

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Settlement Agreement” or “Agreement”) is entered into by and between TRACEY OCHE, RAFAEL COLON, and JOHN TAVERAS (“Plaintiffs”), individually and on behalf of Participating Settlement Class Members (as defined in Paragraph 20) (together “Plaintiffs”), and NATIONAL MATH AND SCIENCE INITIATIVE (“Defendant” or “NMSI”) (collectively the “Parties”), subject to preliminary and final approval by the Supreme Court of the State of New York, County of New York (the “Court”) as required by Article 9 of the Civil Practice Law and Rules.

RECITALS

WHEREAS, on or about April 13, 2022, Plaintiff TRACEY OCHE commenced an action in the United States District Court for the Northern District of Texas, Dallas Division, Case No. 3:22-cv-00834-X against NMSI alleging, *inter alia*, that NMSI failed to adequately secure personal identifiable information of Plaintiffs and the members of the putative class that may have been compromised in a data security incident affecting NMSI which occurred on or about September 23, 2021 through on or about October 18, 2021 (the “Data Incident”);

WHEREAS, on or about September 16, 2022, Plaintiff TRACEY OCHE voluntarily dismissed the action in the United States District Court for the Northern District of Texas, Dallas Division pursuant to Fed. R. Civ. P. 41(a) without prejudice and, on or about April 12, 2023 refiled the action, presently pending in the Court and captioned as *Tracey Oche et al. v. National Math and Science Initiative*, Index No. 510959/2023 (the “Action”);

WHEREAS, NMSI asserts numerous legal and factual defenses to the claims made in the Action, and specifically denies each and all of the claims and contentions alleged against it in the Action, and denies all charges of wrongdoing or liability as alleged, or which could be alleged, in the Action;

WHEREAS, the Parties, through their counsel, have engaged in extensive discussions regarding potential resolution of this matter, before ultimately reaching a settlement in principle as to all claims;

WHEREAS, the Plaintiffs and Class Counsel have concluded, after investigation of the facts and after carefully considering the circumstances of the Action, including the claims asserted in the Action, the status of the Action and the possible legal, factual and procedural defenses thereto, that it would be in the best interests of the Settlement Class to enter into this Agreement, which interests include the substantial value to be derived by this Settlement and the interest in avoiding the uncertainties of litigation and assuring that the benefits reflected herein are obtained for the Settlement Class; that the Plaintiffs considers the Settlement set forth herein to be fair, reasonable and adequate and in the best interests of the Settlement Class; and Plaintiffs and Class Counsel believe that the Settlement confers substantial benefits upon the Settlement Class;

WHEREAS, NMSI, after vigorous, arms-length negotiations, has agreed to provide certain monetary and non-monetary measures in settlement for the benefit of the Settlement Class, as provided in this Agreement;

WHEREAS, NMSI, despite its belief that it has valid and complete defenses to the claims asserted against it in the Action, has nevertheless agreed to enter into this Agreement to reduce and avoid further expense, inconvenience, and the distraction of burdensome and protracted litigation, and thereby to resolve this controversy, without any admission of wrongdoing or liability whatsoever;

NOW, THEREFORE it is agreed by and between the undersigned on behalf of NMSI and Plaintiffs, on behalf of the Settlement Class, that any and all claims asserted, or that could have been asserted, against NMSI and the Released Persons relating to the Data Incident, by and on behalf of Plaintiffs and Settlement Class Members, and any other such actions by and on behalf of any other consumers and putative classes of consumers originating, or that may originate, in jurisdictions in the United States against NMSI and the Released Persons relating to the Data Incident, subject to the approval of the Court, on the following terms and conditions.

I. DEFINITIONS

In addition to terms defined at various points within this Agreement, the following defined terms shall have the meanings set forth below:

1. “Action” means the class action lawsuit captioned as *Tracey Oche et al. v. National Math and Science Initiative*, Index No. 510959/2023, pending in the Supreme Court of the State of New York, County of Kings.
2. “Class Counsel” means: (1) Victoria Jennings Maniatis, Gary M. Klinger and David K. Lietz of Milberg Coleman Bryson Phillips Grossman, PLLC; and (2) Daniel O. Herrera and Nickolas J. Hagman of Cafferty Clobes Meriwether & Sprengel LLP.
3. “Class Representatives” means Tracey Oche, Rafael Colon and John Taveras.
4. “Court” means the Supreme Court of the State of New York.
5. “Credit Monitoring Services” means one (1) year of credit monitoring and financial fraud protection from Aura to be provided to Participating Settlement Class Members under the Settlement.
6. “Data Incident” means the data security incident affecting NMSI which occurred on or about September 23, 2021 through on or about October 18, 2021.
7. “Effective Date” means one business day following the latest of: (i) the date upon which the time expires for filing or noticing any appeal of the Judgment or one (1) business day following entry of an order granting final approval of the settlement if no parties have standing to appeal; (ii) if there is an appeal or appeals, other than an appeal or appeals solely with respect to attorneys’ fees and reimbursement of expenses, the date of completion, in a manner that finally affirms and leaves in place the Judgment without any material modification, of all proceedings arising out of the appeal(s) (including, but not limited to, the expiration of all deadlines for motions

for reconsideration or petitions for review and/or certiorari, all proceedings ordered on remand, and all proceedings arising out of any subsequent appeal(s) following decisions on remand); or (iii) the date of final dismissal of any appeal or the final dismissal of any proceeding on certiorari with respect to the Judgment.

8. “Fee Award and Costs” means the amount of attorneys’ fees and reimbursement of Litigation Costs and Expenses awarded by the Court to Class Counsel.

9. “Final Approval Order and Judgment” means an order and judgment that the Court enters after the Final Approval Hearing, which finally approves the Settlement Agreement, certifies the Settlement Class, dismisses the Action with prejudice, and otherwise satisfies the settlement-related provisions of Article 9 of the Civil Practice Law and Rules, and is consistent with all material provisions of this Agreement, substantially in the form annexed hereto as Exhibit 4.

10. “Final Approval Hearing” means the hearing to be conducted by the Court to determine the fairness, adequacy, and reasonableness of the Settlement pursuant to Article 9 of the Civil Practice Law and Rules and whether to issue the Final Approval Order and Judgment.

11. “Litigation Costs and Expenses” means costs and expenses incurred by counsel for Plaintiffs in connection with commencing, prosecuting, and settling the Action.

12. “NMSI’s Counsel” or “Defendant’s Counsel” means Brian E. Middlebrook and John T. Mills of Gordon Rees Scully Mansukhani, LLP.

13. “Net Settlement Fund” means the amount of funds that remain in the Settlement Fund after funds are paid from or allocated for payment from the Settlement Fund for the following: (i) Notice and Administrative Expenses, (ii) Taxes and Tax-Related Expenses, (iii) Service Awards Payments approved by the Court, (iv) Fee Award and Costs approved by the Court.

14. “Non-Profit Residual Recipient” means National Center for Women in Technology, subject to approval by the Court.

15. “Notice” means notice of the proposed class action Settlement to be provided to Settlement Class Members, substantially in the form attached hereto as Exhibit 1 (“Long Form Notice”) and Exhibit 2 (“Short Form Notice”)

16. “Notice Deadline” means the last day by which Notice must issue to the Settlement Class Members, and will occur thirty (30) days after entry of the Preliminary Approval Order.

17. “Notice and Administrative Expenses” means all of the expenses incurred in the administration of this Settlement, including, without limitation, all expenses or costs associated with providing Notice to the Settlement Class, locating Settlement Class Members, performing National Change of Address search(es) and/or skip tracing, processing claims, determining the eligibility of any person to be a Settlement Class Member, and administering, calculating and

distributing the Settlement Fund to Settlement Class Members. Administrative Expenses also includes all reasonable third-party fees and expenses incurred by the Settlement Administrator in administering the terms of this Agreement.

18. “Objection Deadline” is the last day on which a Settlement Class Member may file an objection to the Settlement, which will be sixty (60) days after the Notice Deadline.

19. “Opt-Out Deadline” is the last day on which a Settlement Class member may file a request to be excluded from the Settlement Class, which will be sixty (60) days after the Notice Deadline.

20. “Participating Settlement Class Member” means a Settlement Class Member who does not submit a valid Request for Exclusion prior to the Opt-Out Deadline.

21. “Preliminary Approval Order” means an order directing issuance of Notice to Settlement Class Members, determining that the Court will likely be able to approve the Settlement under Article 9 of the Civil Practice Law and Rules, and determining that the Court will likely be able to certify the Settlement Class for purposes of judgment. Such order will include the forms and procedure for providing notice to the Settlement Class, including notice of the procedure for Settlement Class Members to object to or opt-out of the Settlement, and set a date for the Final Approval Hearing, substantially in the form annexed hereto as Exhibit 3.

22. “Released Claims” means any and all claims or causes of action of every kind and description, including any causes of action in law, claims in equity, complaints, suits or petitions, and any allegations of wrongdoing, demands for legal, equitable or administrative relief (including, but not limited to, any claims for injunction, rescission, reformation, restitution, disgorgement, constructive trust, declaratory relief, compensatory damages, consequential damages, penalties, exemplary damages, punitive damages, attorneys’ fees, costs, interest or expenses) that the Releasing Parties had or have (including, but not limited to, assigned claims and any and all “Unknown Claims” as defined below) that have been or could have been asserted in the Action or in any other action or proceeding before any court, arbitrator(s), tribunal or administrative body (including but not limited to any state, local or federal regulatory body), regardless of whether the claims or causes of action are based on federal, state, or local law, statute, ordinance, regulation, contract, common law, or any other source, and regardless of whether they are known or unknown, foreseen or unforeseen, suspected or unsuspected, or fixed or contingent, arising out of, or related or connected in any way with the claims or causes of action of every kind and description that were brought, alleged, argued, raised or asserted in any pleading or court filing in the Action, including but not limited to those concerning: (1) the alleged access, disclosure and/or acquisition of Settlement Class Members’ personal information in the Data Incident; (2) NMSI’s maintenance of Settlement Class Members’ personal information as it relates to the Data Incident; (3) NMSI’s information security policies and practices as it relates to the Data Incident; and/or (4) NMSI’s provision of notice to Settlement Class Members following the Data Incident.

23. “Released Parties” means NMSI and each and every of their respective predecessors, successors, assigns, parents, subsidiaries, divisions, affiliates, departments, and any and all of their past, present, and future officers, directors, employees, stockholders, partners,

servants, agents, successors, attorneys, representatives, insurers, reinsurers, subrogees and assigns of any of the foregoing. Each of the Released Parties may be referred to individually as a “Released Party.”

24. “Releasing Parties” means the Class Representatives and Participating Settlement Class Members, and each of their respective heirs, executors, administrators, representatives, agents, partners, successors, attorneys and assigns.

25. “Request for Exclusion” is the written communication by or on behalf of a Settlement Class Member in which he or she requests to be excluded from the Settlement Class in the form and manner provided for in the Notice.

26. “Residual Settlement Fund” means the amount of funds that remain in the Settlement Fund after funds are paid from or allocated for payment from the Settlement Fund for the following: (i) Notice and Administrative Expenses, (ii) Taxes and Tax-Related Expenses, (iii) Credit Monitoring Services; (iv) Service Awards Payments approved by the Court; and (v) Fee Award and Costs approved by the Court.

27. “Service Award Payment” means compensation awarded by the Court and paid to the Class Representatives in recognition of their role in this litigation.

28. “Settlement” means the settlement of the Action by and between the Parties, and the terms thereof as stated in this Settlement Agreement.

29. “Settlement Administrator” means KCC, LLC, subject to Court approval.

30. “Settlement Class” means the persons who are identified on the Settlement Class List, including all individuals who were sent notification by NMSI that their personal information was or may have been compromised in the Data Incident. Excluded from the Settlement Class are: (1) the judges presiding over this Action, and members of their direct families; (2) NMSI, its subsidiaries, parent companies, successors, predecessors, and any entity in which NMSI or its parents have a controlling interest and their current or former officers, directors, and employees; and (3) Settlement Class Members who submit a valid a Request for Exclusion prior to the Opt-Out Deadline.

31. “Settlement Class List” means the list generated by NMSI containing the full names and current or last known addresses for Settlement Class Members, which NMSI shall provide to the Settlement Administrator within fourteen (14) days of the Preliminary Approval Order.

32. “Settlement Class Member” means an individual who falls within the definition of the Settlement Class.

33. “Settlement Fund” means the sum of Three Hundred Fifty Thousand Dollars and Zero Cents (\$350,000.00) to be paid by or on behalf of NMSI as specified in Paragraphs 36, including any interest accrued thereon after payment. This payment is the limit and extent of the

monetary obligations of NMSI, its respective predecessors, successors, assigns, parents, subsidiaries, divisions, affiliates, departments, and any and all of their past, present, and future officers, directors, employees, stockholders, partners, servants, agents, successors, attorneys, representatives, insurers, reinsurers, subrogees and assigns of any of the foregoing, with respect to this Agreement and the settlement of this matter.

34. “Settlement Website” means the website that the Settlement Administrator will establish as soon as practicable following entry of the Preliminary Approval Order, but prior to the mailing of the Notice, as a means for Settlement Class Members to obtain notice of and information about the Settlement and relevant case documents and deadlines. The Settlement Website shall contain relevant documents, including, but not limited to, the Notice, this Agreement, Plaintiffs’ motion for preliminary approval of the Settlement, the Preliminary Approval Order, Plaintiffs’ motion for an award of attorneys’ fees, costs and expenses, and/or service awards, and the operative complaint in the Action. The Settlement Website shall also include a toll-free telephone number, e-mail address, and mailing address through which Settlement Class Members may contact the Settlement Administrator directly. The Settlement Website shall not include any advertising and shall remain operational until at least ninety (90) days after all codes for Credit Monitoring Services have been distributed.

35. “Taxes and Tax-Related Expenses” means any and all applicable taxes, duties, and similar charges imposed by a government authority (including any estimated taxes, interest or penalties) arising in any jurisdiction, if any, with respect to the income or gains earned by or in respect of the Settlement Fund, including, without limitation, any taxes that may be imposed upon NMSI with respect to any income or gains earned by or in respect of the Settlement Fund for any period while it is held in the Settlement Fund.

II. SETTLEMENT FUND

36. **Establishment of Settlement Fund.** Within ten (10) days of the Preliminary Approval Order, NMSI shall deposit or cause to be deposited the total sum of Three Hundred Fifty Thousand Dollars and Zero Cents (\$350,000.00) into an interest bearing account established and administered by the Settlement Administrator at a financial institution agreed upon by the Settlement Administrator and NMSI.

37. **Non-Reversionary.** The Settlement Fund is non-reversionary. As of the Effective Date, all rights of NMSI in or to the Settlement Fund shall be extinguished, except in the event this Settlement Agreement is terminated, as described in Paragraph 63. To the extent any monies remain in the Residual Settlement Fund more than 120 days after the distribution of codes for Credit Monitoring Services to the Settlement Class Members as set forth more fully in Section III below, or 30 days after all reissued code(s) for Credit Monitoring Services are no longer valid, whichever occurs later or as otherwise agreed to by the Parties, any remaining monies shall be distributed as required by state law or to the Non-Profit Residual Recipient.

38. **Qualified Settlement Fund.** The Parties agree that the Settlement Fund is intended to be maintained as a qualified settlement fund within the meaning of Treasury Regulation § 1.468 B-1, and that the Settlement Administrator, within the meaning of Treasury Regulation § 1.468 B-

2(k)(3), shall be responsible for filing tax returns and any other tax reporting for or in respect of the Settlement Fund and paying from the Settlement Fund any Taxes and Tax-Related Expenses owed with respect to the Settlement Fund. The Parties agree that the Settlement Fund shall be treated as a qualified settlement fund from the earliest date possible and agree to any relation-back election required to treat the Settlement Fund as a qualified settlement fund from the earliest date possible. Any and all funds held in the Settlement Fund shall be held in an interest-bearing account insured by the Federal Deposit Insurance Corporation. Funds may be placed in a non-interest bearing account as may be reasonably necessary during the check clearing process. The Settlement Administrator shall provide an accounting of any and all funds in the Settlement Fund, including any interest accrued thereon and payments made pursuant to this Agreement, upon request of any of the Parties.

39. **Custody of Settlement Fund.** The Settlement Fund shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time as the entirety of the Settlement Fund is distributed pursuant to this Settlement Agreement or the balance returned to those who paid the Settlement Fund in the event this Settlement Agreement is terminated in accordance with Paragraph 63.

40. **Use of the Settlement Fund.** As further described in this Agreement, the Settlement Fund shall be used by the Settlement Administrator to pay for the following: (i) Notice and Administrative Expenses, (ii) Taxes and Tax-Related Expenses, (iii) Credit Monitoring Services; (iv) Service Awards Payments approved by the Court; and (v) Fee Award and Costs approved by the Court. Following payment of all of the above expenses, any amount remaining in the Residual Settlement Fund shall be paid to the Non-Profit Residual Recipient. No amounts may be withdrawn from the Settlement Fund unless expressly authorized by this Agreement or approved by the Court.

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

III. CREDIT MONITORING

42. **Credit Monitoring Services.** All Settlement Class Members shall be provided with a code to enroll in one (1) year of three-bureau Credit Monitoring Services provided by Aura or other comparable provider. Settlement Class Members need not submit a claim in order to receive a code for the Credit Monitoring Services. All Settlement Class Members who do not submit a

valid opt-out/exclusion request by the Opt-Out Deadline shall be eligible to receive and active Credit Monitoring Services as provided in this Agreement..

43. **Activation Timing.** The activation code(s) for the Credit Monitoring Services shall be set forth on the Short Form Notice which shall be sent by U.S. mail to all Settlement Class Members in the manner set forth in Section IX of this Agreement. Within seven (7) days of the Effective Date, the Settlement Administrator shall work with the provider of the Credit Monitoring Services to activate the codes for the Credit Monitoring Services for all Settlement Class Members who did not submit a valid opt-out/exclusion request by the Opt Out Deadline.

44. **Timing.** Settlement Class Members shall have a period of ninety (90) days from the date of activation of the codes for Credit Monitoring Services during which to enroll in the Credit Monitoring Services. The provider shall provide Credit Monitoring Services to all valid claimants who timely activate those services for a period of one (1) year from the date of activation.

45. **Deceased Class Members.** If the Settlement Administrator is notified that a Settlement Class Member is deceased, the Settlement Administrator is authorized to reissue the code(s) for Credit Monitoring Services to the Settlement Class Member's estate upon receiving proof the Settlement Class Member is deceased.

IV. CONFIRMATORY DISCOVERY

46. **Confirmatory Discovery.** Within thirty (30) days of the Preliminary Approval Order, NMSI will provide confidential confirmatory discovery to Class Counsel which will include documents showing the remedial measures taken by NMSI in response to the Data Incident, including but not limited to: migration of server infrastructure to Azure cloud-based environment with multi-factor authentication; implementation of multi-factor authentication for Microsoft Office365; migration of on-premise data to SharePoint; managed services contract including endpoint detection, anti-virus/threat detection and other remedial/protective measures; account auditing; encryption of local hard drives; patch management process; monthly vulnerability scanning; secure log management for Microsoft Office365, Active Directory, servers and other assets; anti-spam/phishing policies; DNS filter implementation; and quarterly phishing and bi-annual security awareness training to employees. NMSI represents that the costs of these remedial measures is in excess of One Hundred Fifty Thousand Dollars and Zero Cents (\$150,000.00),

47. **Confidentiality.** The information provided by NMSI pursuant to this Section IV or Paragraph 46 shall be treated as confidential and cannot be used for any purpose other than enforcement of this Settlement Agreement.

48. **No Other Rights or Remedies.** Nothing about this Section IV or Paragraphs 46-47 shall create any rights to any present or future contractual or equitable remedy requiring NMSI to make or maintain any particular security processes or procedures in the future.

IX. SETTLEMENT CLASS NOTICE

49. **Timing of Notice.** Within fourteen (14) days after the date of the Preliminary Approval Order, NMSI shall provide the Settlement Class List to the Settlement Administrator. Within thirty (30) days after the date of the Preliminary Approval Order, the Settlement Administrator shall disseminate the Short Form Notice to the members of the Settlement Class. The Settlement Administrator shall make the Long Form Notice available to Settlement Class Members on the Settlement Website.

50. **Form of Notice.** Notice shall be disseminated U.S. mail to Settlement Class Members.

X. OPT-OUTS AND OBJECTIONS

51. **Opt-Outs.** The Notice shall explain the procedure for Settlement Class Members to exclude themselves or “opt-out” of the Settlement by submitting a Request for Exclusion to the Settlement Administrator postmarked no later than sixty (60) days after the Notice Deadline. The Request for Exclusion must include the name of the proceeding, the individual’s full name, current address, personal signature, and the words “Request for Exclusion” or a comparable statement that the individual does not wish to participate in the Settlement at the top of the communication. The Notice must state that any Settlement Class Member who does not file a timely Request for Exclusion in accordance with this Paragraph will lose the opportunity to exclude himself or herself from the Settlement and will be bound by the Settlement.

52. **Objections.** The Notice shall explain the procedure for Settlement Class Members to object to the Settlement by submitting written objections to the Settlement Administrator postmarked no later than sixty (60) days after the Notice Deadline. The written objection must include (i) the name of the proceedings; (ii) the Settlement Class Member’s full name, current mailing address, and telephone number; (iii) a statement that states with specificity the legal and factual grounds for the objection, as well as any documents supporting the objection; (iv) the identity of any attorneys representing the objector; (v) a statement regarding whether the Settlement Class Member (or his/her attorney) intends to appear at the Final Approval Hearing; and (vi) the signature of the Settlement Class Member or the Settlement Class Member’s attorney. The Notice must set forth the time and place of the Final Approval Hearing (subject to change) and state that any Settlement Class Member who does not file a timely and adequate objection in accordance with this Paragraph waives the right to object or to be heard at the Final Approval Hearing and shall be forever barred from making any objection to the Settlement.

53. Within seven (7) days after the deadline for opt-out as set forth in this Paragraph and as approved by the Court, the Settlement Administrator shall furnish to counsel for the Parties a complete list of all timely and valid request for exclusions. In the event that within seven (7) days after receipt of the list from the Settlement Administrator, there have been more than twenty-five (25) Opt-Outs (exclusions), NMSI may, by notifying Class Counsel in writing, void this Agreement. If NMSI voids the Agreement pursuant to this Paragraph, NMSI shall be obligated to pay all settlement expenses already incurred, excluding any attorneys’ fees, costs, and expenses of Class Counsel and service awards.

XI. DUTIES OF THE SETTLEMENT ADMINISTRATOR

54. **Duties of Settlement Administrator.** The Settlement Administrator shall perform the functions and duties necessary to effectuate the Settlement and as specified in this Agreement, including, but not limited to, the following:

- a. Creating, administering, and overseeing the Settlement Fund;
- b. Obtaining the Settlement Class List for the purpose of disseminating Notice to Settlement Class Members;
- c. Providing Notice to Settlement Class Members via U.S. mail;
- d. Establishing and maintaining the Settlement Website;
- e. Establishing and maintaining a toll-free telephone line for Settlement Class Members to call with Settlement-related inquiries, and answering the questions of Settlement Class Members who call with or otherwise communicate such inquiries within one (1) business day;
- f. Responding to any mailed or emailed Settlement Class Member inquiries within one (1) business day;
- g. Receiving Requests for Exclusion and objections from Settlement Class Members and providing Class Counsel and NMSI's Counsel a copy thereof no later than three (3) days following the deadline for submission of the same. If the Settlement Administrator receives any Requests for Exclusion, objections, or other requests from Settlement Class Members after the Opt-Out and Objection Deadlines, the Settlement Administrator shall promptly provide copies thereof to Class Counsel and NMSI's Counsel;
- h. Working with the provider of Credit Monitoring Services to activate codes for Credit Monitoring Services within seven (7) days of the Effective Date;
- i. Providing weekly or other periodic reports to Class Counsel and NMSI's Counsel that include information regarding the number of Credit Monitoring Services activated, and any other requested information relating to the Credit Monitoring Services. The Settlement Administrator shall also, as requested by Class Counsel or NMSI's Counsel and from time to time, provide the amounts remaining in the Net Settlement Fund;
- j. In advance of the Final Approval Hearing, preparing an affidavit to submit to the Court that: (i) attests to implementation of Notice in accordance with the Preliminary Approval Order; and (ii) identifies each Settlement Class Member who timely and properly submitted a Request for Exclusion; and

- k. Performing any function related to settlement administration as provided for in this Agreement or at the agreed-upon instruction of Class Counsel or NMSI's Counsel.

55. **Limitation of Liability.** The Parties, Class Counsel, NMSI's Counsel, and NMSI's insurers and reinsurers, shall not have any liability whatsoever with respect to (i) any act, omission or determination of the Settlement Administrator, or any of its respective designees or agents, in connection with the administration of the Settlement or otherwise; (ii) the management, investment or distribution of the Settlement Fund; (iii) the formulation, design or terms of the disbursement of the Settlement Fund; (iv) the determination, administration, calculation or payment of any claims asserted against the Settlement Fund; (v) any losses suffered by or fluctuations in the value of the Settlement Fund; or (vi) the payment or withholding of any Taxes and Tax-Related Expenses.

56. **Indemnification.** The Settlement Administrator shall indemnify and hold harmless the Parties, Class Counsel, NMSI's Counsel, and NMSI's insurers and reinsurers for (i) any act or omission or determination of the Settlement Administrator, or any of Settlement Administrator's designees or agents, in connection with the Notice Plan and the administration of the Settlement; (ii) the management, investment or distribution of the Settlement Fund; (iii) the formulation, design or terms of the disbursement of the Settlement Fund; (iv) the determination, administration, calculation or payment of any claims asserted against the Settlement Fund; (v) any losses suffered by, or fluctuations in the value of the Settlement Fund; or (vi) the payment or withholding of any Taxes and Tax-Related Expenses.

XII. PRELIMINARY APPROVAL, FINAL APPROVAL, AND JURISDICTION

57. **Certification of the Settlement Class.** For purposes of this Settlement only, the Parties stipulate to the certification of the Settlement Class, which is contingent upon the Court entering the Final Approval Order and Judgment of this Settlement and the occurrence of the Effective Date. Should: (1) the Settlement not receive final approval from the Court, or (2) the Effective Date not occur, the certification of the Settlement Class shall be void. NMSI reserves the right to contest class certification for all other purposes. The Parties further stipulate to designate the Class Representatives as the representatives for the Settlement Class.

58. **Preliminary Approval.** Following execution of this Agreement, Class Counsel shall file a motion for preliminary approval of this Settlement with the Court as soon as reasonably practicable. Class Counsel shall provide NMSI's counsel with a draft of the motion for preliminary approval within a reasonable time frame prior to filing in order to enable the motion to be submitted as unopposed.

59. **Final Approval.** Class Counsel shall move the Court for a Final Approval Order and Judgment of this Settlement, to be issued following the Final Approval Hearing, within a reasonable time after the Notice Deadline, Objection Deadline, and Opt-Out Deadline. In connection with the motion for preliminary approval, counsel for the parties shall request that the Court set a date for the Final Approval Hearing that is no earlier than 90 days after entry of the Preliminary Approval Order. Class Counsel shall provide NMSI's counsel with a draft of the

motion for final approval within a reasonable time frame prior to filing in order to enable the motion to be submitted as unopposed.

60. **Jurisdiction.** The Court shall retain jurisdiction over the interpretation, implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall retain jurisdiction with respect to the administration, consummation and enforcement of the Agreement and shall retain jurisdiction for the purpose of enforcing all terms of the Agreement. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice and the Settlement Administrator. As part of its agreement to render services in connection with this Settlement, the Settlement Administrator shall consent to the jurisdiction of the Court for this purpose.

XIII. MODIFICATION AND TERMINATION

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

62. If this Agreement is not given preliminary or final approval by the Court, or if an appellate court reverses final approval of the Agreement, the Parties will seek in good faith to revise the Agreement as needed to obtain Court approval, provided, however, that no party may use subsequent legal developments or other intervening events, other than the decision(s) denying or reversing approval of the Agreement, as justification for renegotiating the settlement and further provided that any such revisions do not materially alter the terms of this Agreement or the settlement. Failing this, the Parties will be restored to their respective places in the litigation. In such event, the terms and provisions of this Agreement will have no further force or effect; the Parties' right and defenses will be restored, without prejudice, to their respective positions as if this Agreement had never been executed; and any orders entered by the Court in connection with this Agreement will be vacated.

63. **Termination.** Class Counsel (on behalf of the Settlement Class Members) and Defendant shall have the right to terminate this Agreement by providing written notice of their or its election to do so ("Termination Notice"): (1) within seven (7) days of either of the following: (a) the Court's refusal to grant preliminary approval of the Settlement in any material respect; or (b) NMSI's receipt of the opt-out list from the Settlement Administrator that includes more than twenty-five (25) Opt-Outs which right may be exercised solely by NMSI as set forth above in Paragraph 53; or (2) within fourteen (14) days of either of the following: (a) the Court's refusal to enter the Judgment in any material respect, or (b) the date upon which the Judgment is modified or reversed in any material respect by any appellate or other court.

64. **Effect of Termination.** In the event of a termination as provided in Paragraph 63, this Agreement shall be considered null and void; all of the Parties' obligations under the Agreement shall cease to be of any force and effect and the Parties shall return to the status quo ante in the Action as if the Parties had not entered into this Agreement. In addition, in the event of such a termination, all of the Parties' respective pre-Settlement claims and defenses will be preserved.

XIV. RELEASES

65. **The Release.** Upon the Effective Date, and in consideration of the Settlement benefits described herein, each Releasing Party shall be deemed to have released, acquitted, and forever discharged Defendant and each of the Released Parties from any and all Released Claims.

66. **Unknown Claims.** The Released Claims include the release of Unknown Claims. "Unknown Claims" means claims that could have been raised in the Action and that Plaintiffs, any member of the Settlement Class or any Releasing Party, do not know or suspect to exist, which, if known by him, her or it, might affect his, her or its agreement to release the Released Parties or the Released Claims or might affect his, her or its decision to agree, object or not to object to the Settlement. Upon the Effective Date, Plaintiffs, the Settlement Class, and any Releasing Party shall be deemed to have, and shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code, which provides as follows:

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

Upon the Effective Date, each of the Releasing Parties shall be deemed to have, and shall have, waived any and all provisions, rights and benefits conferred by any law of any state, the District of Columbia or territory of the United States, by federal law, or principle of common law, or the law of any jurisdiction outside of the United States, which is similar, comparable or equivalent to Section 1542 of the California Civil Code. Class Representatives, the Settlement Class, and the Releasing Parties acknowledge that they may discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of the Release, but that it is their intention to finally and forever settle and release the Released Claims, including but not limited to any Unknown Claims they may have, as that term is defined in this Paragraph.

67. **Bar to Future Suits.** Upon entry of the Final Approval Order and Judgment, the Class Representatives and other Settlement Class Members shall be enjoined from prosecuting any claim they have released in the preceding paragraphs in any proceeding against any of the Released Parties or based on any actions taken by any of the Released Parties that are authorized or required

by this Agreement or by the Final Approval Order. It is further agreed that the Settlement may be pleaded as a complete defense to any proceeding subject to this section.

XV. SERVICE AWARD PAYMENTS

68. **Service Award Payments.** At least fourteen (14) days before the Opt-Out and Objection Deadlines, Class Counsel will file a motion seeking a service award payment for the Class Representatives in recognition for their contributions to this Action. NMSI agrees not to oppose Class Counsel's request for a service award not to exceed Two Thousand Five Hundred Dollars and Zero Cents (\$2,500.00) per representative, for a total of Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00). The Settlement Administrator shall make the Service Award Payments to the Class Representatives from the Settlement Fund. Such Service Award Payment shall be paid by the Settlement Administrator, in the amount approved by the Court, no later than seven (7) days after the Effective Date.

69. **No Effect on Agreement.** In the event the Court declines to approve, in whole or in part, the payment of service awards in the amount requested, the remaining provisions of this Agreement shall remain in full force and effect. No decision by the Court, or modification or reversal or appeal of any decision by the Court, concerning the amount of the service awards shall constitute grounds for termination of this Agreement.

XVI. ATTORNEYS' FEES, COSTS, EXPENSES

70. **Attorneys' Fees and Costs and Expenses.** At least fourteen (14) days before the Opt-Out and Objection Deadlines, Class Counsel will file a motion for an award of attorneys' fees and litigation costs and expenses to be paid from the Settlement Fund. NMSI agrees not to oppose Class Counsel's request for an award of attorneys' fees and reimbursement of litigation costs and expenses not to exceed thirty percent (30%) of the Settlement's value, inclusive of both the Settlement Fund and the remedial measures discussed in Paragraph 46 hereto. Fee Award and Costs shall be paid by the Settlement Administrator from the Settlement Fund, in the amount approved by the Court, no later than seven (7) days after the Effective Date. This amount was negotiated after the primary terms of the settlement were negotiated.

71. **Allocation.** Unless otherwise ordered by the Court, Class Counsel shall have the sole and absolute discretion to allocate any approved Fee Award and Costs amongst Plaintiffs' counsel and any other attorneys for Plaintiffs. NMSI and its insurers and reinsurers shall have no liability or other responsibility for allocation of any such attorneys' fees and costs.

72. **No Effect on Agreement.** In the event the Court declines to approve, in whole or in part, the payment of attorneys' fees and costs and expenses in the amount requested, the remaining provisions of this Agreement shall remain in full force and effect. No decision by the Court, or modification or reversal or appeal of any decision by the Court, concerning the amount of the service awards shall constitute grounds for termination of this Agreement.

XVII. NO ADMISSION OF LIABILITY

73. **No Admission of Liability.** The Parties understand and acknowledge that this Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties either previously or in connection with the negotiations or proceedings connected with this Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses heretofore made, or an acknowledgment or admission by any party of any fault, liability, or wrongdoing of any kind whatsoever.

74. **No Use of Agreement.** Neither the Settlement Agreement, nor any act performed or document executed pursuant to or in furtherance of the Settlement: (i) is or may be deemed to be, or may be used as, an admission of, or evidence of, the validity of any claim made by Plaintiffs; or (ii) is or may be deemed to be, or may be used as, an admission of, or evidence of, any fault or omission by NMSI in the Action or in any proceeding in any court, administrative agency or other tribunal.

XVIII. MISCELLANEOUS

75. **Integration of Exhibits.** The exhibits to this Agreement and any exhibits thereto are a material part of the Settlement and are incorporated and made a part of the Agreement.

76. **Entire Agreement.** This Agreement, including all exhibits hereto, shall constitute the entire Agreement among the Parties with regard to the subject matter hereof and shall supersede any previous agreements, representations, communications and understandings among the Parties. This Agreement may not be changed, modified, or amended except in writing signed by all Parties, subject to Court approval. The Parties contemplate that, subject to Court approval or without such approval where legally permissible, the exhibits to this Agreement may be modified by subsequent Agreement of counsel for the Parties prior to dissemination of the Settlement Class Notice to the Settlement Class.

77. **Deadlines.** If any of the dates or deadlines specified herein falls on a weekend or legal holiday, the applicable date or deadline shall fall on the next business day. All reference to “days” in this agreement shall refer to calendar days unless otherwise specified.

78. **Singular and Plurals.** As used in this Agreement, all references to the plural shall also mean the singular and to the singular shall also mean the plural whenever the context so indicates.

79. **Headings.** The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

80. **Construction.** For the purpose of construing or interpreting this Agreement, the Parties agree that this Agreement is to be deemed to have been drafted equally by all Parties hereto and shall not be construed strictly for or against any Party.

81. **Cooperation of Parties.** The Parties to this Agreement agree to cooperate in good faith to prepare and execute all documents, to seek Court approval, defend Court approval, and to do all things reasonably necessary to complete and effectuate the Settlement described in this Agreement.

82. **Obligation to Meet and Confer.** Before filing any motion in the Court raising a dispute arising out of or related to this Agreement, the Parties shall consult with each other and certify to the Court that they have consulted in good faith.

83. **No Conflict Intended.** Any inconsistency between the headings used in this Agreement and the text of the paragraphs of this Agreement shall be resolved in favor of the text.

84. **Governing Law.** The Agreement shall be construed in accordance with, and be governed by, the laws of the State of New York, without regard to the principles thereof regarding choice of law.

85. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all signatories do not sign the same counterparts. Original signatures are not required. Any signature submitted electronically, by facsimile, or through e-mail of an Adobe PDF shall be deemed an original.

86. **Notices.** All notices to Class Counsel provided for herein, shall be sent by overnight mail and email to:

Victoria Jennings Maniatis

Gary M. Klinger

David K. Lietz

MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN, PLLC

100 Garden City Plaza, Suite 500

Garden City, New York 11530

vmaniatis@milberg.com

gklinger@milberg.com

dlietz@milberg.com

Daniel O. Herrera

Nickolas Hagman

CAFFERTY CLOBES MERIWETHER & SPRENGEL, LLP

135 South LaSalle Street, Suite 3210

Chicago, Illinois 60603

dherrera@caffertyclobes.com

nhagman@caffertyclobes.com

All notices to NMSI provided for herein, shall be sent by overnight mail and email to:

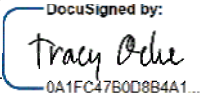
Brian E. Middlebrook
John T. Mills
GORDON REES SCULLY MANSUKHANI, LLP
One Battery Park Plaza
New York, New York 10004
bmiddlebrook@grsm.com
jtmills@grsm.com

The notice recipients and addresses designated above may be changed by written notice.

87. **Authority.** Any person executing this Agreement in a representative capacity represents and warrants that he or she is fully authorized to do so and to bind the Party on whose behalf he or she signs this Agreement to all of the terms and provisions of this Agreement.

SIGNATURES

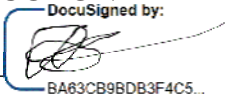
TRACEY OCHE

By:  _____
0A1FC47B0D8B4A1...

Date: 8/29/2023

Title: _____

RAFAEL COLON

By:  _____
BA63CB9BDB3F4C5...

Date: 9/24/2023

Title: _____

JOHN TAVERAS

By: John Taveras _____

Date: 09/26/2023

Title: _____

MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN, PLLC

Counsel for Plaintiffs and the Class

By: David K. Lietz _____

Date: September 27, 2023

Name: David K. Lietz _____

CAFFERTY CLOBES MERIWETHER & SPRENGEL LLP

Counsel for Plaintiffs and the Class

By:  _____

Date: 09/26/2023 _____

Name: Daniel Herrera _____

NATIONAL MATH AND SCIENCE INITIATIVE

By: _____

Date: _____

Title: _____

GORDON REES SCULLY MANSUKHANI, LLP

Counsel for Defendant (as to form only)

By: _____

Date: _____

Name: _____

CAFFERTY CLOBES MERIWETHER & SPRENGEL LLP
Counsel for Plaintiffs and the Class

By: _____

Date: _____

Name: _____

NATIONAL MATH AND SCIENCE INITIATIVE

By: DocuSigned by:
Tammy Knapp
EFCC259BC921491... _____

Date: September 6, 2023 | 6:17 AM PDT

Title: Tammy Knapp
CFO

GORDON REES SCULLY MANSUKHANI, LLP
Counsel for Defendant (as to form only)

By: DocuSigned by:
Brian Middlebrook
41CB8B757589414... _____

Date: August 31, 2023 | 7:41 AM PDT

Name: Brian Middlebrook

EXHIBIT 1

SUPREME COURT FOR THE STATE OF NEW YORK, COUNTY OF KINGS*Tracy Oche, et al. v. National Math and Science Initiative*, Index No. 510959/2023**If National Math and Science Initiative notified you of a Data Incident in or around February 2022, you are eligible to enroll at no cost in financial protection services.***A court authorized this Notice. This is not a solicitation from a lawyer.**Si necesita ayuda en español, comuníquese con el administrador al [insertar número].*

- A Settlement has been reached in a class action lawsuit against National Math and Science Initiative (“NMSI” or “Defendant”) concerning a data security incident that occurred in or around September 2021 through October 2021 (the “Data Incident”).
- The lawsuit is called *Tracy Oche, et al. v. National Math and Science Initiative*, Index No. 510959/2023 (the “Action”). The lawsuit alleges that the Data Incident potentially exposed certain personal identifying information (“PII”) of Plaintiffs and the members of the putative class.
- The Settlement Class includes all individuals who were sent notification by NMSI that their personal information was or may have been compromised in the Data Incident. It excludes: (i) the Judge(s) presiding over this Action, and members of their direct families; (ii) NMSI, its subsidiaries, parent companies, successors, predecessors, and any entity in which NMSI or its parents have a controlling interest and their current or former officers, directors, and employees; and (iii) all Class Members who timely and validly request exclusion from the Settlement Class.
- Your legal rights are affected regardless of whether you act. Please read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
EXCLUDE YOURSELF FROM THE SETTLEMENT	You will receive no credit monitoring services, but you will retain any rights you currently have with respect to Defendant and the issues in this case. The deadline to exclude yourself from the Settlement is [Claim Deadline] .
OBJECT TO THE SETTLEMENT	Write to the Settlement Administrator explaining why you do not agree with the Settlement. The deadline to object is [Claim Deadline] .
ATTEND THE FINAL APPROVAL HEARING	You or your attorney may attend and speak about your objection at the Final Approval Hearing. The Final Approval Hearing will be held on [_____], 202_ .
DO NOTHING	You will remain in the Settlement Class and be subject to the Release. If Final Approval of the Settlement is granted, the code for credit

	monitoring services provided in the Notice sent to you will be activated by the Settlement Administrator.
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- These rights and options, and the deadlines to exercise them, are explained in this Notice. For complete details, please see the Settlement Agreement, whose terms control, available at [\[WEBSITE\]](#).
- The Court in charge of this case still has to decide whether to approve the Settlement. The code for credit monitoring services provided in the Notice sent to you will only be activated if the Court approves the Settlement and it becomes final.

BASIC INFORMATION

1. What is this Notice and why should I read it?

The Court authorized this Notice to inform you about a proposed Settlement with NMSI. You have legal rights and options that you may act on before the Court decides whether to approve the proposed Settlement. This Notice explains the lawsuit, the Settlement, and your legal rights.

The case is called *Tracey Oche, et al. v. National Math and Science Initiative*, Supreme Court of the State of New York, County of Kings, Index No. 510959/2023.

2. What is a class action lawsuit?

A class action is a lawsuit in which one or more plaintiffs—in this case, Plaintiffs and Settlement Class Representatives Tracey Oche, Rafael Colon and John Taveras—sue on behalf of a group of people who have similar claims. Together, this group is called a “Class” and consists of “Class Members.” In a class action, the court resolves the issues for all class members, except those who exclude themselves from the class.

THE CLAIMS IN THE LAWSUIT AND THE SETTLEMENT

3. What is this lawsuit about?

Plaintiffs claim that Defendant failed to implement and maintain reasonable security measures to adequately protect the PII in its possession and to prevent the Data Incident from occurring. Defendant denies that it is liable for the claims made in the lawsuit and denies any allegations of wrongdoing. More information about the complaint in the lawsuit can be found on the Settlement Website at [\[WEBSITE\]](#).

4. Why is there a Settlement?

The Court has not decided whether the Plaintiffs or Defendant should win this case. Instead, both sides agreed to this Settlement. That way, they can avoid the uncertainty, risks, and expense of ongoing litigation, and Settlement Class Members will be eligible to get compensation now rather than years later—if ever. The Settlement Class Representatives and attorneys for the Settlement

Class Members, called Class Counsel, agree the Settlement is in the best interests of the Settlement Class Members. The Settlement is not an admission of wrongdoing by the Defendant.

WHO'S INCLUDED IN THE SETTLEMENT?

5. How do I know if I am in the Settlement Class?

You are part of the Settlement as a Settlement Class Member if you received a notification letter from NMSI stating that your PII was or may have been compromised in the Data Incident.

Settlement Class Members will have been mailed notice of their eligibility. If you are still not sure whether you are included, you can contact the Settlement Administrator by calling [PHONE NUMBER], by emailing [EMAIL], or by visiting [WEBSITE].

This Settlement Class does not include: (i) the Judge(s) presiding over this Action, and members of their direct families; (ii) NMSI, its subsidiaries, parent companies, successors, predecessors, and any entity in which NMSI or its parents have a controlling interest and their current or former officers, directors, and employees; and (iii) all Class Members who timely and validly request exclusion from the Settlement Class.

THE SETTLEMENT BENEFITS

6. What does the Settlement provide?

Under the proposed Settlement, NMSI will pay (or cause to be paid) \$350,000.00 into a Settlement Fund. The Settlement Fund, plus interest accrued thereon, will pay notice and administration costs, Court-approved attorneys' fees and costs, Court-approved service awards for class representatives, and certain Settlement Fund taxes and tax expenses (the "Net Settlement Fund"). The Net Settlement Fund will be used to provide eligible Settlement Class Members with Credit Monitoring Services described below.

Credit Monitoring Services: The Settlement will provide Credit Monitoring Services to all Settlement Class Members. The code to enroll in the Credit Monitoring Services was provided in the Notice sent to you. If the Settlement is approved by the Court and becomes final, the Settlement Administrator will activate the codes for the Credit Monitoring Services. The Credit Monitoring Services include one (1) year of three-bureau credit monitoring services provided by Aura or other comparable provider.

Confirmatory Discovery: NMSI has also agreed to provide documents and information to Class Counsel showing that they have taken data security measures to remedy the issues that led to the Data Security Incident and has implemented other business practices to help ensure information security. The costs associated with these data security measures are paid separate from the Settlement Fund.

For complete details, please see the Settlement Agreement, whose terms control, available at [WEBSITE].

HOW TO GET BENEFITS

7. Do I need to make a Claim?

You do not need to make a claim to receive Credit Monitoring Services or other benefits under the Settlement. If the Settlement is approved by the Court and becomes final, the Settlement Administrator will activate the codes for the Credit Monitoring Services which are contained on the Notice sent to you.

8. When will I get my credit monitoring services?

The hearing to consider the fairness of the Settlement is scheduled for [REDACTED], 202_. If the Court approves the Settlement, the Settlement Administrator will activate the codes for the Credit Monitoring Services which are contained on the Notice sent to you within seven (7) days of the Effective Date.

THE LAWYERS REPRESENTING YOU

9. Do I have a lawyer in this case?

Yes, the Court has appointed Milberg Coleman Bryson Phillips Grossman, PLLC and Cafferty Clobes Meriwether & Sprengel, LLP as “Class Counsel” to represent you and all class members. You will not be charged for these lawyers. You can ask your own lawyer to appear in Court for you at your own expense if you want someone other than Class Counsel to represent you.

10. How will the lawyers be paid?

To date, Class Counsel has not received any payment for their services in conducting this litigation on behalf of the Class and have not been paid for their out-of-pocket expenses. Class Counsel will ask the Court for an award of attorneys’ fees and costs and expenses which were incurred in connection with the Action, not to exceed 30% of the Settlement’s value, inclusive of both the Settlement Fund and the remedial measures discussed in the Settlement Agreement. Class Counsel will also request a service award of \$2,500.00 for each Settlement Class Representative. The Court will determine the proper amount of any attorneys’ fees, costs, and expenses to award Class Counsel and the proper amount of any service awards to Plaintiffs. Class Counsel will file their request for attorneys’ fees, costs, and expenses and Service Awards for Plaintiffs with the Court, which will also be posted on the Settlement Website, at [WEBSITE]. Any attorneys’ fees, costs and expenses and service award approved by the Court will be paid from the Settlement Fund.

YOUR RIGHTS AND OPTIONS

11. What claims do I give up by participating in this Settlement?

If you do not exclude yourself from the Settlement, you will not be able to sue Mason Tenders about the Data Incident, and you will be bound by all decisions made by the Court in this case, the Settlement, and its included Release. This is true regardless of whether you activate the code for Credit Monitoring Services. However, you may exclude yourself from the Settlement (*see* Question 14). If you exclude yourself from the Settlement, you will not be bound by any of the Released Claims, which are described in the Settlement Agreement at [\[WEBSITE\]](#).

12. What happens if I do nothing at all?

If you do nothing, you will be in the Settlement Class, and if the Court approves the Settlement, you will also be bound by all orders and judgments of the Court, the Settlement, and its included Release. You will be deemed to have participated in the Settlement and will be subject to the provisions of Section 11 above. Unless you exclude yourself, you won't be able to file a lawsuit or be part of any other lawsuit against NMSI for the claims or legal issues released in this Settlement. You will remain in the Settlement Class and be subject to the Release. If Final Approval of the Settlement is granted, the code for credit monitoring services provided in the Notice sent to you will be activated by the Settlement Administrator.

13. What happens if I ask to be excluded?

If you exclude yourself from the Settlement, you will receive no benefits under the Settlement. However, you will not be in the Settlement Class and will not be legally bound by the Court's judgments related to the Settlement Class and NMSI in this class action.

14. How do I ask to be excluded?

You can ask to be excluded from the Settlement. To do so, you must send a letter to the Settlement Administrator stating that you want to be excluded from the Settlement in *Tracey Oche, et al. v. National Math and Science Initiative*, Index No. 510959/2023. Your letter must include: (1) the name of the proceeding; (2) your full name and current address; (3) a statement that you wish to be excluded from the Settlement Class; and (4) your signature. You must mail your exclusion request, postmarked no later than [\[OPT OUT DEADLINE\]](#), to the following address:

[National Math and Science Initiative Data Incident Settlement Administrator](#)
[\[InsertAddress\]](#)

You cannot exclude yourself by phone or email. Any individual who wants to be excluded from the Settlement must submit his or her own exclusion request. No group opt-outs shall be permitted.

15. If I don't exclude myself, can I sue NMSI for the same thing later?

No. Unless you exclude yourself, you give up any right to sue NMSI for the claims or legal issues released in this Settlement, even if you do nothing.

16. If I exclude myself, can I get anything from this Settlement?

No. If you exclude yourself, the code for Credit Monitoring Services in the Notice sent to you will not be activated by the Settlement Administrator.

17. How do I object to the Settlement?

If you do not exclude yourself from the Settlement Class, you can object to the Settlement if you do not agree with any part of it. You can give reasons why you think the Court should deny approval by filing an objection. To object, you must mail a written objection to the Settlement Administrator stating that you object to the Settlement in *Tracey Oche, et al. v. National Math and Science Initiative*, Index No. 510959/2023. Your objection must be filed no later than **[OBJECTION DEADLINE]**.

The objection must be in writing and be personally signed by you. The objection must include: (i) the name of the proceedings; (ii) your full name, current mailing address, and telephone number; (iii) a statement that states with specificity the grounds for your objection, as well as any documents supporting the objection; (iv) the identity of any attorneys representing you; (v) a statement regarding whether you or your attorney intend to appear and/or wish to be heard at the Final Approval Hearing; and (vi) your signature or the signature of your attorney.

You must mail the objection to the Settlement Administrator at the address listed below, postmarked no later than **[OBJECTION DEADLINE]**:

National Math and Science Initiative Data Incident Settlement Administrator
[InsertAddress]

18. What's the difference between objecting and excluding myself from the Settlement?

Objecting simply means telling the Court that you don't like something about the Settlement. You can object only if you stay in the Settlement Class. Excluding yourself from the Settlement Class is telling the Court that you don't want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

THE COURT'S FAIRNESS HEARING

19. When and where will the Court hold a hearing on the fairness of the Settlement?

The Court will hold the Final Approval Hearing on [InsertHearingDate] at the Courthouse located at [Insert Address or Videoconference Information]. The purpose of the hearing is for the Court to determine whether the Settlement is fair, reasonable, adequate, and in the best interests of the Settlement Class. At the hearing, the Court will hear any objections and arguments concerning the fairness of the proposed Settlement, including those related to the amount requested by Class Counsel for attorneys' fees, costs, and expenses and the service awards to Plaintiffs.

The location, date and time of the Final Approval Hearing are subject to change by Court order. Any changes will be posted at the Settlement Website, [WEBSITE], or through the Court's publicly available docket. You should check the Settlement Website to confirm the date and time have not been changed.

20. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. But you are welcome to attend the hearing at your own expense. If you send an objection, you don't have to come to Court to talk about it. If your written objection was filed or mailed on time and meets the other criteria described in the Settlement, the Court will consider it. However, you may appear on your behalf or pay a lawyer to attend on your behalf to assert your objection if you would like.

21. May I speak at the hearing?

Yes. If you do not exclude yourself from the Settlement Class, you (or your attorney) may appear and speak at the Final Approval Hearing concerning any part of the proposed Settlement.

GETTING MORE INFORMATION

22. Where can I get additional information?

This Notice summarizes the proposed Settlement. More details are in the Settlement Agreement, which is available at [WEBSITE] or by writing to [InsertAddress].

23. How do I get more information?

Go to [WEBSITE], call [InsertToll-FreeNumber], email [InsertEmail] or write to [INSERTADDRESS].

PLEASE DO NOT CALL THE COURT, THE CLERK OF THE COURT, THE JUDGE, OR THE DEFENDANT WITH QUESTIONS ABOUT THE SETTLEMENT OR CLAIMS PROCESS.

EXHIBIT 2

IF YOU WERE NOTIFIED BY NATIONAL MATH AND SCIENCE INITIATIVE REGARDING A DATA SECURITY INCIDENT IN OR AROUND FEBRUARY 2022, YOU ARE ELIGIBLE TO ENROLL AT NO COST IN FINANCIAL PROTECTION SERVICES

Si desea recibir esta notificación en español, llámenos o visite nuestra página web.

A settlement has been reached in a class action lawsuit against National Math and Science Initiative (“NMSI” or “Defendant”) relating to cyberattack against NMSI’s computer systems that occurred in or around September 2021 through October 2021 (the “Data Incident”). The case is *Tracey Oche, et al. v. National Math and Science Initiative*, Index No. 510959/2023, pending in the Supreme Court of the State of New York, County of Kings (the “Action”). The computer systems possibly affected by the Data Incident potentially contained personal information of certain individuals. The Plaintiffs claim that NMSI was responsible for the Data Incident. NMSI denies all of the claims

WHO IS INCLUDED? NMSI’s records show you received a notification from NMSI regarding the Data Incident, and, therefore, you are included in this Settlement as a “Settlement Class Member” unless you opt out of the Settlement.

SETTLEMENT BENEFITS. The Settlement establishes a \$350,000.00 fund to pay for the costs of notice and administration, certain taxes, service award payments, attorney fee awards and costs as awarded by the Court, and Credit Monitoring Services to all Settlement Class Members. All Settlement Class Members may enroll, at no cost, in one year of *Financial Shield*. *Financial Shield* is a powerful monitoring service that focuses on protecting individuals’ assets, including financial accounts, home, properties and more.

HOW DO I OBTAIN THESE BENEFITS? The *Financial Shield* enrollment website will not be active until after the Settlement is approved by the Court and becomes effective, and you will need the 16-digit activation code printed on this notice to enroll. To receive an email alert and additional instructions when the *Financial Shield* enrollment period begins, please visit the following website and enter the *Financial Shield* Activation Code and ID Number printed on this notice: [WEBSITE]. We anticipate that the *Financial Shield* enrollment website will be activated on or around **Month Day, 2023**.

OTHER OPTIONS. If you do nothing, you will remain in the class, and you will be bound by the decisions of the Court and give up your rights to sue NMSI for the claims resolved by this Settlement. If you would like to opt out/exclude yourself from the Settlement Class, you must mail your exclusion request, postmarked no later than [OPT OUT DEADLINE] to the Settlement Administrator. If you do not agree with any part of the Settlement, you must mail your objection, postmarked no later than [OBJECTION DEADLINE] to the Settlement Administrator.

FOR MORE INFORMATION. Please visit the website or call 1-XXX-XXX-XXXX for a copy of the more detailed notice. On **Month Day, 2023**, the Court will hold a Fairness Hearing to determine whether to approve the Settlement, Class Counsel’s request for attorneys’ fees and litigation expenses of up to 30% of the total value of the settlement, or \$166,666.67, and an incentive awards of \$2,500 for the Representative Plaintiffs. The Motion for attorneys’ fees and expenses and service awards will be posted on the website after it is filed. You or your own lawyer, if you have one, may ask to appear and speak at the hearing at your own cost, but you do not have to. This is only a summary. For more information, call or visit the website below.

[WEBSITE]

1-XXX-XXX-XXXX

EXHIBIT 3

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS**

<p>TRACEY OCHE, individually and on behalf of all others similarly situated,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>NATIONAL MATH AND SCIENCE INITIATIVE,</p> <p style="text-align: center;">Defendant.</p>	<p style="text-align: center;">Index No. 510959/2023</p> <p style="text-align: center;">[PROPOSED] PRELIMINARY APPROVAL ORDER</p>
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WHEREAS, a putative class action is pending in this Court entitled *Tracey Oche, et al. v. National Math and Science Initiative*, Index No. 510959/2023 (the “Action”);

WHEREAS, Plaintiffs TRACEY OCHE, RAFAEL COLON and JOHN TAVERAS, individually and on behalf of all others similarly situated (“Plaintiffs”) and Defendant NATIONAL MATH AND SCIENCE INITIATIVE (“Defendant”) have entered into a Settlement Agreement (the “Settlement Agreement”) that settles the above-captioned litigation and provides for a complete dismissal with prejudice of the claims asserted against Defendant in the Action on the terms and conditions set forth in the Settlement Agreement, subject to the approval of the Court;

WHEREAS, Plaintiffs have made an application, pursuant to Article 9 of the Civil Practice Law and Rules, for an order preliminarily approving the Settlement in accordance with the Settlement Agreement, certifying the Settlement Class for purposes of the Settlement only, appointing Plaintiffs as Settlement Class Representatives, appointing Class Counsel as counsel for the Settlement Class, appointing KCC, LLC as Settlement Administrator, and allowing notice to Settlement Class Members as more fully described herein;

WHEREAS, the Court has read and considered: (a) Plaintiffs’ motion for preliminary approval of the Settlement, and the papers filed and arguments made in connection therewith; (b)

the Settlement Agreement and exhibits attached thereto; and (c) all prior pleadings and proceedings heretofore had herein; and

WHEREAS, unless otherwise defined herein, the capitalized terms herein shall have the same meaning as they have in the Settlement Agreement.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. **Class Certification for Settlement Purposes Only**. For settlement purposes only and pursuant to CPLR §§ 901(a), 903, and 907, the Court certifies, solely for purposes of effectuating the proposed Settlement, a Settlement Class in this matter defined as follows:

All persons who were sent notification by NMSI that their personal information was or may have been compromised in the Data Incident.

The Settlement Class includes approximately 192,033 people. The Settlement Class specifically excludes: (1) the judges presiding over this Action, and members of their direct families; (2) NMSI, its subsidiaries, parent companies, successors, predecessors, and any entity in which NMSI or its parents have a controlling interest and their current or former officers, directors, and employees; and (3) Settlement Class Members who submit a valid a Request for Exclusion prior to the Opt-Out Deadline.

2. **Class Findings**: The Court provisionally finds, for settlement purposes only, that the requirements of CPLR § 901(a) have been met, including: (a) the Settlement Class is so numerous that joinder of all Settlement Class Members would be impracticable; (b) there are issues of law and fact common to the Settlement Class; (c) the claims of the Settlement Class Representatives are typical of and arise from the same operative facts and seek similar relief as the claims of the Settlement Class Members; (d) the Settlement Class Representatives and Settlement Class Counsel will fairly and adequately protect the interests of the Settlement Class as the Settlement Class Representatives has no interest antagonistic to or in conflict with the Settlement

Class and has retained experienced and competent counsel to prosecute this matter on behalf of the Settlement Class; (e) questions of law or fact common to Settlement Class Members predominate over any questions affecting only individual members; and (f) a class action and class settlement is superior to other methods available for a fair and efficient resolution of this controversy.

3. **Settlement Class Representatives and Settlement Class Counsel:** TRACEY OCHE, RAFAEL COLON and JOHN TAVERAS are hereby provisionally designated and appointed as the Settlement Class Representatives. The Court provisionally finds that the Settlement Class Representative are similarly situated to absent Class Members and therefore typical of the Class and that they will be adequate Settlement Class Representatives.

The Court finds that Victoria Jennings Maniatis, Gary M. Klinger and David K. Lietz of Milberg Coleman Bryson Phillips Grossman, PLLC and Daniel O. Herrera and Nickolas J. Hagman of Cafferty Clobes Meriwether & Sprengel, LLP are experienced and adequate counsel and are hereby provisionally designated as Settlement Class Counsel.

4. **Preliminary Settlement Approval.** The Court hereby preliminarily approves the Settlement, as embodied in the Settlement Agreement, as being fair, reasonable and adequate to the Settlement Class, subject to further consideration at the Final Approval Hearing to be conducted as described below.

5. **Final Approval Hearing.** A Final Approval Hearing shall be held on _____ at ____: __.m. on _____, 2023, in the Supreme Court of the State of New York, County of Kings, at the Courthouse located at _____, _____, _____, _____ [by videoconference] for the following purposes: (a) to determine whether the proposed Settlement on the terms and conditions provided for in the Settlement Agreement is fair, reasonable and

adequate to the Settlement Class; (b) to determine whether a proposed Judgment substantially in the form annexed to the Settlement Agreement as Exhibit 4 should be entered dismissing the Action with prejudice against Defendants; (c) to determine whether the motion of Settlement Class Counsel for a Fee Award and Costs should be approved; (d) to determine whether the motion of the Settlement Class Representatives for Service Award Payment(s) should be approved; and (e) to consider any other matters that may be properly brought before the Court in connection with the Settlement. Notice of the Settlement and the Final Approval Hearing shall be given to the Settlement Class Members as set forth in Paragraph 7 of this Order.

6. The Court may adjourn the Final Approval Hearing without further notice to the Settlement Class Members, and may approve the proposed Settlement with such modifications as the Parties may agree to, if appropriate, without further notice to the Settlement Class Members.

7. **Retention of Claims Administrator and Manner of Giving Notice.** Class Counsel is hereby authorized to retain KCC, LLC (the “Settlement Administrator”) to supervise and administer the notice procedure in connection with the proposed Settlement as well as the processing of Claims as set forth more fully in the Settlement Agreement.

8. **Approval of Form and Content of Notice.** The Court (a) approves, as to form and content, the Long Form Notice and the Short Form Notice, attached to the Settlement Agreement as Exhibits 1 and 2, and (b) finds that the mailing and distribution of the Notice as set forth in the Settlement Agreement (i) is the best notice practicable under the circumstances; (ii) constitutes notice that is reasonably calculated, under the circumstances, to apprise the Settlement Class Members of the pendency of the Action, of the effect of the proposed Settlement (including the releases to be provided thereunder), of Class Counsel’s request for Fee Award and Costs, of Settlement Class Representatives’ request(s) for Service Award Payment(s), of their right to object

to the Settlement, Class Counsel's request for Fee Award and Costs, and/or Settlement Class Representatives' request(s) for Service Award Payment(s), of their right to exclude themselves from the Settlement Class, and of their right to appear at the Final Approval Hearing; (iii) constitutes due, adequate and sufficient notice to all persons entitled to receive notice of the proposed Settlement; and (iv) satisfies the requirements of CPLR §§ 904 and 908, the United States Constitution (including the Due Process Clause), and all other applicable law and rules. The date and time of the Final Approval Hearing shall be included in the Notice before they are mailed and distributed.

9. **Participation in the Settlement.** Settlement Class Members need not submit a claim in order to qualify for benefits under the Settlement. If Final Order and Judgment is entered, all Settlement Class Members who do not exclude themselves from the Settlement shall receive Credit Monitoring Services in the manner provided for in the Settlement Agreement, and will in all other respects be subject to and bound by the provisions in the Settlement Agreement, the Release included in that Settlement Agreement, and the Final Order and Judgment.

10. **Distribution and Allocation Plan.** Settlement Class Representatives and Defendants have created a process for distributing and activating the codes for the Credit Monitoring Services to Settlement Class Members. The Court preliminarily approves the process described in the Settlement Agreement and directs that the Settlement Administrator effectuate the distribution of Settlement consideration according to the terms of the Settlement Agreement, should the Settlement be finally approved.

11. **Exclusion from Class.** Any Settlement Class Member who wishes to be excluded from the Settlement Class must mail a written notification of the intent to exclude himself or herself from the Settlement Class to the Settlement Administrator at the address provided in the Notice,

postmarked no later than **60 Days from the date of Notice** (the “Opt-Out Period”). The written notification must include the name of the proceeding, the individual’s full name, current address, personal signature, and the words “Request for Exclusion” or a comparable statement that the individual does not wish to participate in the Settlement at the top of the communication.

Any Settlement Class Member who does not timely and validly exclude herself or himself from the Settlement shall be bound by the terms of the Settlement Agreement. If Final Order and Judgment is entered, any Settlement Class Member who has not submitted a timely, valid written notice of exclusion from the Settlement Class shall be bound by all proceedings, orders, and judgments in this matter, including but not limited to the Release set forth in the Final Order and Judgment, including Settlement Class Members who have previously initiated or who subsequently initiate any litigation against any or all of the Released Persons relating to the claims and transactions released in the Settlement Agreement. All Settlement Class Members who submit valid and timely notices of exclusion from the Settlement Class shall not be entitled to receive any benefits of the Settlement.

12. **Objections and Appearances**. No Settlement Class Member shall be heard, and no papers, briefs, pleadings, or other documents submitted by any Settlement Class Member shall be received and considered by the Court, unless the objection is mailed first-class postage prepaid to the Settlement Administrator at the addresses listed in the Notice, and postmarked by no later than the Objection Date, as specified in the Notice. For an objection to be considered by the Court, the objection must also include all of the information set forth in Paragraph 52 of the Settlement Agreement, which is as follows: (i) the name of the proceedings; (ii) the Settlement Class Member’s full name, current mailing address, and telephone number; (iii) a statement that states with specificity the grounds for the objection, as well as any documents supporting the objection;

(iv) the identity of any attorneys representing the objector; (v) a statement regarding whether the Settlement Class Member (or his/her attorney) intends to appear and wishes to be heard at the Final Approval Hearing; and (vi) the signature of the Settlement Class Member or the Settlement Class Member's attorney.

13. Any Settlement Class Member who fails to comply with the provisions in Paragraph 12 may waive and forfeit any and all rights he or she may have to object, and shall be bound by all the terms of the Settlement Agreement, this Order, and by all proceedings, orders, and judgments in this matter, including, but not limited to, the release in the Settlement Agreement if Final Order and Judgment is entered. If Final Order and Judgment is entered, any Settlement Class Member who fails to object in the manner prescribed herein shall be deemed to have waived his or her objections and shall be forever barred from making any such objections in this action or in any other proceeding or from challenging or opposing, or seeking to reverse, vacate, or modify any approval of the Settlement Agreement, the Service Award Request, or the Fee Request.

14. **Termination of Settlement.** This Order shall become null and void and shall be without prejudice to the rights of the Parties, all of whom shall be restored to their respective positions existing as of the date of the execution of the Settlement Agreement if the Settlement is not finally approved by the Court or is terminated in accordance with the Settlement Agreement. In such event, the Settlement and Settlement Agreement shall become null and void and be of no further force and effect, and neither the Settlement Agreement nor the Court's orders, including this Order, relating to the Settlement shall be used or referred to for any purpose whatsoever.

15. **Use of Order.** This Order shall be of no force or effect if Final Order and Judgment is not entered or there is no Effective Date and shall not be construed or used as an admission, concession, or declaration by or against Defendants of any fault, wrongdoing, breach, liability, or

the certifiability of any class. Nor shall this Order be construed or used as an admission, concession, or declaration by or against the Settlement Class Representative or any other Settlement Class Member that his or her claim lacks merit or that the relief requested is inappropriate, improper, unavailable, or as a waiver by any Party of any defense or claim he, she, or it may have in this litigation or in any other lawsuit.

16. **Stay of Proceedings and Temporary Injunction.** Until otherwise ordered by the Court, the Court stays all proceedings in the Action other than proceedings necessary to carry out or enforce the terms and conditions of the Settlement Agreement. Pending final determination of whether the Settlement should be approved, the Court bars and enjoins Plaintiff, and all other members of the Settlement Class, from commencing or prosecuting any and all of the Released Claims against the Released Entities.

17. **Settlement Administration Fees and Expenses.** All reasonable costs incurred with notifying Settlement Class Members of the Settlement and administering the Settlement shall be paid as set forth in the Settlement Agreement. Notwithstanding the foregoing, such notice and administration costs paid shall not exceed \$129,422.00 without further approval of the Court.

18. **Settlement Fund.** The contents of the Settlement Fund shall be deemed and considered to be *in custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as funds shall be distributed pursuant to the Settlement Agreement and/or further order(s) of the Court.

19. **Taxes.** The Settlement Administrator is authorized and directed to prepare any tax returns and any other tax reporting form for or in respect to the Settlement Fund, to pay from the Settlement Fund any taxes owed with respect to the Settlement Fund, and to otherwise perform all

obligations with respect to taxes and any reporting or filings in respect thereof without further order of the Court in a manner consistent with the provisions of the Settlement Agreement.

20. The Court retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.

21. **Summary of Deadlines**. The preliminarily approved Settlement shall be administered according to its terms pending the Final Approval Hearing. Deadlines arising under the Settlement Agreement and this Order include but are not limited to:

Notice Completion Deadline: 30 Days after Preliminary Approval

Motion for Final Approval: 30 Days before Final Approval Hearing

Motion for Service Awards, Attorneys' Fees and Costs: 14-Days prior to the Objection Deadline and Opt-Out Deadline

Opt-Out Deadline: 60 Days after Notice is sent to the Settlement Class

Objection Deadline: 60 Days after Notice is sent to the Settlement Class

Replies in Support of Final Approval, Service Awards and Fee Requests: 14 Days before Final Approval Hearing

Final Approval Hearing: at least 90 Days after Preliminary Approval

IT IS SO ORDERED this ____ day of _____, 202____.

Hon. _____, J.S.C.

EXHIBIT 4

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS**

<p>TRACEY OCHE, individually and on behalf of all others similarly situated,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>NATIONAL MATH AND SCIENCE INITIATIVE,</p> <p style="text-align: center;">Defendant.</p>	<p style="text-align: center;">Index No. 510959/2023</p> <p style="text-align: center;">[PROPOSED] PRELIMINARY APPROVAL ORDER</p>
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WHEREAS, a putative class action is pending in this Court entitled *Tracey Oche, et al. v. National Math and Science Initiative*, Index No. 510959/2023 (the “Action”);

WHEREAS, Plaintiffs TRACEY OCHE, RAFAEL COLON and JOHN TAVERAS, individually and on behalf of all others similarly situated (“Plaintiffs”) and Defendant NATIONAL MATH AND SCIENCE INITIATIVE (“Defendant”) have entered into a Settlement Agreement (the “Settlement Agreement”) that settles the above-captioned litigation and provides for a complete dismissal with prejudice of the claims asserted against Defendant in the Action on the terms and conditions set forth in the Settlement Agreement, subject to the approval of the Court;

WHEREAS, unless otherwise defined in this Judgment, the capitalized terms herein shall have the same meaning as they have in the Settlement Agreement;

WHEREAS, by Order dated _____, 2023 (“Preliminary Approval Order”), this Court: (a) preliminarily approved the Settlement; (b) certified the Settlement Class solely for purposes of effectuating the Settlement; (c) ordered that notice of the proposed settlement be provided to potential Settlement Class Members; (d) provided Settlement Class Members with the opportunity either to exclude themselves from the Settlement Class or to object to the proposed Settlement; and (e) scheduled a hearing regarding final approval of the Settlement;

WHEREAS, due and adequate notice has been given to the Settlement Class;

WHEREAS, **[XX]** Class Members submitted objections or Opt-Out Statements;

WHEREAS, the Court conducted a hearing on _____, 2023 (the “Final Approval Hearing”) to consider, among other things, (a) the Objection(s) to the Settlement; (b) whether the terms and conditions of the Settlement were fair, reasonable and adequate to the Settlement Class, and should therefore be approved; (c) whether Class Counsel’s motion for Fee Award and Costs should be granted; (d) whether Settlement Class Representative’s motion for Service Award Payment should be granted; and (e) whether a judgment should be entered dismissing the Action with prejudice as against Defendants; and

WHEREFORE, the Court having reviewed and considered the Settlement Agreement, all papers filed and proceedings had herein connection with the Settlement, all oral and written comments received regarding the Settlement, and the record in the Action, and good cause appearing therefor;

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. **Jurisdiction**: This Court has jurisdiction over the subject matter of the Action, and all matters relating to the Settlement, as well as personal jurisdiction over all of the Parties and each of the Settlement Class Members.

2. **Incorporation of Settlement Documents**: This Judgment incorporates and makes a part hereof: (a) the Settlement Agreement filed with the Court on _____, 2023; (b) the Notice documents filed with the Court on _____, 2023; and (c) the Preliminary Approval Order, dated _____, 2023.

3. **Class Certification for Settlement Purposes**: The Court hereby affirms its determinations in the Preliminary Approval Order certifying, for the purposes of the Settlement

only, the Action as a class action pursuant to CPLR §§ 901(a), 903, 905 and 907 on behalf of the Settlement Class consisting of all individuals who were sent notification by Defendants that their personal information was or may have been compromised in the Data Incident. Excluded from the Settlement Class are: (1) the judges presiding over this Action, and members of their direct families; (2) NMSI, its subsidiaries, parent companies, successors, predecessors, and any entity in which NMSI or its parents have a controlling interest and their current or former officers, directors, and employees; and (3) Settlement Class Members who submit a valid a Request for Exclusion prior to the Opt-Out Deadline.

4. The requirements of CPLR § 901(a) have been met for settlement purposes, in that: (a) the Settlement Class is so numerous that joinder of all members is impracticable; (b) there are questions of law or fact common to the Settlement Class which predominate over any questions affecting only individual members; (c) the claims of the Settlement Class Representative are typical of the claims of the Settlement Class; (d) the Settlement Class Representative and Class Counsel will fairly and adequately protect the interests of the Settlement Class; and (e) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

5. **Notice**: The Court finds that the dissemination of the Notice: (a) was implemented in accordance with the Preliminary Approval Order; (b) constituted the best notice practicable under the circumstances; (c) constituted notice that was reasonably calculated, under the circumstances, to apprise Settlement Class Members of (i) the pendency of the Action, (ii) the effect of the proposed Settlement (including the releases to be provided thereunder), (iii) Class Counsel's motion for a Fee Award and Costs, (iv) Settlement Class Representative's motion for a Service Award Payment, (v) their right to object to any aspect of the Settlement, Class Counsel's

motion for a Fee Award and Costs, and/or Settlement Class Representative's motion for a Service Award Payment, (vi) their right to exclude themselves from the Settlement Class, and (vii) their right to appear at the Final Approval Hearing; (d) constituted due, adequate and sufficient notice to all persons and entities entitled to receive notice of the proposed Settlement; and (e) satisfied the requirements of CPLR §§ 904 and 908, the United States Constitution (including the Due Process Clause), and all other applicable law and rules.

6. **Objection:** [TO BE DETERMINED]

7. **Final Settlement Approval and Dismissal of Claims:** Pursuant to, and in accordance with, Article 9 of the Civil Practice Law and Rules, this Court hereby fully and finally approves the Settlement set forth in the Settlement Agreement in all respects (including, without limitation: the amount of the Settlement Fund; the Releases provided for in the Settlement Agreement; and the dismissal with prejudice of the claims asserted against Defendants in the Action), and finds that the Settlement is, in all respects, fair, reasonable and adequate to the Settlement Class. The Parties are directed to implement, perform and consummate the Settlement in accordance with the terms and provisions contained in the Settlement Agreement.

8. Upon the Effective Date, the Action shall be, and hereby is dismissed with prejudice in its entirety as to the Defendants, with each party to bear their own costs and attorneys' fees, except as provided in the Settlement Agreement, and all of the claims of the Settlement Class Members shall be, and hereby are, dismissed and released pursuant to the Settlement Agreement.

9. **Binding Effect:** The terms of the Settlement Agreement and this Judgment shall be forever binding on Defendants, Plaintiffs and all other Settlement Class Members (regardless of whether or not any individual Settlement Class Member seeks or obtains a distribution or benefits under the terms of the Settlement), as well as their respective successors and assigns.

10. **Releases**: The releases set forth in the Settlement Agreement are expressly incorporated herein in all respects. The releases are effective as of the Effective Date. Accordingly, this Court orders that, upon the Effective Date, and in consideration of the Settlement benefits described in the Settlement Agreement, each Releasing Party shall be deemed to have released, acquitted, and forever discharged Defendants and each of the Released Parties from any and all Released Claims.

11. Notwithstanding Paragraph 10 above, nothing in this Judgment shall bar any action by any of the Parties to enforce or effectuate the terms of the Settlement Agreement or this Judgment.

12. **No Admissions**: This Judgment and Order, and the Settlement Agreement, and all papers related thereto, are not, and shall not be construed to be, an admission by the Defendants of any liability, claim or wrongdoing in this Action or in any other proceeding.

13. Upon entry of this Order, Settlement Class members are hereby permanently barred and enjoined from instituting, commencing, or prosecuting, either directly or indirectly, any action or proceeding asserting any of the Released Claims against any of the Released Persons in this or any other forum.

14. **Retention of Jurisdiction**: Without affecting the finality of this Judgment in any way, this Court finds continuing and exclusive jurisdiction over: (a) the Parties for purposes of the administration, interpretation, implementation and enforcement of the Settlement; and (b) the Settlement Class Members for all matters relating to the Action.

15. Class Counsel's motion for a Fee Award and Costs is hereby GRANTED and Class Counsel is hereby awarded a Fee Award and Cost in the amount of _____ for their services in this action, which award the Court finds

to be fair and reasonable pursuant to CPLR § 909, to be paid as set forth in the Settlement Agreement.

16. Settlement Class Representatives' motion for Service Award Payments is hereby GRANTED and Settlement Class Representatives are awarded a Service Award Payment in the amount of Two Thousand Five Hundred Dollars and Zero Cents (\$2,500.00) each, for a total of Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00), to be paid as set forth in the Settlement Agreement.

17. **Modification of the Agreement of Settlement:** Without further approval from the Court, Plaintiffs and Defendant are hereby authorized to agree to and adopt such amendments or modifications of the Settlement Agreement or any exhibits attached thereto to effectuate the Settlement that: (a) are not materially inconsistent with this Judgment; and (b) do not materially limit the rights of Settlement Class Members in connection with the Settlement. Without further order of the Court, Plaintiffs and Defendant may agree to reasonable extensions of time to carry out any provisions of the Settlement.

18. **Termination of Settlement:** If the Settlement is terminated as provided in the Settlement Agreement or the Effective Date of the Settlement otherwise fails to occur, this Judgment shall be vacated, rendered null and void and be of no further force and effect, except as otherwise provided by the Settlement Agreement, and this Judgment shall be without prejudice to the rights of Plaintiff, the other Settlement Class Members and Defendants, and the Parties shall revert to their respective positions in the Action as of _____, 2023, as provided in the Settlement Agreement.

19. **Entry of Judgment**: There is no just reason for delay of entry of this Judgment as a final judgment in this Action. Accordingly, the Clerk of the Court is expressly directed to immediately enter this final Judgment in the Action.

IT IS SO ORDERED this ____ day of _____, 202____.

Hon. _____, J.S.C.