

REVISED CLASS ACTION SETTLEMENT AGREEMENT

Subject to final approval by the Court and in exchange for valuable consideration as set forth herein, this Class Action Settlement Agreement (the “Agreement”) dated as of January 11, 2016, is entered into by and between Andréa Spence (the “Class Representative” or “Plaintiff”), on behalf of herself and the Settlement Class Members as defined herein, and Cavalry Portfolio Services LLC (“CPS”) and Cavalry SPV I, LLC (“SPV”) (collectively “Cavalry” or “Defendants”).

WHEREAS, Ms. Spence filed a class action complaint against Cavalry in the Suffolk County Superior Court on March 13, 2014, Case No. 2014-00850BLS2, which was removed to this Court on June 26, 2014, and which alleged, *inter alia*, certain violations of the Fair Debt Collections Practices Act, 15 U.S.C. § 1692, *et seq.*, and Chapter 93A, with respect to the assessment of and or collection of interest on charged off credit card accounts SPV purchased from FIA Card Services, N.A. (the “Litigation”);

WHEREAS, Cavalry denies the material allegations made in the Litigation and denies any and all liability with respect to the allegations made in the Litigation and further denies that the Settlement Class Members have suffered any damage or are entitled to any recovery;

WHEREAS, Class Counsel have conducted an extensive investigation into the facts and law relating to the Litigation, through both formal and informal discovery, including document requests, interrogatories, Rule 30(b)(6) depositions, and a third party deposition;

WHEREAS, based on their review and analysis of the relevant facts and legal principles, Class Counsel believe that, in consideration of all the circumstances and after prolonged and serious arms’ length settlement negotiations, the terms and conditions

embodied in this Settlement are fair, reasonable, and adequate, and beneficial to and in the best interests of the Class Representative and the proposed Settlement Class (as defined below), based upon the following substantial benefits that the Settlement bestows upon the Settlement Class:

- (i) Cavalry will pay \$550,333 into a Settlement Fund which will be used to provide monetary relief to Settlement Class Members, as described below, and subject to Court approval:
 - a. Settlement Class Members who paid to Cavalry any Prepurchase Interest, as defined below, will be entitled to a full refund of Prepurchase Interest Paid, as defined below;
 - b. Settlement Class Members to whom Cavalry sent a collection letter or made an initial report to a credit bureau that contained Prepurchase Interest in the balance on or after March 13, 2013 will be entitled to a payment of \$45.00, regardless of whether they also receive a refund under this Agreement;
 - c. Settlement Class Members who did not pay any Prepurchase Interest, and who are not entitled to a payment under (b), will be entitled to an equal share of the Settlement Fund remaining after deduction for refunds, the \$45 payments, and the incentive payment, described in (a), (b), and (d); and
 - d. Plaintiff, as the Class Representative, will receive an incentive payment of \$7,500.

- (ii) For All Settlement Class Members for whom Cavalry still owns and/or services their accounts, Cavalry will forgive all Prepurchase Interest remaining on their Accounts, an amount that exceeds \$2 million in total;

- (iii) Cavalry will pay the costs of class notice and administration of the Settlement Agreement;

- (iv) Cavalry will pay attorneys' fees of up to \$275,167 and costs of \$9,000, subject to Court approval.

NOW THEREFORE, in consideration of the covenants and agreements contained in this Settlement Agreement, and subject to approval by the Court as provided herein pursuant to Fed. R. Civ. 23, the Class Representative, the Settlement Class, and Cavalry agree to the

settlement of the Litigation, and that the Litigation and the Settled Claims against the Released Persons are fully and finally compromised, settled and released and that the Litigation shall be dismissed with prejudice subject to the following terms and conditions:

I. DEFINITIONS.

The following terms shall have the following meanings in this Settlement Agreement and the annexed exhibits.

1.01. "Account" means a credit card account purchased by Cavalry SPV I, LLC from FIA Card Services, Inc., on which a Settlement Class Member is named as the obligor.

1.02. "Agreement" means this Settlement Agreement.

1.03. "Class Counsel" means Charles Delbaum and Stuart Rossman of the National Consumer Law Center and the Elizabeth Ryan and John Roddy of Bailey & Glasser LLP.

1.04. "Class Period" means the period from March 14, 2010 through January 10, 2016.

1.05. "Cavalry" means Cavalry Portfolio Services, LLC and Cavalry SPV I, LLC, collectively.

1.06. "CPS" means Cavalry Portfolio Services, LLC.

1.07. "Distribution Date" means twenty (20) days after the Effective Date.

1.08. "Effective Date" of this Agreement means the date after the entry by the Court of the Final Order Approving Class Action Settlement (the "Final Approval Order") and (a) when the applicable period for the filing or noticing of an appeal of such Final Approval Order shall have expired without an appeal having been filed; or (b) if an appeal is taken, upon entry of an order affirming the Final Approval Order and when the applicable period for the filing or noticing of an appeal or petition for review of such affirmance of the Final Approval Order shall have expired without a further appeal or petition for review having

been filed, or upon entry of any stipulation dismissing any such appeal with no right of further prosecution of the appeal; or (c) if an appeal is taken from or a petition for review is filed relating to any decision affirming the Final Approval Order, upon entry of an order in such appeal finally affirming the Final Approval Order or dismissing such petition for review without right of further appeal or upon entry of any stipulation dismissing any such appeal with no right of further prosecution of the appeal.

1.09. “Notice” means the Notice of Proposed Settlement, substantially in the form of Exhibit A.

1.10. “Parties” means the Class Representative, the Settlement Class and Cavalry.

1.11. “Preliminary Approval” of this Agreement means that the Court has entered an order, substantially in the form of Exhibit B to this Agreement, conditionally certifying a settlement class and preliminarily approving the terms and conditions of this Agreement, including the manner of providing notice to the Settlement Class.

1.12. “Prepurchase Interest” means interest CPS assessed on a Settlement Class Member’s Account for a time period after the Account was charged off by FIA and prior to the date SPV purchased the Account.

1.13. “Prepurchase Interest Paid” means the amount paid by a Settlement Class Member, if any, that exceeds the sum of (a) the charge-off balance of the Account plus (b) the amount of interest assessed post charge-off by FIA (if applicable), and (c) the amount of interest assessed by CPS applicable to any time period post-acquisition.

1.14. “Released Claims” means and includes any and all claims, demands, actions, causes of action, rights, offsets, suits, damages, lawsuits, liens, costs, losses, expenses or

liabilities of any kind whatsoever, for any relief whatsoever, whether known or unknown, arising from the facts alleged in the Amended Complaint.

1.15. “Released Persons” are defined to include Cavalry Portfolio Services, LLC and Cavalry SPV I, LLC, their affiliates, and all of their respective members, officers, directors, affiliates, subsidiaries, parents, partners, insurers, employees, associates, trustees, agents, accountants, attorneys, predecessors, successors and assigns.

1.16. “Settlement Administrator” means Kurtzman Carson Consultants, LLC, the independent class action settlement administration company retained by Cavalry for purposes of administering the Settlement.

1.17. “Settlement Class Members” means those individuals who meet the class definition contained in paragraph 2.01 and who have not timely and validly excluded themselves from the Settlement pursuant to paragraph 5.04. (The Settlement Class Members are also referred to collectively as the “Settlement Class”).

1.18. “Settlement Fund” means the sum of \$550,333, which Cavalry will provide the Settlement Administrator for purposes of implementing this Settlement, and which will be used to provide monetary relief to Settlement Class Members. The Settlement Fund shall be held in a segregated, interest bearing account to be established by the Settlement Administrator. The Settlement Fund shall also include amounts payable to the Settlement Fund pursuant to Paragraph 4.02(b), if any.

1.19 “SPV” means Cavalry SPV I, LLC.

II. CERTIFICATION OF SETTLEMENT CLASS.

2.01. Class Certification For Settlement Purposes. For the purposes of settlement and the proceedings contemplated herein, the Parties stipulate and agree that a Settlement Class as

set forth below shall be conditionally certified, that Andréa Spence shall be the Class Representative and her counsel of record, Elizabeth Ryan and John Roddy of Bailey & Glasser LLP, and Charles Delbaum and Stuart Rossman of the National Consumer Law Center, shall be appointed as Class Counsel for the Settlement Class. The Settlement Class is composed of: (a) all individuals who at any time during the Class Period maintained an address in Massachusetts; (b) whose credit card debt SPV purchased from FIA Card Services, Inc.; (c) where FIA Card Services, Inc. had ceased charging interest to the debt prior to SPV's purchase; (d) CPS added interest for a period prior to the date SPV purchased the debt; and (e) during the Class Period CPS sought to collect such additional Prepurchase Interest, and/or reported a balance including such interest to a credit reporting agency; (f) against whom Cavalry has not obtained a judgment or release as of the date of this Agreement; and/or (g) who have not filed for or obtained a discharge in bankruptcy applicable to the Account.

2.02. In connection with the application for Preliminary Approval of this Agreement, the Parties shall request that the Court enter an order in the form annexed hereto as Exhibit B, *inter alia*, conditionally certifying a Settlement Class in accordance with the definition of paragraph 2.01, appointing the Plaintiff as the Settlement Class Representative and appointing her counsel of record as Class Counsel, and granting Preliminary Approval to the Settlement.

III. RELIEF FOR SETTLEMENT CLASS MEMBERS.

3.01 Monetary Relief. To resolve this litigation, the following relief will be provided to Settlement Class Members:

a. Within 10 days of the Effective Date, Cavalry will provide to the Settlement Administrator the sum of \$550,333 (the Settlement Fund). This Settlement Fund shall be

used to provide monetary relief to Settlement Class Members, as described below, and an incentive award to the Class Representative of \$7,500, subject to Court approval.

b. Within 10 days of Cavalry's deposit of the Settlement Fund with the Settlement Administrator, the Settlement Administrator will issue checks to Settlement Class Members for each class members' Settlement Share, calculated in accordance with paragraph (c) below;

c. Each Settlement Class Member shall be entitled to the following Settlement Share:

(i) the amount of Prepurchase Interest Paid, if any; and

(ii) if Cavalry on or after March 13, 2013 sent a collection letter to the Settlement Class Member or made an initial report to a credit bureau that contained Prepurchase Interest in the balance, a payment of \$45.00, or

(iii) if the Settlement Class Member made no Prepurchase Interest payments, and Cavalry did not send a collection letter to the Settlement Class Member or make an initial report to a credit bureau that contained Prepurchase Interest in the balance on or after March 13, 2013, an equal share of the Settlement Fund remaining after deduction of the Incentive Award and the amounts described in paragraphs (i) and (ii) above. The parties estimate that the payment per Settlement Class Member under this subsection shall be approximately \$20.00.

d. Within 10 days of the Effective Date Cavalry shall permanently abandon and forgive any claim to any Prepurchase Interest remaining on Settlement Class Members' Accounts still owned and/or serviced by Cavalry, shall cease efforts to collect such amounts,

and shall reduce the balances on the Accounts accordingly. Such reduction shall not constitute a credit or payment on the Account for statute of limitations purposes; and

e. Within 45 days of the Effective Date, as to any Settlement Class Member Account for which Cavalry is currently furnishing information to a consumer reporting agency, such as Equifax, Experian, Transunion, and Innovis (collectively “credit reporting agencies”), Cavalry shall transmit a request by tape, other electronic media, or manual method to reflect the removal of any Prepurchase Interest from the Accounts of the Settlement Class Members. If, after at least 90 days from the Effective date, one or more of the credit reporting agencies does not make the requested changes, upon written request by Class Counsel or the Settlement Class Member, Cavalry shall complete and submit to such agency or agencies a universal data form reflecting the removal of any Prepurchase Interest for any member of the Settlement Class promptly. Cavalry shall only be required to make up to two requests to the credit reporting agencies with respect to any particular Settlement Class Member, and Cavalry shall have no further obligation to take further steps to insure that the credit reporting agencies reduce the balances of Settlement Class Members’ Accounts to reflect the forgiven interest.

3.02. Attorneys’ Fees And Costs.

(a) Also within 10 days of the Effective Date, Cavalry will provide to the Settlement Administrator an additional sum of \$284,167. This amount shall be used by the Settlement Administrator to pay attorneys’ fees and costs, as approved by the Court;

(b) The Parties understand that the Class Representative intends to apply to the Court for approval of an award of attorneys’ fees and expenses from the Settlement Fund in an amount not to exceed \$275,167, plus costs of \$9,000. Cavalry agrees not to oppose any

request for fees and expenses up to these amounts. The Settlement Administrator shall pay the amount of attorneys' fees and expenses awarded by the Court subject to the terms of this Settlement. Any attorneys' fees and expenses so awarded shall be payable upon the Distribution Date. Any amount from the \$284,167 that is not paid out in attorneys' fees and costs shall revert to the Settlement Fund.

(c) The Parties understand that the Class Representative intends to apply to the Court for approval of an incentive award in the amount of \$7,500. Cavalry agrees not to oppose any request up to and including \$7,500.

IV. IDENTIFICATION OF SETTLEMENT CLASS MEMBERS AND AMOUNTS OF PREPURCHASE INTEREST.

4.01. Cavalry represents that to the best of its knowledge based on its thorough review of its records of customer accounts, including electronic records, that the Settlement Class contains approximately 10,000 persons; that the total amount of outstanding Prepurchase Interest assessed against the Settlement Class exceeds \$2 million, and that the total amount of Prepurchase Interest Paid by Settlement Class Members totals approximately \$140,000.

4.02. No later than ten (10) calendar days after entry of the Preliminary Approval Order, Cavalry will produce an electronic list (the "Class List") for the Settlement Administrator and Class Counsel containing:

- (a) the name, account number, and last known addresses in Cavalry's system of each Settlement Class Member as of the date of the entry of the Preliminary Approval Order,
- (b) the amount of Prepurchase Interest Paid by each Settlement Class Member, if any,
- (c) the amount of Prepurchase Interest currently outstanding on the Account; and

(d) for each Settlement Class Member, whether Cavalry sought to collect on the Account during the period March 13, 2013 to March 13, 2014.

The Settlement Administrator will update each Settlement Class Member's last known address through the United States Postal Service National Change of Address (NCOA) database, and, if needed, by performing a search through Accurint or similar service. Such information shall be provided solely to assist the Administrator in locating valid addresses where necessary. Cavalry will thereafter respond to reasonable written inquiries, if any, by Class Counsel concerning the procedures used in updating and maintaining the list of Settlement Class Members.

4.03. Affidavits Regarding Settlement Class Member Identification and Pre-purchase Interest Payments.

a. Within 20 days of Preliminary Approval of the Settlement Agreement, Cavalry will provide Class Counsel with an affidavit which provides: (i) a description of the process used to identify Settlement Class Members; (ii) a description of the process used to determine for each Settlement Class Member the amount of Prepurchase Interest Paid; (iii) a description of the process used to determine as to each Settlement Class Member whether Cavalry sought to collect on the Account on or after March 13, 2013; (iii) attestation that the total amount of Prepurchase Interest forgiven exceeds \$2 million.

b. Within 10 days of the entry of the Final Approval Order, Cavalry shall provide an affidavit that the amounts of outstanding Prepurchase Interest on Settlement Class Members Accounts have been forgiven, and that the Account balances have been adjusted accordingly, from an individual with knowledge of the process.

V. CLASS SETTLEMENT PROCEDURES.

5.01. Motion for Preliminary Approval. Within seven (7) days after the signing of this Agreement, Class Counsel shall file a motion for preliminary approval of the proposed settlement, which Cavalry agrees not to oppose, requesting the entry of an order in the form annexed hereto as Exhibit B, providing, among other things:

- (a) That the Settlement is preliminarily approved as being within the range of reasonableness such that notice thereof should be given to the Settlement Class;
- (b) That for purposes of settlement only, the requirements for provisional certification of the Settlement Class have been satisfied, this action shall be maintained and proceed as a class action, pursuant to Fed. R. Civ. P. 23, on behalf of the Settlement Class, and Andréa Spence shall be appointed as Class Representative and her attorneys appointed as Class Counsel;
- (c) That the notice of proposed class action settlement substantially in the form attached as Exhibit A, is approved by the Court; and that the mailing of the Notice in the manner and form set forth in the Order meets all the requirements of Fed. R. Civ. P. 23 and any other applicable law, constitutes the best notice practicable under the circumstances, and shall constitute valid, due and sufficient notice to all persons entitled thereto;
- (d) That deadlines shall be established consistent with this Settlement for mailing of the Notices, the filing of any objections, the filing of any requests to be excluded or to opt-out, the filing of any motions to intervene, and deadlines for the filing of any papers in connection with the Final Approval Hearing and the consideration of the approval or disapproval of the Settlement;
- (e) That any objections by the Settlement Class to: (i) the certification of the Settlement Class and the proposed settlement contained in the Settlement Agreement and described in the Notice, and/or (ii) the entry of the Final Approval Order, shall be heard and any papers submitted in support of such objections shall be considered by the Court at the Final Approval Hearing only if, on or before a date (or dates) to be specified in the Notice and Preliminary Approval Order, such objector timely files a written objection to the Settlement, states the basis for such objection, and serves copies of the foregoing and all other papers in support of such objections upon counsel for the Parties identified in the Notice so that such papers are actually received by such counsel by the date set by the Court. Any objections must be filed with the Court

on or before the date specified in the Notice, which shall be no later than 45 days after the mailing of the Notices;

- (f) That any person who wishes to opt out of the Settlement shall mail a notice of intention to opt-out to the Settlement Administrator on or before a date specified in the Notice and Preliminary Approval Order. The notice of intention to opt out shall: (i) set forth the Settlement Class Member's full name, current address and telephone number; and state the intent of each obligor not to participate in the Settlement. The notice of intention to opt out shall be postmarked on or before the date specified in the Notice, which shall be no later than 45 days after the mailing of the Notices;
- (g) That Class Counsel's application for an award of fees and expenses, with supporting affidavits and exhibits, shall be submitted at least 10 days prior to the Final Approval Hearing;
- (h) That the Preliminary Approval Order substantially in the form of Exhibit B to the Settlement Agreement is preliminarily approved;
- (i) That a hearing or hearings shall be held before the Court, at the respective time and date to be set by the Court, to consider and determine whether the requirements for final certification of the Settlement Class have been met and whether the proposed Settlement of the Litigation on the terms and conditions set forth in the Settlement Agreement, including as part of the Settlement, the payment of Class Counsel's attorneys' fees and reimbursement of expenses, is fair, reasonable and adequate and should be approved by the Court, and whether the judgment approving the Settlement and dismissing the Litigation on the merits and with prejudice against the Class Representative and the Settlement Class Members should be entered, and to consider such other matters as may properly come before the Court in connection with the Final Approval Hearing;
- (j) That the Final Approval Hearing may, from time to time and without further individual notice to the Settlement Class (except those who filed timely and valid objections), be continued or adjourned by order of the Court;
- (k) That all Settlement Class Members will be bound by the Preliminary Approval Order;
- (l) That the Parties shall file and serve all papers in support of the motion for entry of the Final Approval Order, which shall be substantially in the form of Exhibit C to this Settlement Agreement, for attorneys' fees and expenses, and/or in response to any valid and timely objections

received by the designated counsel for the Parties identified in the Notice on or before ten (10) days prior to the Final Approval Hearing or on a date (or dates) set by the Court.

5.02. Class Notice. Within 25 days after entry of the Order of Preliminary Approval, the Settlement Administrator will send to each Settlement Class Member a Notice in the form of Exhibit A by first class mail, postage pre-paid, addressed to the address contained in the Class List, as updated in accordance with Paragraph 4.02. The envelopes shall be marked "address correction requested." If any notices are returned with a new address, the Settlement Administrator shall remail the notice to the new address. If any notices are returned without a forwarding address, the Settlement Administrator shall perform a search for a current address through Accurint or similar service. All costs of Settlement administration, including but not limited to the costs of printing and mailing the Notices and checks to Class Members, and managing the Settlement Fund, shall be paid by Cavalry.

5.03 CAFA Notice. Cavalry shall send the notice required by Section 1715 of the Class Action Fairness Act (28 U.S.C. § 1715) to the respective Attorneys General within 10 days of filing this Agreement.

5.04. The Notice described in paragraph 5.02 above shall permit any Settlement Class Member to elect not to be part of the Settlement Class and not to be bound by this Agreement, if, within such time as is ordered by the Court and contained in the Notice, the affected person mails an appropriate opt-out notice to the Settlement Administrator, at the address contained in the notice. The notice of intention to opt out shall: (i) set forth the Settlement Class Member's full name, current address and telephone number; (ii) contain the signatures of each Settlement Class Member obligated on the Account; and (iii) state an

intent of all signatories not to participate in the Settlement. The notice of intention to opt out must be postmarked on or before the date specified in the Notice, which shall be no later than 45 days after the initial mailing of the Notices. No Settlement Class Member, or any person acting on behalf of or in concert or participation with that Settlement Class Member, may exclude any other Settlement Class Member. At least ten days prior to the Final Approval Hearing, the Settlement Administrator shall prepare a list of the persons who have complied with the requirements for exclusion from the Settlement Class and shall serve such list upon Class Counsel and Cavalry's Counsel, and Class Counsel shall file such document with the Court at least five days prior to the Final Approval Hearing and serve it upon Cavalry's Counsel at the same time. Upon the entry of the Final Approval Order, the persons who timely and properly requested exclusion from the Settlement Class will not be considered Settlement Class Members for purposes of this Agreement.

5.05. Order and Final Judgment. At or before the Final Approval Hearing the Parties shall request that the Court grant Final Approval of the Settlement and enter Final Judgment in accordance with this Agreement, substantially in the form of the Final Approval Order attached as Exhibit C, and including any modifications by the Court, approving this Agreement as final, fair, reasonable, adequate, and binding on all Settlement Class Members, ordering that the cash payments be made to the Settlement Class Members, ordering any award of attorneys' fees, costs and expenses be paid to Class Counsel, and ordering that following the making of all such payments, the Litigation shall be dismissed with prejudice as to Settlement Class Members.

VI. ADMINISTRATION OF THE SETTLEMENT.

6.01. Treatment of Payments to Settlement Class Members Who Have Died. If the Settlement Administrator receives notice that a Settlement Class Member is deceased, the Settlement Administrator will, upon receipt of proper notification and documentation, make any payment due to the Settlement Class Member's estate, or in the case of a Settlement Class Member receiving only \$20, payment may be made to an appropriate family member. "Proper notification and documentation" means, at minimum, a copy of the court filings appointing an executor, administrator or other personal representative of the estate and sufficient information as to the identity and address of the executor, administrator or personal representative to enable mailing of a check.

6.02. Uncashed/Unclaimed Checks. Those Settlement Class Members whose checks are not cashed within ninety (90) days after the Distribution Date, shall be ineligible to share in the Settlement Fund. The funds from any checks that remain uncashed after the ninety (90) day period provided herein shall be distributed to the *cy pres* beneficiary selected by the parties and approved by the Court, unless a second distribution from the class is economically feasible, as set forth in paragraph 6.05.

6.03. Notification to Class Counsel. One hundred (100) days after the Distribution Date, the Settlement Administrator shall notify Class Counsel and Cavalry's Counsel in writing of the number of Settlement Class Members, the number of Settlement Class Members sent checks, the number of Settlement Class Members who did not cash the checks, the total dollar amount of the checks distributed, and the total dollar amount of uncashed checks.

6.05. Cy Pres. Thirty days after the date the checks become void, the amount of the residue of the principal, if any, of any uncashed checks shall be reported to class counsel and

counsel for the Defendants. Within ten days of the reporting, class counsel will advise the court as to the amount of the residue and as to the economic feasibility of making a second distribution to class members. If any funds are to be donated to a charity, they shall be donated to Action for Boston Community Development (ABCD). The Settlement Administrator shall deliver the check made payable to the organization copying Cavalry's counsel and Class Counsel.

6.06. Certification of Distribution. Within twenty (20) days after the final distribution of all portions of the Settlement, the Settlement Administrator shall file a declaration certifying to the Court that the distributions provided for by this Agreement have all been timely made and shall serve a copy thereof on Class Counsel and Cavalry.

6.07. Dismissal of Claims. All claims raised in the Amended Complaint shall be dismissed with prejudice as to the Plaintiff and Settlement Class Members upon entry of the Final Approval Order, as set forth in the Final Approval Order. The Settlement Agreement does not affect any claim Cavalry may have as to Ms. Spence's Account, except as to the amount of any Prepurchase Interest, nor does it affect Ms. Spence's defenses to any such claim.

VII. RELEASES

7.01. Upon the Effective Date, the Class Representative on her own behalf and each Settlement Class Member, by operation of this Release and the Final Approval Order, hereby does and shall be deemed to have fully, finally and forever released, settled, compromised, relinquished, and discharged any and all of the Released Persons (as defined in paragraph 1.15 above) of and from any and all of the Released Claims (as defined in paragraph 1.14

above) and, without further action by any person, shall be deemed to have consented to the dismissal with prejudice of such claims as to all Settlement Class Members.

7.02. Upon the Effective Date, Cavalry hereby releases, settles, compromises, relinquishes and discharges the Settlement Class Members, including the Class Representative, from any liability for any Prepurchase Interest (as defined in paragraph 1.12 above) remaining on their Account.

VIII. MISCELLANEOUS PROVISIONS.

8.01. Parties to Use Best Efforts to Effectuate Settlement. The Parties' Counsel shall use their best efforts to cause the Court to give Preliminary Approval to this Agreement as promptly as practicable, to take all steps contemplated by this Agreement to effectuate the settlement on the stated terms and conditions and to obtain Final Approval of this Agreement.

8.02. Governing Law. This Agreement is intended to and shall be governed by the laws of the Commonwealth of Massachusetts, without regard to conflict of laws rules. This Agreement shall be enforced in the United States District Court in the District of Massachusetts. Cavalry and Settlement Class Members waive any objection that any such party may have or hereafter may have to the venue of such suit, action, or proceeding.

8.03. Entire Agreement. The terms and conditions set forth in this Agreement and the exhibits thereto constitute the complete and exclusive statement of the Class Action Settlement Agreement between the Parties relating to the Class Claims asserted in the Second Amended Complaint, superseding all previous negotiations and understandings, and may not be contradicted by evidence of any prior or contemporaneous agreement.

8.04. Modification Only in Writing. This Agreement may be altered, amended, modified or waived, in whole or in part, only in a writing signed by the Class Representative, Class Counsel and Cavalry. This Agreement may not be amended, altered, modified or waived, in whole or in part, orally.

8.05. No Ambiguity To Be Construed In Favor of Either Party. The determination of the terms of, and the drafting of, this Agreement has been by mutual agreement after negotiation, with consideration by and participation of all Parties hereto. Accordingly, this Agreement shall be considered neutral and no ambiguity shall be construed in favor or against the Parties.

8.06. Successors. This Agreement shall be binding upon, and inure to the benefit of, the respective heirs, successors and assigns of the Parties hereto.

8.07. Waivers. The waiver by one party of any provisions or breach of this Agreement shall not be deemed a waiver of any other provision or breach of this Agreement.

8.08. Counterparts. This Agreement shall become effective upon its execution by all of the undersigned. The Parties may execute this Agreement in counterparts, and execution of Counterparts shall have the same force and effect as if all Parties had signed the same instrument.

8.09. Retention of Jurisdiction. The Court shall retain jurisdiction over the interpretation, effectuation and implementation of this Agreement, and all orders entered in connection therewith and the Parties and their attorneys submit to the jurisdiction of the Court. In any action or proceeding to enforce the terms of this Agreement or the Final Approval Order and Final Judgment, the prevailing party shall be entitled to any award of reasonable attorneys' fees, costs and expenses.

8.10 Taxes. The Parties and their Counsel have provided no tax advice with respect to the terms of the Settlement. In all events Cavalry shall have no liability or responsibility for any taxes. It is understood and agreed that Class Members and Class Counsel shall be responsible for paying any taxes due on any payments made to them pursuant to the Agreement. The delivery of the Settlement Fund to the Settlement Administrator for deposit into an escrow account, in accordance with paragraph 3.02 above, shall constitute full and complete discharge of the entire obligation of Cavalry under this Agreement. Cavalry shall not have any further obligation to Plaintiff (individually or as representative of the Class) or to other Settlement Class Members under this Agreement except as otherwise specifically provided in this Agreement.

8.11. No Opt Out Solicitation or Inducement. Plaintiff and Class Counsel agree that they shall take no action which would or might have the effect of inducing or encouraging any person included in the Settlement Class to seek exclusion from the Class, provided that this provision shall not restrict Class Counsel from providing appropriate legal advice in response to inquiries from the Settlement Class.

8.12. Conditional Nature of Settlement Agreement. This Class Action Settlement Agreement, including all associated exhibits and attachments, is made for the sole purpose of attempting to consummate a settlement of this action on a class-wide basis. The Agreement is made in compromise of disputed claims. The Agreement is intended by the Parties to fully, finally and forever resolve, discharge and settle the Released Claims upon and subject to the terms and conditions set forth in this Agreement. Because this action was pled as a class action, this settlement must receive approval by the Court. Accordingly, the Parties enter into

this Agreement and associated settlement (the “Settlement”) on a conditional basis that is subject to the final approval of the Court.

8.13. Effect of Disapproval. In the event that the Court does not execute and file the Final Approval Order, substantially in the form of Exhibit C to this Agreement, or in the event that the associated Final Judgment does not become final for any reason, then this Agreement shall be deemed null and void *ab initio*; it shall be of no force or effect whatsoever; it shall not be referred to, utilized or admissible for any purpose whatsoever; and any negotiations concerning the terms of the Agreement including, without limitation, Cavalry’s provision of class-related data and the affidavit referred to in paragraph 4.06, shall remain confidential and shall not be admissible in any proceeding for any purpose, and shall be destroyed.

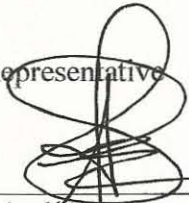
8.14. Denial of Liability; No Admissions. Cavalry denies all of the claims as to liability, damages, fees, restitution and all other forms of relief as well as the class action allegations asserted in the Litigation. Neither this Agreement, nor any of its terms and provisions, nor any of the negotiations connected with it, shall be construed as an admission or concession by Cavalry of any legal violations, any legal requirement or any failure to comply with any applicable law. Except as necessary in a proceeding to enforce the terms of this Agreement, this Agreement and its terms and provisions shall not be offered or received as evidence in any action or proceeding to establish any liability or admission on the part of Cavalry or any Released Persons or to establish any condition constituting a violation of or non-compliance with federal, state, local or other applicable law, or the propriety of class certification in any proceeding or action. The Parties expressly agree and represent that, in the event that the Court does not approve this Agreement, or any appellate court disapproves

of this Agreement in any way that prevents the Settlement from becoming final and effective, no Party will use or attempt to use any conduct or statement of any other Party in connection with this Agreement or any effort to seek approval of the Settlement to affect or prejudice any other Party's rights in any ensuing litigation. Cavalry has agreed to resolve this Litigation through this Agreement, but to the extent this Agreement is deemed void or the Effective Date does not occur, the Parties do not waive, but rather expressly reserve, all rights to challenge all such claims and allegations in the Litigation upon all procedural and factual grounds, including without limitation the ability to challenge class action treatment on any grounds or assert any and all defenses or privileges. The Parties expressly reserve all rights and defenses as to any claims and do not waive any such rights or defenses in the event that this Agreement is not approved for any reason. The Class Representative and Class Counsel agree that Cavalry and the Released Persons retain and reserve these rights and agree not to take a position to the contrary.

IN WITNESS WHEREOF, the undersigned, being duly authorized, have caused this Agreement to be executed on the dates shown below.

AGREED TO AND ACCEPTED:

Dated: 1/13/16

Class Representative
By: 
Andrea Spence

Dated: _____

Cavalry Portfolio Services, LLC

By: _____

Title: _____

Dated: _____

Cavalry SPV I, LLC

By: _____

Title: _____

AGREED TO AND ACCEPTED:

Class Representative

Dated: _____

By: _____
Andréa Spence

Dated: 1/11/2016

Cavalry Portfolio Services, LLC

By: 

Title: EVP + GC

Dated: 1/11/2016

Cavalry SPV I, LLC

By: 

Title: EVP + GC