EXHIBIT 1

IN THE DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

KEVIN GREGERSON, on behalf of himself and all others similarly situated, Plaintiff.

Case No. 8:24-cv-01201-FWS-ADS

CLASS ACTION SETTLEMENT AGREEMENT

v.

TOSHIBA AMERICA BUSINESS SOLUTIONS, INC., Defendant.

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This Class Action Settlement Agreement, dated as of March 3, 2025, is made and entered into by and among the following Settling Parties (as defined below): Kevin Gregerson ("Plaintiff"), individually and on behalf of the Settlement Class (as defined below), by and through his counsel of record, and Toshiba America Business Solutions, Inc. ("TABS" or "Defendant" and, together with Plaintiff, the "Parties"), by and through its counsel of record, Marcus McCutcheon of Baker & Hostetler LLP. The Settlement Agreement (as defined below) is subject to Court approval and is intended by the Settling Parties to fully, finally, and forever resolve, discharge, and settle the Released Claims (as defined below), upon and subject to the terms and conditions hereof:

THE LITIGATION

Plaintiff alleges that on or around December 4, 2023, cybercriminals bypassed TABS' security systems undetected and accessed personally identifiable information stored on Defendant's computer systems ("Data Incident"). Plaintiff further alleges that, as a result of the Data Incident, the criminals gained access to Plaintiff's and other TABS current and former employees' personally identifiable information, including but not limited to name and Social Security Number" (collectively, "PII").

After discovering the Data Incident, TABS notified approximately 6,883 individuals of the Data Incident. Individuals, including Plaintiff, were mailed notices of the Data Incident in or around May 2024. On June 4, 2024, former plaintiff Saundra Sonnier filed a lawsuit asserting claims against TABS relating to the Data Incident. On July 22, 2024, Ms. Sonnier dismissed her claims and Mr.

Gregerson filed his claims against TABS, asserting claims for negligence, negligence *per se*, breach of implied contract, breach of fiduciary duty, violation of the California Unfair Competition Law, violation of the California Consumer Privacy Act, and for Declaratory Judgment (the "Litigation").

From the onset of the Litigation, and over the course of several months, the Parties engaged in arms'-length settlement negotiations that included informal exchange of information necessary to evaluate the Parties' respective strengths and weaknesses. As a result of these negotiations, the Parties reached the settlement memorialized herein ("Settlement Agreement").

Pursuant to the terms set out below, this Settlement Agreement provides for the resolution of all claims and causes of action asserted, or that could have been asserted, against TABS and the Released Persons (as defined below) relating to the Data Incident, by and on behalf of Representative Plaintiff and the Settlement Class (as defined below).

CLAIMS OF REPRESENTATIVE PLAINTIFF AND BENEFITS OF SETTLING

Plaintiff believes the claims asserted in the Litigation, as set forth in the Amended Class Action Complaint, have merit. Plaintiff and Proposed Settlement Class Counsel recognize and acknowledge, however, the expense and length of continued proceedings necessary to prosecute the Litigation against TABS through motion practice, trial, and potential appeals. They have also considered the uncertain outcome and risk of further litigation, as well as the difficulties and delays inherent in such litigation, especially in complex class actions. Proposed Settlement Class Counsel are highly experienced in class action litigation and very knowledgeable regarding the relevant claims, remedies, and defenses at issue generally in such litigation and in this Litigation. They have determined that the settlement set forth in this Settlement Agreement is fair, reasonable, and adequate, and in the best interests of the Settlement Class.

DENIAL OF WRONGDOING AND LIABILITY

TABS denies each and every claim and contention alleged against it in the Litigation. TABS denies all charges of wrongdoing or liability as alleged, or which could be alleged, in the Litigation. Nonetheless, TABS has concluded that further conduct of the Litigation would be protracted and expensive, and that it is desirable that the Litigation be fully and finally settled in the manner and upon

the terms and conditions set forth in this Settlement Agreement. TABS has considered the uncertainty 1 2 and risks inherent in any litigation. TABS has, therefore, determined that it is desirable and beneficial 3 that the Litigation be settled in the manner and upon the terms and conditions set forth in this 4

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Settlement Agreement

TERMS OF THE SETTLEMENT

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among Plaintiffs, individually and on behalf of the Settlement Class and TABS that, subject to the approval of the Court, the Litigation and the Released Claims shall be finally and fully compromised, settled, and released, and the Litigation shall be dismissed with prejudice as to the Settling Parties, and the Settlement Class, except those members of the Settlement Class who lawfully opt out of the Settlement Agreement, upon and subject to the terms and conditions of this Settlement Agreement, as follows.

1. **Definitions**

As used in the Settlement Agreement, the following terms have the meanings specified below:

- 1.1 "Agreement" or "Settlement Agreement" means this agreement.
- 1.2. "California Settlement Subclass" means all persons residing in California who were mailed notification of the Data Incident from TABS at a California address.
- 1.3 "California Settlement Subclass Member(s)" means all persons meeting the definition of the California Settlement Subclass.
- 1.4 "Claims Administration" means the processing and payment of claims received from members of the Settlement Class by the Claims Administrator.
- 1.5 "Claims Administrator" means RG2 Claims Administration LLC, a company experienced in administering class action claims generally and specifically those of the type provided for and made in data breach litigation.
- 1.6 "Claims Deadline" means the postmark and/or online submission deadline for valid claims submitted pursuant to \P 2.1 and 2.2.
 - 1.7 "Claim Form" means the claim form to be used by members of the Settlement Class to

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- submit a Settlement Claim, either through the mail or online through the Settlement Website, substantially in the form as shown in **Exhibit C** to this Agreement.
- 1.8 "Costs of Claims Administration" means all actual costs associated with or arising from Claims Administration.
 - 1.9 "Court" means the United States District Court for the Central District of California.
- 1.10 "Dispute Resolution" means the process for resolving disputed Settlement Claims as set forth in this Agreement.
- 1.11 "Effective Date" means the first date by which all of the events and conditions specified herein have occurred and been met.
- 1.12 "Final" means the occurrence of all of the following events: (i) the settlement pursuant to this Settlement Agreement is approved by the Court; (ii) the Court has entered a Judgment (as that term is defined herein); and (iii) the time to appeal or seek permission to appeal from the Judgment has expired or, if appealed, the appeal has been dismissed in its entirety, or the Judgment has been affirmed in its entirety by the court of last resort to which such appeal may be taken, and such dismissal or affirmance has become no longer subject to further appeal or review. Notwithstanding the above, any order modifying or reversing any attorneys' fee award or service award made in this case shall not affect whether the Judgment is "Final" as defined herein or any other aspect of the Judgment.
- "Final Approval Order" means the order finally approving the Settlement and entering 1.13 judgment. The Settling Parties' proposed form of Final Approval Order is attached hereto as Exhibit E.
 - 1.14 "Judgment" means a judgment rendered by the Court.
- "Long Notice" means the long form notice of settlement posted on the Settlement 1.15 Website, substantially in the form as shown in **Exhibit C** to this Agreement.
- 1.16 "Notice Commencement Date" means thirty days following entry of the Preliminary Approval Order.
- "Objection Date" means the date by which members of the Settlement Class must mail 1.17 to the Court or, in the alternative, file with the Court through the Court's electronic case filing

("EC	F")	system	their	objection	to the	Settlement	Agreement	for that	objection	to b	e effective.	The
postn	nark	date sh	all co	nstitute ev	idence	of the date	of mailing fo	or these p	ourposes.			

- 1.18 "Opt-Out Date" means the date by which members of the Settlement Class must mail their requests to be excluded from the Settlement Class for that request to be effective. The postmark date shall constitute evidence of the date of mailing for these purposes.
- 1.19 "Person" means an individual, corporation, partnership, limited partnership, limited liability company or partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity, and their respective spouses, heirs, predecessors, successors, representatives, or assignees.
- 1.20 "Preliminary Approval Order" means the order preliminarily approving the Settlement Agreement and ordering that notice be provided to the Settlement Class. The Settling Parties' proposed form of Preliminary Approval Order is attached hereto as **Exhibit D**.
- 1.21 "Proposed Settlement Class Counsel" means Raina Borrelli and Andrew Gunem of Strauss Borrelli PLLC and Kennedy M. Brian and William B. Federman of Federman & Sherwood.
- 1.22 "Related Entities" means TABS' respective past, present or future owners, parents, subsidiaries, divisions, and related or affiliated entities, and each of their respective predecessors, successors, directors, officers, employees, principals, agents, attorneys, insurers, and reinsurers, other than any Person who is found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding, or abetting the Data Incident or who pleads *nolo contendere* to any such charge.
- 1.23 "Released Claims" shall collectively mean any and all past, present, and future claims and causes of action as to the Released Parties (except that any Settlement Class Member who received a notice of the Data Incident from both TABS and Toshiba Global Commerce Solutions ("TGCS") shall not release claims against TGCS) including, but not limited to, any causes of action arising under or premised upon any statute, constitution, law, ordinance, treaty, regulation, or common law of any country, state, province, county, city, or municipality, including 15 U.S.C. §§ 45 et seq.,

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and all similar statutes in effect in any states in the United States as defined below; violations of the California Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 et seq., and all similar state consumer-protection statutes; violations of the California Consumer Protection Act of 2018, Cal. Civ. Code § 1798, et seq. and all similar state privacy-protection statutes; negligence; negligence per se; breach of contract; breach of implied contract; breach of fiduciary duty; breach of confidence; invasion of privacy; fraud; misrepresentation (whether fraudulent, negligent or innocent); unjust enrichment; bailment; wantonness; failure to provide adequate notice pursuant to any breach notification statute or common law duty; and including, but not limited to, any and all claims for damages, injunctive relief, disgorgement, declaratory relief, equitable relief, attorneys' fees and expenses, pre-judgment interest, credit monitoring services, the creation of a fund for future damages, statutory damages, punitive damages, special damages, exemplary damages, restitution, and/or the appointment of a receiver, whether known or unknown, liquidated or unliquidated, accrued or unaccrued, fixed or contingent, direct or derivative, and any other form of legal or equitable relief that either has been asserted, was asserted, or could have been asserted, by any member of the Settlement Class against any of the Released Persons based on, relating to, concerning or arising out of the Data Incident and alleged theft of personal information or the allegations, transactions, occurrences, facts, or circumstances alleged in or otherwise described in the Litigation as they relate to the Data Incident. Released Claims shall not include the right of any Settlement Class Member or any of the Released Persons to enforce the terms of the settlement contained in this Settlement Agreement, and shall not include the claims of members of the Settlement Class Members who have timely excluded themselves from the Settlement Class.

- 1.24 "Released Persons" means TABS, TGCS, and their Related Entities and each of their past or present parents, subsidiaries, divisions, and related or affiliated entities, and each of their respective predecessors, successors, directors, officers, employees, principals, agents, attorneys, insurers, and reinsurers.
 - 1.25 "Plaintiff" and "Representative Plaintiff" means Kevin Gregerson.
 - 1.26 "Data Incident" means the cyberattack perpetrated on TABS on or about December 4,

Settlement Agreement.

pleads *nolo contendere* to any such charge.

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of the Settlement Class.

unauthorized access to the personal information of Plaintiff and the Settlement Class.

2023, in which third-party criminals gained unauthorized access to TABS' network and gained

that their personal information was impacted in a data incident beginning on approximately December

4, 2023. However, the Settlement Class specifically excludes: (i) TABS, the Related Entities, and

their officers and directors; (ii) all Settlement Class Members who timely and validly request

exclusion from the Settlement Class; (iv) any judges assigned to this case and their staff and family;

and (v) any other Person found by a court of competent jurisdiction to be guilty under criminal law of

initiating, causing, aiding or abetting the criminal activity occurrence of the Data Incident or who

Settlement Administrator, in which TABS will deposit \$435,000.00 in settlement funds and from

"Settlement Claim" means a claim for settlement benefits made under the terms of this

"Settlement Class" means all United States residents who were mailed notice by TABS

"Settlement Class Member(s)" means all United States residents meeting the definition

"Settlement Fund" means a means the common settlement fund established by the

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which all monetary compensation to the Settlement Class and certain other expenses shall be paid pursuant to Section 2 below. The Settlement Fund shall be deposited within 30 days of preliminary approval of the Settlement. It is understood and agreed by the Settling Parties that the \$435,000.00 in

settlement funds paid by TABS shall be the full amount of TABS' financial contribution and that

under no circumstances will TABS be required to pay any additional amounts related to settlement of

the Litigation.

1.31 "Settlement Remainder" means the funds that remain in the Settlement Fund after paying (1) all Valid Claims; (2) all Costs of Claims Administration; (3) any incentive payments approved by the Court to the Representative Plaintiffs; and (4) attorney's fees and costs as approved by the Court.

1.32 "Settlement Website" means a website, the URL for which to be mutually selected by the Settling Parties, that will inform Settlement Class Members of the terms of this Settlement

- 1.33 "Settling Parties" means, collectively, TABS and Plaintiff, individually and on behalf of the Settlement Class.
- 1.34 "Short Notice" means the short form notice of the proposed class action settlement, substantially in the form as shown in **Exhibit A** to this Agreement. The Short Notice will direct recipients to the Settlement Website and inform members of the Settlement Class of, among other things, the Opt-Out and Objection Deadlines, and the date of the Final Fairness Hearing (if set prior to the Commencement Date (as defined below)).
- 1.35 "Unknown Claims" means any of the Released Claims that any member of the Settlement Class, including Plaintiff, does not know or suspect to exist in his/her favor at the time of the release of the Released Persons that, if known by him or her, might have affected his or her settlement with, and release of, the Released Persons, or might have affected his or her decision not to object to and/or to participate in this Settlement Agreement. With respect to any and all Released Claims, the Settling Parties stipulate and agree that upon the Effective Date, Plaintiff intends to and expressly shall have, and each of the other members of the Settlement Class intend to and shall be deemed to have, and by operation of the Judgment shall have, waived the provisions, rights, and benefits conferred by California Civil Code § 1542, and also any and all provisions, rights, and benefits conferred by any law of any state, province, or territory of the United States (including, without limitation, California Civil Code §§ 1798.80 et seq., Montana Code Ann. § 28-1-1602; North Dakota Cent. Code § 9-13-02; and South Dakota Codified Laws § 20-7-11), which is similar, comparable, or equivalent to California Civil Code §1542, which provides:

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

Members of the Settlement Class, including Plaintiff, and any of them, may hereafter discover facts in addition to, or different from, those that they, and any of them, now know or believe to be true with respect to the subject matter of the Released Claims, but Plaintiff expressly shall have, and each other member of the Settlement Class shall be deemed to have, and by operation of the Judgment shall have, upon the Effective Date, fully, finally and forever settled and released any and all Released Claims. The Settling Parties acknowledge, and members of the Settlement Class shall be deemed by operation of the Judgment to have acknowledged, that the foregoing waiver is a material element of the Settlement Agreement of which this release is a part.

- 1.36 "United States" as used in this Settlement Agreement includes the District of Columbia and all territories.
- 1.37 "Valid Claims" means Settlement Claims in an amount approved by the Claims Administrator or found to be valid through the claims processing and/or Dispute Resolution process.

2. Settlement Benefits

- 2.1 In consideration for the releases provided in this Settlement Agreement, TABS shall fund the creation of the Settlement Fund to provide compensation to Settlement Class Members as set forth in this Section.
- Out-of-Pocket Expense Reimbursement: All members of the Settlement Class who have suffered a proven monetary loss and who submit a Valid Claim using the Claim Form are eligible for reimbursement of up to \$7,500.00 if: (1) the loss is an actual, documented and unreimbursed monetary loss; (2) the loss was more likely than not caused by the Data Incident; (3) the loss occurred between December 4, 2023, and the Claims Deadline; and (4) the member of the Settlement Class made reasonable efforts to avoid, or seek reimbursement for, the loss, including but not limited to exhaustion of all available credit monitoring insurance and identity theft insurance.
- 2.3 Members of the Settlement Class seeking reimbursement under ¶ 2.2 must complete and submit a Claim Form to the Claims Administrator, postmarked or submitted online on or before the 90th day after the Notice Commencement Date. The notice to the class will specify this deadline and other relevant dates described herein. The Claim Form must be verified by the member of the

- 2.4 <u>California Settlement Subclass Payment:</u> All California Settlement Subclass members can make a claim for a \$150.00 cash payment.
- 2.5 <u>Pro Rata Cash Payment:</u> All Settlement Class members may make a claim for a *pro rata* share of all cash remaining in the Net Settlement Fund. The amount of the payment will be based upon the amount in the Net Settlement Fund, if any, after the payment of valid claims for Out-of-Pocket Expense Reimbursement and California Settlement Subclass Payments.

2.6 Dispute Resolution for Claims.

2.6.1 The Claims Administrator, in its sole discretion to be reasonably exercised, will determine whether: (1) the claimant is a Settlement Class Member; (2) the claimant has provided all information needed to complete the Claim Form, including any documentation that may be necessary to reasonably support the Out-of-Pocket Expenses described in ¶ 2.2; and (3) the information submitted could lead a reasonable person to conclude that more likely than not the claimant has suffered the claimed losses as a result of the Data Incident. The Claims Administrator may, at any time, request from the claimant, in writing, additional information as the Claims Administrator may reasonably require in order to evaluate the claim, e.g., documentation requested on the Claim Form, information regarding the claimed losses, available insurance and the status of any claims made for insurance benefits, and claims previously made for identity theft and the resolution thereof. For any such Claims that the Claims Administrator determines to be implausible, the Claims Administrator will submit those Claims to the Settling Parties (one Plaintiffs' lawyer shall be designated to fill this role for all Plaintiffs). If the Settling Parties do not agree with the Settlement Administrator's

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determination, after meeting and conferring, then the Claim shall be referred for resolution to the claim_referee, to be selected by the Parties if needed. Any costs associated with work performed by the claims referee shall be paid out of the Settlement Fund as a Cost of Claims Administration.

- 2.6.2 Upon receipt of an incomplete or unsigned Claim Form or a Claim Form that is not accompanied by sufficient documentation to determine whether the claim is facially valid, the Claims Administrator shall request additional information and give the claimant thirty (30) days to cure the defect before rejecting the claim. If the defect is not cured, then the claim will be deemed invalid and there shall be no obligation to pay the claim.
- 2.6.3 Following receipt of additional information requested by the Claims Administrator, the Claims Administrator shall have thirty (30) days to accept, in whole or lesser amount, or reject each claim. If, after review of the claim and all documentation submitted by the claimant, the Claims Administrator determines that such a claim is facially valid, then the claim shall be paid. If the claim is not facially valid because the claimant has not provided all information needed to complete the Claim Form and evaluate the claim, then the Settlement Administrator may reject the claim without any further action.
- 2.6.4 Settlement Class Members shall have thirty (30) days from receipt of the offer to accept or reject any offer of partial payment received from the Claims Administrator. If a Settlement Class Member rejects an offer from the Claims Administrator, the Claims Administrator shall have fifteen (15) days to reconsider its initial adjustment amount and make a final determination. If the claimant approves the final determination, then the approved amount shall be the amount to be paid. If the claimant does not approve the final determination within thirty (30) days, then the dispute shall be submitted to the Settling Parties. If the Settling Parties do not agree with the Settlement Administrator's determination or are unable to reach a mutually satisfactory resolution after meeting and conferring, then the Claim shall be referred for resolution to the claims referee, to be selected by the Parties if needed.
- 2.6.5 If any dispute is submitted to the claims referee, the claims referee may approve the Claims Administrator's determination by making a ruling within fifteen (15) days. The claims

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- referee may make any other final determination of the dispute or request further supplementation of a claim within thirty (30) days. The claims referee's determination shall be based on whether the claims referee is persuaded that the claimed amounts are reasonably supported in fact and were more likely than not caused by the Data Incident. The claims referee shall have the power to approve a claim in full or in part. The claims referee's decision will be final and non-appealable. Any claimant referred to the claims referee shall reasonably cooperate with the claims referee, including by either providing supplemental information as requested or, alternatively, signing an authorization allowing the claims referee to verify the claim through third-party sources, and failure to cooperate shall be grounds for denial of the claim in full. The claims referee shall make a final decision within thirty (30) days of receipt of all supplemental information requested. The Parties shall jointly select an acceptable claims referee if the need for one arises under the terms of this section.
- 2.7 Business Practices Changes. Plaintiff has received assurances in the form of a confidential declaration (suitable for filing under seal if the need to do so arises) that TABS has implemented or will implement certain reasonable steps to adequately secure its systems and environments.
- 2.8 Confirmatory Discovery. TABS has provided reasonable access to confidential confirmatory discovery regarding the number of Settlement Class Members and state of residence, the facts and circumstances of the Data Incident and TABS' response thereto, and the changes and improvements that have been made or are being made to further protect Settlement Class Members' PII.
- 2.9 Settlement Class Certification. The Settling Parties agree, for purposes of this settlement only, to the certification of the Settlement Class. If the settlement set forth in this Settlement Agreement is not approved by the Court, or if the Settlement Agreement is terminated or cancelled pursuant to the terms of this Settlement Agreement, this Settlement Agreement, and the certification of the Settlement Class provided for herein, will be vacated and the Litigation shall proceed as though the Settlement Class had never been certified, without prejudice to any Person's or Settling Party's position on the issue of class certification or any other issue. The Settling Parties'

agreement to the certification of the Settlement Class is also without prejudice to any position asserted by the Settling Parties in any other proceeding, case or action, as to which all of their rights are specifically preserved.

3. Order of Preliminary Approval and Publishing of Notice of Fairness Hearing

- 3.1 As soon as practicable after the execution of the Settlement Agreement, Proposed Settlement Class Counsel and counsel for TABS shall jointly submit this Settlement Agreement to the Court, and Proposed Settlement Class Counsel will file a motion for preliminary approval of the settlement with the Court requesting entry of a Preliminary Approval Order in the form to be agreed upon by the parties, or an order substantially similar to such form in both terms and cost, requesting, among other things:
 - a) certification of the Settlement Class for settlement purposes only;
 - b) preliminary approval of the Settlement Agreement as set forth herein;
 - c) appointment of Proposed Settlement Class Counsel as Settlement Class Counsel;
 - d) appointment of Plaintiffs as Class Representatives;
 - e) approval of a customary form of Short Notice to be mailed to Settlement Class

 Members in a form substantially similar to the one attached as **Exhibit A** to
 this Agreement;
 - substantially similar to the one attached as **Exhibit B** to this Agreement, which, together with the Short Notice, shall include a fair summary of the parties' respective litigation positions, the general terms of the settlement set forth in the Settlement Agreement, instructions for how to object to or opt-out of the settlement, the process and instructions for making claims to the extent contemplated herein, and the date, time and place of the Final Fairness Hearing; and
 - g) appointment of RG2 as the Claims Administrator.

The Short Notice and Long Notice have been reviewed and approved by the Claims Administrator but may be revised as agreed upon by the Settling Parties prior to submission to the Court for approval.

- 3.2 All fees and costs for providing notice to the Settlement Class in accordance with the Preliminary Approval Order, and the costs of such notice, together with the Costs of Claims Administration shall be paid from the Settlement Fund. Attorneys' fees, costs, and expenses of Settlement Class Counsel, and service awards to Class Representatives, as approved by the Court, shall also be paid from the Settlement Fund. Notice shall be provided to Settlement Class Members by the Claims Administrator as follows:
 - a) Class Member Information: No later than fourteen (14) days after entry of the Preliminary Approval Order, TABS shall provide the Claims Administrator with the name and last known physical address of each Settlement Class Member (collectively, "Class Member Information") that TABS possesses.
 - The Class Member Information and its contents shall be used by the Claims Administrator solely for the purpose of performing its obligations pursuant to this Settlement Agreement and shall not be used for any other purpose at any time. Except to administer the settlement as provided in this Settlement Agreement, or provide all data and information in its possession to the Settling Parties upon request, the Claims Administrator shall not reproduce, copy, store, or distribute in any form, electronic or otherwise, the Class Member Information.
 - b) Settlement Website: Prior to the dissemination of the Class Notice, the Claims
 Administrator shall establish the Settlement Website that will inform
 Settlement Class Members of the terms of this Settlement Agreement, their
 rights, dates and deadlines and related information. The Settlement Website

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shall include, in .pdf format and available for download, the following: (i) the Long Notice; (ii) the Claim Form; (iii) the Preliminary Approval Order; (iv) this Settlement Agreement; (v) the operative Amended Class Action Complaint filed in the Litigation; and (vi) any other materials agreed upon by the Parties and/or required by the Court. The Settlement Website shall provide Class Members with the ability to complete and submit the Claim Form electronically.

- Order and to be substantially completed not later than forty-five (45) days after entry of the Preliminary Approval Order, and subject to the requirements of this Agreement and the Preliminary Approval Order, the Claims Administrator will provide notice to the Settlement Class as follows:
 - To all class members for whom TABS is in possession of a postal address. Before any mailing under this Paragraph occurs, the Claims Administrator shall run the postal addresses of Settlement Class Members through the United States Postal Service ("USPS") National Change of Address database to update any change of address on file with the USPS;
 - in the event that a mailed Short Notice is returned to the Claims

 Administrator by the USPS because the address of the recipient is no longer valid, and the envelope contains a forwarding address, the Claims Administrator shall re-send the Short Notice to the forwarding address within seven (7) days of receiving the returned Short Notice;
 - in the event that subsequent to the first mailing of a Short Notice, and at least fourteen (14) days prior to the Opt-Out and

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Objection Deadline, a Short Notice is returned to the Claims Administrator by the USPS because the address of the recipient is no longer valid, i.e., the envelope is marked "Return to Sender" and does not contain a new forwarding address, the Claims Administrator shall perform a standard skip trace, in the manner that the Claims Administrator customarily performs skip traces, in an effort to attempt to ascertain the current address of the particular Settlement Class Member in question and, if such an address is ascertained, the Claims Administrator will re-send the Short Notice within seven (7) days of receiving such information. This shall be the final requirement for mailing.

- d) Publishing, on or before the Notice Commencement Date, the Short Notice,
 Claim Form, and Long Notice on the Settlement Website, as specified in the
 Preliminary Approval Order, and maintaining and updating the website until
 the Claims Deadline;
- e) A toll-free help line shall be made available to provide Settlement Class

 Members with additional information about the settlement. The Claims

 Administrator also will provide copies of the forms of Short Notice, Long

 Notice, and paper Claim Form, as well as this Settlement Agreement, upon
 request; and
- f) Contemporaneously with seeking Final Approval of the Settlement, Proposed Settlement Class Counsel and TABS shall cause to be filed with the Court an appropriate affidavit or declaration with respect to complying with this provision of notice.
- 3.3 The Short Notice, Long Notice, and other applicable communications to the Settlement Class may be adjusted by the Claims Administrator, respectively, in consultation and agreement with

the Settling Parties, as may be reasonable and not inconsistent with such approval. The Notice Program shall commence within thirty (30) days after entry of the Preliminary Approval Order and shall be completed within forty-five (45) days after entry of the Preliminary Approval Order.

- 3.4 Proposed Settlement Class Counsel and TABS' counsel shall request that after notice is completed, the Court hold a hearing (the "Final Fairness Hearing") and grant final approval of the settlement set forth herein.
- 3.5 TABS will also cause the Claims Administrator to provide notice to the relevant state and federal governmental officials as required by the Class Action Fairness Act. The cost of providing such notice shall be paid from the Settlement Fund.

4. Opt-Out Procedures

- 4.1 Each Person wishing to opt-out of the Settlement Class shall individually sign and timely submit written notice of such intent to the designated Post Office box established by the Claims Administrator. The written notice must clearly manifest a Person's intent to opt-out of the Settlement Class. To be effective, written notice must be postmarked no later than sixty (60) days after the Notice Commencement Date.
- 4.2 All Persons who submit valid and timely notices of their intent to opt-out of the Settlement Class, as set forth above, referred to herein as "Opt-Outs," shall not receive any benefits of and/or be bound by the terms of this Settlement Agreement. All Persons falling within the definition of the Settlement Class who do not opt-out of the Settlement Class in the manner set forth above shall be bound by the terms of this Settlement Agreement and Judgment entered thereon.
- 4.3 In the event that within ten (10) days after the Opt-Out Date as approved by the Court, there have been more than 10 timely and valid Opt-Outs submitted, TABS may, by notifying Proposed Settlement Class Counsel and the Court in writing, void this Settlement Agreement. If TABS voids the Settlement Agreement pursuant to this paragraph, TABS shall be obligated to pay all settlement expenses already incurred, excluding any attorneys' fees, costs, and expenses of Proposed Settlement Class Counsel and service awards.

5. Objection Procedures

- 5.1 Each Settlement Class Member desiring to object to the Settlement Agreement shall submit a timely written notice of his or her objection by the Objection Date. All written objections and supporting papers must be submitted ONLY TO THE COURT and (a) clearly identify the case name and number, (b) be submitted to the Court either by filing them electronically or in person at any location of the United States District Court for the Central District of California or by mailing them to the Court, and (c) be filed or postmarked on or before the deadline established by the Court (anticipated to be 60 days after the Notice Date). All objections will be scanned into the electronic case docket, and the parties will receive electronic notices of all filings.
- 5.2 Any Settlement Class Member who fails to comply with the requirements for objecting in ¶ 5.1 shall waive and forfeit any and all rights he or she may have to appear separately and/or to object to the Settlement Agreement, and shall be bound by all the terms of the Settlement Agreement and by all proceedings, orders and judgments in the Litigation. The exclusive means for any challenge to the Settlement Agreement shall be through the provisions of ¶ 5.1. Without limiting the foregoing, any challenge to the Settlement Agreement, the final order approving this Settlement Agreement, or the Judgment to be entered upon final approval shall be pursuant to appeal under the Federal Rules of Appellate Procedure and not through a collateral attack.

6. Releases

- deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims. Further, upon the Effective Date, and to the fullest extent permitted by law, each Settlement Class Member, including Plaintiffs, shall, either directly, indirectly, representatively, as a member of or on behalf of the general public or in any capacity, be permanently barred and enjoined from commencing, prosecuting, or participating in any recovery in any action in this or any other forum (other than participation in the settlement as provided herein) in which any of the Released Claims is asserted.
- 6.2 Upon the Effective Date, TABS shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged, Representative

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Plaintiffs, each and all of the Settlement Class Members, Proposed Settlement Class Counsel, of all claims, including Unknown Claims, based upon or arising out of the institution, prosecution, assertion, settlement, or resolution of the Litigation or the Released Claims, except for enforcement of the Settlement Agreement. Any other claims or defenses TABS may have against such Persons including, without limitation, any claims based upon or arising out of any retail, banking, debtor-creditor, contractual, or other business relationship with such Persons that are not based upon or do not arise out of the institution, prosecution, assertion, settlement, or resolution of the Litigation or the Released Claims are specifically preserved and shall not be affected by the preceding sentence.

- 6.3 Notwithstanding any term herein, neither TABS nor its Related Parties shall have or shall be deemed to have released, relinquished or discharged any claim or defense against any Person other than Representative Plaintiff, each and all of the Settlement Class Members, and Proposed Settlement Class Counsel.
 - Plaintiff's Counsel's Attorneys' Fees, Costs, and Expenses; Service Award to 7. **Representative Plaintiffs**
- 7.1 The Settling Parties did not discuss the payment of attorneys' fees, costs, expenses and/or service award to Plaintiffs, as provided for in ¶¶ 7.2 and 7.3, until after the substantive terms of the settlement had been agreed upon, other than that the settlement would include reasonable attorneys' fees, costs, expenses, and a service award to Plaintiff from the Settlement Fund as ordered by the Court.
- 7.2 No later than 45 days after the Notice Deadline, Proposed Settlement Class Counsel will seek, and TABS has agreed not to oppose, an order from the Court awarding up to one-third of the Settlement Fund to Proposed Settlement Class Counsel for attorneys' fees, as well as any costs and expenses of the Litigation. Proposed Settlement Class Counsel, in their sole discretion, shall allocate and distribute the amount of attorneys' fees, costs, and expenses awarded by the Court among Plaintiff's Counsel.
- 7.3 Proposed Settlement Class Counsel will seek, and TABS has agreed not to oppose, an order from the Court awarding a \$5,000 service award to the Class Representative in this case.
 - 7.4 If awarded by the Court, the Settlement Administrator shall pay the attorneys' fees,

costs, expenses, and service awards to Plaintiff out of the Settlement Fund, as set forth above in ¶¶ 7.2, 7.3, and 7.4, within 30 days after the Effective Date. Proposed Settlement Class Counsel shall thereafter distribute the award of attorneys' fees, costs, and expenses among Plaintiff's Counsel and service award to Plaintiff consistent with ¶¶ 7.2 and 7.3.

The amount(s) of any award of attorneys' fees, costs, and expenses, and the service award to Plaintiffs, are intended to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the settlement. These payments will not in any way reduce the consideration being made available to the Settlement Class as described herein. No order of the Court, or modification or reversal or appeal of any order of the Court, concerning the amount(s) of any attorneys' fees, costs, expenses, and/or service award ordered by the Court to Proposed Settlement Class Counsel or Plaintiffs shall affect whether the Judgment is Final or constitute grounds for cancellation or termination of this Settlement Agreement.

8. Administration of Claims

- 8.1 The Claims Administrator shall administer and calculate the claims submitted by Settlement Class Members. Proposed Settlement Class Counsel and counsel for TABS shall be given reports as to both claims and distribution, and have the right to review and obtain supporting documentation and challenge such reports if they believe them to be inaccurate or inadequate. The Claims Administrator's and claims referee's, as applicable, determination of whether a Settlement Claim is a Valid Claim shall be binding, subject to the dispute resolution process set forth herein. All claims agreed to be paid in full shall be deemed valid.
- 8.2 Checks for Valid Claims and/or compensation from the Settlement Remainder shall be mailed and postmarked within sixty (60) days of the Effective Date, or within thirty (30) days of the date that the claim is approved, whichever is later.
- 8.3 Upon the mailing of checks as set forth in \P 8.2, all Settlement Class Members shall be forever barred from receiving any payments or benefits pursuant to the settlement set forth herein, but will in all other respects be subject to, and bound by, the provisions of the Settlement Agreement, the releases contained herein and the Judgment.

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8.4 No Person shall have any claim against the Claims Administrator, claims referee, TABS, Proposed Settlement Class Counsel, Plaintiffs, and/or TABS' counsel based on distributions of benefits to Settlement Class Members.

9. Conditions of Settlement, Effect of Disapproval, Cancellation, or Termination

- 9.1 The Effective Date of the settlement shall be conditioned on the occurrence of all of the following events:
 - the Court has entered the Order of Preliminary Approval and Publishing of a) Notice of a Final Fairness Hearing, as required by provisions herein;
 - TABS has not exercised its option to terminate the Settlement Agreement; b)
 - c) the Court has entered the Judgment granting final approval to the settlement as set forth herein; and
 - d) the Judgment has become Final, as defined herein.
- 9.2 If all conditions specified in ¶ 9.1 hereof are not satisfied, the Settlement Agreement shall be canceled and terminated subject to ¶ 9.4 unless Proposed Settlement Class Counsel and TABS' counsel mutually agree in writing to proceed with the Settlement Agreement.
- 9.3 Within seven (7) days after the Opt-Out Date, the Claims Administrator shall furnish to Proposed Settlement Class Counsel and to TABS' counsel a complete list of all timely and valid requests for exclusion (the "Opt-Out List").
- 9.4 In the event that the Settlement Agreement or the releases set forth above are not approved by the Court or the settlement set forth in the Settlement Agreement is terminated in accordance with its terms, (i) the Settling Parties shall be restored to their respective positions in the Litigation and shall jointly request that all scheduled litigation deadlines be reasonably extended by the Court so as to avoid prejudice to any Settling Party or Settling Party's counsel, and (b) the terms and provisions of the Settlement Agreement shall have no further force and effect with respect to the Settling Parties and shall not be used in the Litigation or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of the Settlement Agreement shall be treated as vacated, nunc pro tunc. Notwithstanding any statement in this Settlement

Agreement to the contrary, no order of the Court or modification or reversal on appeal of any order reducing the amount of attorneys' fees, costs, expenses, and/or service awards shall constitute grounds for cancellation or termination of the Settlement Agreement. Further, notwithstanding any statement in this Settlement Agreement to the contrary, TABS shall be obligated to pay amounts already billed or incurred for costs of notice to the Settlement Class, Claims Administration, and Dispute Resolution pursuant to the above and shall not, at any time, seek recovery of same from any other party to the Litigation or from counsel to any other party to the Litigation.

10. Miscellaneous Provisions

- 10.1 The Settling Parties (i) acknowledge that it is their intent to consummate this agreement; and (ii) agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Settlement Agreement, and to exercise their best efforts to accomplish the terms and conditions of this Settlement Agreement.
- 10.2 The Settling Parties intend this settlement to be a final and complete resolution of all disputes between them with respect to the Litigation. The settlement compromises claims that are contested and shall not be deemed an admission by any Settling Party as to the merits of any claim or defense. The Settling Parties each agree that the settlement was negotiated in good faith by the Settling Parties, and reflects a settlement that was reached voluntarily after consultation with competent legal counsel. The Settling Parties reserve their right to rebut, in a manner that such party determines to be appropriate, any contention made in any public forum that the Litigation was brought or defended in bad faith or without a reasonable basis. It is agreed that no Party shall have any liability to any other Party as it relates to the Litigation, except as set forth herein.
- 10.3 Neither the Settlement Agreement, nor the settlement contained herein, nor any act performed or document executed pursuant to or in furtherance of the Settlement Agreement or the settlement (i) is or may be deemed to be or may be used as an admission of, or evidence of, the validity or lack thereof of any Released Claim, or of any wrongdoing or liability of any of the Released Persons; or (ii) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Released Persons in any civil, criminal or administrative

proceeding in any court, administrative agency or other tribunal. Any of the Released Persons may file the Settlement Agreement and/or the Judgment in any action that may be brought against them or any of them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar, or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

- 10.4 The Settlement Agreement may be amended or modified only by a written instrument signed by or on behalf of all Settling Parties or their respective successors-in-interest.
- 10.5 This Agreement contains the entire understanding between TABS and Plaintiff regarding the payment of the Litigation settlement and supersedes all previous negotiations, agreements, commitments, understandings, and writings between TABS and Plaintiff in connection with the payment of the Litigation settlement. Except as otherwise provided herein, each party shall bear its own costs.
- 10.6 Proposed Settlement Class Counsel, on behalf of the Settlement Class, is expressly authorized by Plaintiffs to take all appropriate actions required or permitted to be taken by the Settlement Class pursuant to the Settlement Agreement to effectuate its terms, and also are expressly authorized to enter into any modifications or amendments to the Settlement Agreement on behalf of the Settlement Class which they deem appropriate in order to carry out the spirit of this Settlement Agreement and to ensure fairness to the Settlement Class.
- 10.7 Each counsel or other Person executing the Settlement Agreement on behalf of any party hereto hereby warrants that such Person has the full authority to do so.
- 10.8 The Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. A complete set of original executed counterparts shall be filed with the Court.
- 10.9 The Settlement Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the parties hereto.
- 10.10 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of the Settlement Agreement, and all parties hereto submit to the jurisdiction of the Court for

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purposes of implementing and enforcing the settlement embodied in the Settlement Agreement.

10.11 As used herein, "he" means "he, she, or it;" "his" means "his, hers, or its," and "him" means "him, her, or it."

10.12 All dollar amounts are in United States dollars (USD).

10.13 Cashing a settlement check is a condition precedent to any Settlement Class Member's right to receive settlement benefits. All settlement checks shall be void ninety (90) days after issuance and shall bear the language: "This check must be cashed within ninety (90) days, after which time it is void." If a check becomes void, the Settlement Class Member shall have until six months after the Effective Date to request re-issuance. If no request for re-issuance is made within this period, the Settlement Class Member will have failed to meet a condition precedent to recovery of settlement benefits, the Settlement Class Member's right to receive monetary relief shall be extinguished, and TABS shall have no obligation to make payments to the Settlement Class Member for expense reimbursement or any other type of monetary relief. The same provisions shall apply to any re-issued check. For any checks that are issued or re-issued for any reason more than one hundred eighty (180) days from the Effective Date, requests for re-issuance need not be honored after such checks become void.

10.14 All agreements made and orders entered during the course of the Litigation relating to the confidentiality of information shall survive this Settlement Agreement.

IN WITNESS WHEREOF, the parties hereto have caused the Settlement Agreement to be executed, by their duly authorized attorneys.

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Toshiba America Business Solution	ns. Inc.
Kevin Gregerson	
Leven Digger	AGREED TO BY:

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— EXHIBIT A—