic Losses not covered by the Settlement Offering. Class Members can enroll in the Settlement Offering by visiting [www.website.com] or calling 1-800-XXX-XXX and providing the unique enrollment code that has been separately mailed to you. If you cannot locate that code, you can request information on how to obtain it by calling the number listed above. You may do so regardless of whether they submit a Claim for Cash Payment.</p> <p>After the Effective Date, Class Members who have timely enrolled in the Settlement Offering will be eligible to request reimbursement of Economic Losses related to the Incident that are not covered by insurance available in the Settlement Offering by submitting an Economic Loss Claim Form, plus required documentation, within two years after the Effective Date of the Settlement</p>
<p>DO NOTHING</p>	<p>If you are a Class Member and do not submit an Claim Form or enroll in the Settlement Offering, you will not receive anything from the Settlement (except extension of IDX services, if you previously enrolled in the original offer made by Defendant), and you will not be able to sue, continue to sue, or be part of another lawsuit against Defendant about the legal claims resolved by this Settlement.</p>
<p>OBJECT:</p> <p>DEADLINE: [30 DAYS FOLLOWING NOTICE]</p>	<p>You may object to the Settlement or to Class Counsel’s or the Class Representatives’ requests for Class Counsel fees or Service Awards, respectively.</p>
<p>GO TO A HEARING ON [DATE]</p>	<p>You may object to the Settlement and ask the Court permission to speak at the Final Approval Hearing about your objection.</p>

- These rights and options—and the deadlines to exercise them—are explained in this Notice.
- The Court still must decide whether to approve the Settlement. No benefits will be provided, or

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payments made until after the Court grants final approval of the Settlement and all appeals, if any, are resolved.

QUESTIONS? READ ON AND VISIT WWW.INSERTWEBSITE.COM

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BASIC INFORMATION

Why is this notice being provided?

This Class Notice is provided pursuant to an order issued by the Court to inform you of the proposed Settlement and the Final Approval Hearing to be held by the Court to consider, among other things, (a) whether the Settlement is fair, reasonable and adequate and should be approved; and (b) Class Counsel’s request for Class Counsel Fees and Expenses and the Class Representatives’ request for a Service Award. This Class Notice explains the nature of the lawsuit, the general terms of the proposed Settlement (including the benefits available), and your legal rights and obligations. This Class Notice is not an expression of any opinion by the Court as to the merits of the claims or defenses asserted in the Action.

The Essex County Massachusetts Superior Court is overseeing this action, which is known as *Anastos v. The Lyon Waugh Auto Group*, No. 2277cv00245-A (the “Action”). The person that filed the lawsuit is called the “Plaintiff.” The “Defendant.” is Lyon Waugh Auto Group, an unincorporated group of automobile dealerships that includes certain dealerships located in Massachusetts (the “Massachusetts Dealerships”).

What is this lawsuit about?

The lawsuit alleges that on or about December 2021, Defendant was the victim of a cyberattack resulting in the disclosure of personal information, including Social Security numbers, (the “Incident”).

Plaintiff claims that Defendant did not adequately protect personal information, and that as a result of the Incident people were harmed. Defendant denies any wrongdoing, and no court or other entity has made any judgment or other determination of any wrongdoing or that any law has been violated.

Why is this a class action?

In a class action, one or more people called “class representatives” sue on behalf of themselves and other people with similar claims. The Plaintiff (the class representative here), together with the people they represent, are called Class Members. One court resolves the issues for all Settlement Class Members. In this case, the Class Representative is Michael Anastos.

Why is there a Settlement?

The Court has not decided in favor of Plaintiff or Defendant. Instead, both sides agreed to the Settlement. Settlement avoids the costs and uncertainty of trial and related appeals, while providing benefits to members of the Settlement Class. The Class Representative and attorneys for the Class (“Class Counsel”) believe the Settlement is in the best interests of the Class Members.

WHO IS IN THE SETTLEMENT

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

You are included in the Settlement Class if you are a member of the following:

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All persons who live in Massachusetts, were customers of a Massachusetts Dealership, or were employed at or are beneficiaries of persons employed at a Massachusetts Dealership, as to whom PII was exposed to cybercriminals in the Incident and the PII exposed to cybercriminals included such person's Social Security Number.

What if I am not sure whether I am included in the Settlement?

If you are not sure whether you are in the Class, or have any other questions about the Settlement, call the toll-free number, 1-800-PHONENUMBER. You also may write with questions to: INSERT SETTLEMENT ADMINISTRATOR INFO AND ADDRESS or go to www.INSERTWEBSITE.com.

THE SETTLEMENT BENEFITS

What benefits does the Settlement provide?

Each Class Member who submits a valid, timely Claim Form and/or Economic Loss Claim Form is eligible to receive: (a) a \$30.00 cash payment; (b) free identity theft protection services for 3 years (including credit monitoring and \$1 million in identity theft insurance); and (c) reimbursement of economic losses fairly traceable to the Incident up to \$3,750 per Class members, capped at \$365,000 in the aggregate, upon appropriate documentation. In addition, LWAG has agreed to pay attorneys' fees and expenses of up to \$247,000 and a service award to the plaintiff of \$3,000, subject to Court approval.

Complete details regarding the Settlement benefits are available in the Settlement Agreement, which is available at www.INSERTWEBSITE.com.

Tell me more about the Cash Payment.

Cash Payment.

All Class Members are eligible for a \$30.00 Cash Payment by submitting a Claim Form by [DATE]. No documentation or proof of loss is required for this benefit, and Class Members do not need to sign up for the Settlement Offering to receive a Cash Payment.

Tell me more about enrollment in the credit monitoring and identity theft insurance.

Class Members can enroll in the following IDX credit monitoring and identity theft insurance of at least \$1,000,000:

Identity Theft Protection.

Class Members shall have the option, at no cost to them, to sign-up for credit monitoring identity theft insurance of at least \$1,000,000 offered by the Settlement ("Settlement Offering"). If a Settlement Class Member elects to utilize the Settlement Offering, he or she must make that election by [March __, 2024] by visiting [www.website.com] or calling 1-800-XXX-XXX and providing the unique enrollment code that has been separately mailed to you. If you cannot locate that code, you can request information on how to obtain it by calling the number listed above. I

Tell me more about reimbursement of economic costs.

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Reimbursement of Documented Economic Losses. Beginning on the Effective Date, and continuing for the next two years after the Effective Date, any Class Member may submit one or more Claims for reimbursement for documented Economic Losses related to the Incident that have not been reimbursed, up to an aggregate total of \$3,750.00 per Class Member (subject to a cap of \$365,000.00 for all Class Members), provided, however, that no Class Member may submit an Economic Loss Claim Form unless said Settlement Class Member has first elected to receive and enrolled in the Settlement Offering, submitted a claim to IDX and been denied, and the Class Member has exhausted the vendor's claims process. Claims may be submitted electronically or in paper format. Any Class Member whose Economic Loss Claim is rejected for failure to submit a claim within the vendor's required time period may not submit a Claim for reimbursement under this process. If a Settlement Class Member submitted a timely Economic Loss Claim and the vendor denied the claim for failure to provide sufficient supporting materials, then the loss may not be claimed for reimbursement hereunder.

Class Members who wish to make a timely and properly supported Claim for reimbursement of Economic Losses related to the Incident must provide to the Settlement Administrator the information required to evaluate the claim, including: (a) the Claimant's name and current address; (b) if applicable, a signed copy of IRS Form 14039 along with a statement under penalty of perjury that the form was submitted to the Internal Revenue Service; (c) the bills or invoices documenting the amount of the Claim and proof that the bills or invoices were paid; (d) documentation showing that the claim was submitted to IDX, denied by IDX, and that the IDX claims process was exhausted; and (e) a statement signed under penalty of perjury indicating that: (i) the Economic Losses claimed are fairly traceable to the Data Breach; and (ii) the total amount claimed has not been reimbursed by any other person or entity. Third-party documentation of Economic Losses is required to establish a Claim. Economic Losses that are compensated under this Agreement are those that are reasonable and customarily incurred when responding to the type of fraud or identity theft suffered by the Settlement Class Member from the Data Breach.

HOW TO GET SETTLEMENT BENEFITS

How can I claim the \$30.00 Cash Payment?

To claim the \$30.00 Cash Payment, you must complete a Claim Form with your name and address by no later than [DATE]. You can submit a Claim Form online by visiting [WEBSITE] or you can obtain a paper copy by calling [PHONE NUMBER]

How can I enroll in the credit monitoring and identity theft insurance plan?

To receive the Settlement Offering, Settlement Class Members must visit [www.website.com] or cal. 1-800-XXX-XXX and provide the unique enrollment code that has been separately mailed to you. If you cannot locate that code, you can request information on how to obtain it by calling the number listed above..

How do I obtain reimbursement of economic costs related to the Incident?

For reimbursement of documented Economic Losses related to the Incident that have not been reimbursed, up to an aggregate total of \$3,750.00 in reimbursement per Class Member, you must elect to receive and enroll in the Settlement Offering, submit a claim to IDX and be denied, exhaust IDX's claims process, and complete and submit an Economic Loss Claim Form(s) and provide

Exhibit B
Form of Notice

documentation proving the economic costs as described above. You can get the Economic Loss Claim Form at www.INSERTWEBSITE.com or by calling 1-800-PHONENUMBER. For each Economic Loss Claim Form, you must read the instructions carefully, fill out the form completely, attach the required documentation, and either submit the form and documentation through the Settlement Website, or mail the form postmarked no later than the two year anniversary of the Effective Date, to:

Settlement Administrator
ADDRESS
ADDRESS

If you have questions about how to file a claim, call 1-800-PHONENUMBER or go to www.INSERTWEBSITE.com.

When will I receive payment under the Settlement?

If you file a timely and valid Claim Form and submit required documentation, the Settlement Administrator will evaluate your claim to confirm your eligibility and calculate your payment amount. The Settlement Administrator will notify you of any deficiencies with respect to your claim, and you will have 15 days after such notice is sent to correct these deficiencies. The Settlement Administrator will then issue a final decision on your claim.

Payments for valid claims will not be made until after the Settlement is finally approved and all appeals and other reviews have been exhausted.

What am I giving up as part of the Settlement?

If the Settlement is approved, you cannot sue Defendant or be part of any lawsuit against Defendant about any of the issues in this Action. All of the decisions by the Court will bind you. The specific claims you are giving up are described in Paragraph 25 and 26 of the Settlement Agreement.

The Settlement Agreement is available at www.INSERTWEBSITE.com or by calling 1-800-PHONENUMBER. The Settlement Agreement describes the released claims with specific descriptions, so please read it carefully. If you have any questions about what this means, you can talk to Settlement Class Counsel, or you can talk to your own lawyer at your own expense.

THE LAWYERS REPRESENTING YOU

Do I have a lawyer in the case?

Yes, you do have a lawyer in the case. The Court appointed the law firms of Branstetter, Stranch & Jennings, PLLC; Cohen & Malad, LLP; Turke & Strauss LLP; and Sugarman, Rogers, Barshak & Cohen, P.C., to represent you and the Class. These firms are called “Class Counsel.” You will not be charged by these lawyers for their work on this case. If you want to be represented by your own lawyer, you may hire one at your own expense.

Exhibit B
Form of Notice

How will the lawyers be paid?

Class Counsel will ask the Court for Defendant to pay for reasonable attorneys' fees and expenses of \$247,000, and a Class Representative service award of \$3,000. The Court will decide the amount of attorneys' fees, expenses, and service award. Any attorneys' fees, expenses, and service awards approved will be paid by Defendant in addition to all of the other benefits of the Settlement.

OBJECTING TO THE SETTLEMENT

How do I tell the Court if I do not like the Settlement?

If you are a Class Member, you can object to or comment on the Settlement, Class Counsel's request for attorneys' fees and expenses, and/or the Settlement Class Representative's request for a service award. To object, you must state in writing that you object to the Settlement, and include the following information in your written objection:

1. The name of the Action;
2. Your full name, mailing address, telephone number, and e-mail address;
3. A statement of the basis on which you claim to be a Settlement Class Member;
4. A written statement of all grounds for your objection, accompanied by any legal support for the objection, and any evidence you wish to introduce in support of the objection;
5. The identity of all counsel, if any, representing you;
6. A statement confirming whether you intend to personally appear and/or testify at the Final Approval Hearing and the identification of any counsel representing you who intends to appear at the Final Approval Hearing;
7. A list of any persons who will be called to testify at the Final Approval Hearing in support of the objection; and
8. Your signature signed under oath and penalty of perjury (an attorney's signature is not sufficient).

Failure to include this information may be grounds for the Court to disregard your objection.

To submit an objection, send a letter the Court either by: (a) mailing it to the Clerk for Civil Business, Essex County Superior Court, 56 Federal St., Salem, MA 01970, or; (b) filing the objection in person at the same location. Mailed objections must be filed or postmarked on or before the Objection Deadline, which is [Objection Deadline].

Exhibit B
Form of Notice

FINAL APPROVAL HEARING

When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at _____ a.m., on _____, at the Essex County Superior Court, 56 Federal St., Salem, Massachusetts.. At the Final Approval Hearing, the Court will consider whether the proposed Settlement is fair, reasonable, and adequate. The Court may also consider Class Counsel’s request for attorneys’ fees and expenses, and the service awards. If there are objections, the Court will consider them. After the Final Approval Hearing, the Court will decide whether to approve the proposed Settlement and how much to award to Class Counsel as fees and expenses, and the service awards. You do not need to attend.

The Final Approval Hearing may be moved to a different date or time without additional notice, so if you wish to attend, it is recommended that you periodically check www.INSERTWEBSITE.com to confirm the date of the Final Approval Hearing.

Do I have to come to the hearing?

You do not have to attend the hearing. Class Counsel will answer any questions the Court may have. However, you are welcome to attend the hearing at your own expense, if you wish. If you submit a written objection, you do not have to come to the Fairness Hearing to raise your objection. As long as you timely mailed your written objection, the Court will consider it. You also may pay your own lawyer to attend the Final Approval Hearing, but their attendance is not necessary.

May I speak at the hearing?

Yes, you may speak at the hearing. If you would like to do so, you must indicate your intent to personally appear and/or testify at the Final Approval Hearing, and identify any counsel representing you who intends to appear at the Final Approval Hearing, when providing written notice of your objection as noted above regarding how to object to the Settlement.

IF YOU DO NOTHING

What happens if I do nothing at all?

If you are a Class Member and you do nothing, you will be legally bound by the Settlement, but you will not receive the Settlement Offering, Cash Payment, or reimbursement for Economic Losses related to the Incident. You will not be able to bring a lawsuit, continue a lawsuit, or be a part of any other lawsuit against Defendant about the claims in this case.

If you would like to request benefits under the Settlement, you must follow the instructions described in the sections above to claim those benefits.

GETTING MORE INFORMATION

How do I get more information about the proposed Settlement?

Exhibit B
Form of Notice

This notice summarizes the proposed Settlement. More details are included in the Settlement Agreement. You can get a copy of the Settlement Agreement at www.INSERTWEBSITE.com. You also may write with questions to the Settlement Administrator, at [EMAIL ADDRESS OR REAL \[ADDRESS\]](mailto:EMAIL ADDRESS OR REAL [ADDRESS]). You can access the Claim Form and Economic Loss Claim Form and review additional documents on the Settlement Website. You can also request to receive Claim Forms, a copy of the Settlement Agreement, and a detailed notice by mail by calling the toll-free number, [1-800-PHONENUMBER](tel:1-800-PHONENUMBER).

Exhibit C
Form of Summary Notice

Exhibit C
Form of Summary Notice

COURT-ORDERED NOTICE OF CLASS ACTION SETTLEMENT

Anastos v. The Lyon Waugh Auto Group., No. 2277cv00245-A (Essex Cty. Mass. Super. Ct.)

A proposed settlement (the “Settlement”) has been reached in the above-entitled class action. The lawsuit alleges that around early December 2021 The Lyon Waugh Auto Group (“LWAG”) was the victim of a cyberattack (“Incident”) resulting in the potential disclosure of personal information of Massachusetts customers and employees (the “Class”). LWAG denies any liability or wrongdoing, but it has agreed to settle the lawsuit.

To obtain benefits from the Settlement, **Class Members must submit a Claim Form before [DATE]**. Claim forms can be completed online at [www.settlementwebsite.com/claimform] or obtained by calling [[1-***-***-****](tel:1-***-***-****)]. Each Class member who submits a valid, timely Claim Form is eligible to receive a \$30.00 cash payment. If your spouse, child, or dependent is also a class member, their separate claim forms must be submitted in order to receive their cash payment.

All class members are eligible for free identity theft protection services from IDX for 3 years (including credit monitoring and \$1 million in identity theft insurance). Class members who have previously enrolled in an IDX identity theft program in connection with the Incident will automatically receive this additional coverage. Other class members who wish to receive the free identity theft services must visit [www.website.com] or call 1-800-[XXX-XXX](tel:1-800-XXX-XXX) and provide the following enrollment code:

[[Class member’s unique code](#)]

To obtain these services, you must enroll no later than March __, 2024. If your spouse, child, or dependent is also a class member, they will need to be enrolled separately, if eligible, to receive this benefit.

Class members enrolled in the IDX identity theft program are also entitled to receive reimbursement of economic losses fairly traceable to the Incident up to \$3,750 per Class members, capped at \$365,000 in the aggregate, upon appropriate documentation. In addition, LWAG has agreed to pay attorneys’ fees and expenses of up to \$247,000 and a service award to the plaintiff of \$3,000, subject to Court approval.

You have the right to object to the Settlement, or any part of it, and to appear at the final approval hearing, if you wish. Any objections must be submitted by [**DATE**]. Instructions on how to object can be obtained at [www.settlementwebsite.com/faq]. Regardless of whether you object or submit a Claim Form, if the Settlement is approved, you will not be able to sue LWAG in a future lawsuit about the claims addressed in the Settlement. Again, if you wish to receive benefits, you must submit a claim form no later than [**DATE**].

This is a summary notice only. To obtain a detailed notice about the Settlement and other important documents, please visit [www.settlementwebsite.com] or call [[1-*-***-****](tel:1-***-***-****)]**

Exhibit D
Form of Claim Form

Exhibit D
Form of Claim Form

Anastos v. The Lyon Waugh Auto Group, No. 2277cv00245-A

SETTLEMENT ADMINISTRATOR

P.O. Box XXXXX

City, State XXXXX-XXXX

ESSEX COUNTY MASSACHUSETTS SUPERIOR COURT

CASH PAYMENT CLAIM FORM

Instructions: To request a \$30 Cash Payment from the Settlement of this Action, you must be a Class Member and must complete and submit this form no later than [DATE] Please provide all requested information in order to have your claim processed.

CLAIMANT INFORMATION

Please Type or Print in the Boxes Below

First Name	MI	Last Name
<input type="text"/>	<input type="text"/>	<input type="text"/>

Mailing Address (Street, PO Box, Suite or Office Number)

<input type="text"/>

City	State	Zip Code
<input type="text"/>	<input type="text"/>	<input type="text"/>

I hereby request my \$30.00 Cash Payment benefit from this Settlement, to be mailed to the address listed above.

Signed: _____

Dated: _____

Please allow 60 days to process your claim.

Additional Benefits: In addition to a Cash Payment, you are eligible to enroll in 3 years of free identity theft protection and insurance from IDX (the “Settlement Offering”). Prior enrollees in the IDX identity theft program will be enrolled automatically. Others can enroll by visiting [www.website.com] or call 1-800-XXX-XXX and providing the enrollment code that has been sent to you separately. If you cannot locate that code, you can request information on how to obtain it by calling the number listed above. Enrollment must be received no later than March __, 2024. After the Effective Date of the Settlement, if you have enrolled in the Settlement Offering, you may be eligible to submit an Economic Loss Claim Form for Economic Losses not covered by the Settlement Offering by visiting this website: [www.appropriatewebsite.com/hyperlink].

Questions? Please call the Settlement Administrator at [1-***-***-***].

Exhibit D
Form of Claim Form

Exhibit E
Form of Economic Loss Claim Form

Exhibit E
Form of Economic Loss Claim Form

Anastos v. The Lyon Waugh Auto Group, No. 2277cv00245-A

SETTLEMENT ADMINISTRATOR

P.O. Box XXXXX

City, State XXXXX-XXXX

ESSEX COUNTY MASSACHUSETTS SUPERIOR COURT

ECONOMIC LOSS CLAIM FORM

Reimbursements for Economic Losses

Eligible Settlement Class Members may submit one or more Claims for reimbursement for documented Economic Losses related to the Incident that have not been reimbursed, up to an aggregate total of \$3,750.00 per Class Member, provided, however, that no Class Member may submit an Economic Loss Claim Form unless the Class Member has first elected to receive and enrolled in the Settlement Offering, submitted a claim for reimbursement to IDX and been denied, and has exhausted the claims process. Any Class Member whose claim is rejected by IDX for failure to submit a claim within the required time period may not submit a claim for reimbursement under this process. If a Class Member submitted a timely claim to IDX that was denied for failure to provide sufficient supporting materials, then the loss may not be claimed for reimbursement hereunder.

Additional information is contained in the Notice and the Settlement Agreement, both of which are available at www.INSERTWEBSITE.com or by calling 1-[PHONENUMBER](tel:PHONENUMBER).

Settlement Class Members who wish to make a timely and properly supported claim for reimbursement of Economic Losses related to the Incident must provide to the Settlement Administrator the information required to evaluate the claim, including: (a) the Claimant's name and current address; (b) if applicable, a signed copy of IRS Form 14039 along with a statement under penalty of perjury that the form was submitted to the Internal Revenue Service; (c) the bills or invoices documenting the amount of the Claim and proof that the bills or invoices were paid; (d) documentation showing that the claim was submitted, denied, and that the claims process was exhausted; and (e) a statement signed under penalty of perjury indicating that: (i) the Economic Losses claimed are fairly traceable to the Incident; and (ii) the total amount claimed has not been reimbursed by any other person or entity. Third-party documentation of Economic Losses is required to establish a claim. Economic Losses that are compensated under this Settlement are those that are reasonable and customarily incurred when responding to the type of fraud or identity theft suffered by the Settlement Class Member from the Incident.

Class Members must submit this documentation along with the form required below through the Settlement Website, or by mailing it to the following address:

Exhibit E
Form of Economic Loss Claim Form

ADDRESS

ADDRESS

ADDRESS

If you have any questions, call 1-PHONE NUMBER or go to www.INSERTWEBSITE.com for more information.

Deadline: All Claims must be submitted to the Settlement Administrator on or before **DATE.**

<u>CLAIMANT INFORMATION</u> Please Type or Print in the Boxes Below		
First Name	MI	Last Name
<input type="text"/>	<input type="text"/>	<input type="text"/>
Mailing Address (Street, PO Box, Suite or Office Number)		
<input type="text"/>		
City	State	Zip Code
<input type="text"/>	<input type="text"/>	<input type="text"/>
<u>Additional Information</u>		
Last Four Digits of Social Security Number		
<input type="text"/>		
Email Address (optional)		
<input type="text"/>		
Telephone Number (optional)		
<input type="text"/>		

I declare under penalty of perjury that:

- The economic loss I have claimed on this form is related to the Incident; and
- The total amount claimed has not been reimbursed by IDX or any other third party.

**Exhibit E
Form of Economic Loss Claim Form**

You may submit one or more reimbursement requests, but the total amount of reimbursement payable to you for all of your requests cannot exceed an aggregate \$3,750. Only one (1) form is needed for multiple costs incurred from the Incident.

<p><u>Amount</u></p> <p>\$ <input style="width: 30px; height: 25px;" type="text"/> , <input style="width: 40px; height: 25px;" type="text"/> <input style="width: 15px; height: 25px;" type="text"/> <input style="width: 15px; height: 25px;" type="text"/> <input style="width: 15px; height: 25px;" type="text"/> <input style="width: 15px; height: 25px;" type="text"/></p> <p>Documentary proof must be submitted to support your exact claim</p>

Please provide a brief description of economic loss requested in this Claim, as well as an explanation of how such losses are related to the Incident. (You may attach additional pages if necessary).

Exhibit E
Form of Economic Loss Claim Form

Signature: _____	Date: _____ Your claim will be submitted to the Settlement Administrator for review. If your Reimbursement Form is incomplete, untimely, or contains false information, it may be rejected by the Settlement Administrator. If your claim is approved, you will be mailed a check at the street address you provide. This process takes time; please be patient.
Print Name: _____	

REIMBURSEMENT FORMS MUST BE POSTMARKED NO LATER THAN [PARTIES TO INSERT DATE] TO BE ELIGIBLE FOR PAYMENT. FILE ONLINE AT [www.INSERTWEBSITE.com] OR MAIL THIS CLAIM FORM TO [ADDRESS.]

Exhibit F
Proposed Final Order and Judgment

Exhibit F
Proposed Final Order and Judgment

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

**SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT**

MICHAEL ANASTOS, on behalf of
himself and all others similarly situated,

Plaintiff,

v.

THE LYON WAUGH AUTO GROUP,

Defendant

Case No. 2277cv00245-A

[PROPOSED] FINAL APPROVAL ORDER AND JUDGMENT

WHEREAS, this class action is pending before the Court;

WHEREAS, Michael Anastos (“Plaintiff”), individually and on behalf of the Class, and The Lyon Waugh Auto Group (“Defendant”), have agreed to settle Plaintiff’s claims related to a data breach perpetrated against Defendant in or around early December 2021 (the “Incident”);

WHEREAS, the Parties’ Stipulation of Settlement (“Settlement Agreement”), together with the exhibits attached thereto, sets forth the terms and conditions for a proposed settlement and final judgment resolving the Class’s claims against Defendant relating to the Incident;

WHEREAS, the Court previously granted preliminary approval to the Settlement Agreement, certified the Class for settlement purposes, and directed that notice of the proposed Settlement be provided to the Class;

WHEREAS, a declaration from the Settlement Administrator has been filed showing that notice was sent to the Class as directed by the Court; and

This matter coming before the Court upon the Plaintiff’s motion seeking final approval of

Exhibit F
Proposed Final Order and Judgment

the Settlement Agreement under Mass. R. Civ. P. 23(c), including final approval of payments of attorneys' fees and expenses and a service award in connection with final approval,

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

1. Terms and phrases in this order shall have the same meaning as set forth in the Settlement Agreement.
2. The Court has jurisdiction over the subject matter of the Action, the Plaintiff, the Class Members, and Defendant.

Settlement Class Certification.

3. The Court previously certified the Class pursuant to Rule 23 of the Massachusetts Rules of Civil Procedure. The Court reaffirms certification of the Class defined as, based on the findings made in the Preliminary Approval Order:

All persons who live in Massachusetts, were customers of a Massachusetts Dealership, or were employed at or are beneficiaries of persons employed at a Massachusetts Dealership, as to whom PII was exposed to cybercriminals in the Incident and the PII exposed to cybercriminals included such persons' Social Security Number.²

4. The Court reaffirms appointment of Plaintiff as Class Representative and of Branstetter, Stranch & Jennings, PLLC; Cohen & Malad, LLP; Turke & Strauss LLP; and Sugarman, Rogers, Barshak & Cohen, P.C., as Class Counsel.

Preliminary Approval

5. The Court, having held a hearing on final approval of the Settlement Agreement and having considered the Settlement Agreement and the arguments of counsel, as well as the response of the Class Members to the notice, hereby grants final approval to the Settlement Agreement.

² "Massachusetts Dealership" means BMW of Peabody, MINI of Peabody, Acura of Peabody, Jaguar/Land Rover Peabody, and Mercedes Benz of Burlington. "PII" means personally identifiable information.

Exhibit F
Proposed Final Order and Judgment

6. The Court finds that the Settlement Agreement represents a fair, reasonable, and adequate compromise, and that it is in the best interests of the Class as to their claims against Defendant relating to the Incident.

7. The Court finds that the Settlement Agreement: (a) is the result of serious, informed, non-collusive arms' length negotiations involving experienced counsel familiar with the legal and factual issues of this case; (b) meets all applicable requirements of law, including Massachusetts Rule of Civil Procedure 23.

8. The Court orders and directs the parties to implement the terms and benefits provided in the Settlement Agreement.

9. Pursuant to Mass. R. Civ. P. 23(e)(2), any residual funds from the Settlement shall be distributed to the Massachusetts IOLTA Committee to support activities and programs that promote access to the civil justice system for low income residents of the Commonwealth of Massachusetts.

Attorneys' Fees, Expenses, and Service Award

10. The Court finds that attorneys' fees to Class Counsel in the amount of \$247,000.00, to be paid by Defendant in addition to the other benefits of the Settlement Agreement, is fair and reasonable. The Court awards Class Counsel the agreed amount and directs payment to be made to Class Counsel pursuant to the terms of the Settlement Agreement.

11. Likewise, the Court finds that a service award to Plaintiff Michael Anastos in the amount of \$3,000, to be paid by Defendant in addition to the other benefits of the Settlement Agreement, is fair and reasonable. The Court awards Plaintiff the agreed amount and directs payments to be made to Plaintiff pursuant to the terms of the Settlement Agreement.

Exhibit F
Proposed Final Order and Judgment

Release and Termination of the Action

12. Upon the Effective Date, all Class Members shall be deemed to have given the release of all claims relating to or arising out of the Action, as provided in the Settlement Agreement (the “Settled Class Claims”) as to all of the Defendant’s Released Parties.

13. Plaintiff and Class Members are hereby permanently barred and enjoined from filing, commencing, prosecuting, intervening in, participating in as class members or otherwise, or receiving any benefits or other relief from any other lawsuit in any state, territorial or federal court, or any arbitration or administrative or regulatory or other proceeding in any jurisdiction, which asserts claims based on or in any way related to the Settled Class Claims, and this Court shall retain exclusive continuing jurisdiction to enforce said injunction.

14. This is a final order and judgment is entered upon the Settlement Agreement; this Order fully and finally resolves all claims in this Action as to the Class all Parties.

THERE BEING NO JUST REASON FOR DELAY, LET JUDGMENT BE ENTERED.

SO ORDERED.

Justice of the Superior Court

Dated: