

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

SUPERIOR COURT
CIVIL ACTION NO. 2584-cv-01895

In the matter of
EARNEST OPERATIONS LLC.

ASSURANCE OF DISCONTINUANCE PURSUANT TO G.L. c. 93A, § 5

The Commonwealth of Massachusetts, by and through the Office of Attorney General Andrea Joy Campbell (“Attorney General” or “AGO”), and Earnest Operations LLC (“Earnest”) (collectively, the “Parties”) hereby agree to this Assurance of Discontinuance (“AOD”) pursuant to Massachusetts General Laws Chapter 93A, §§ 2 and 5.

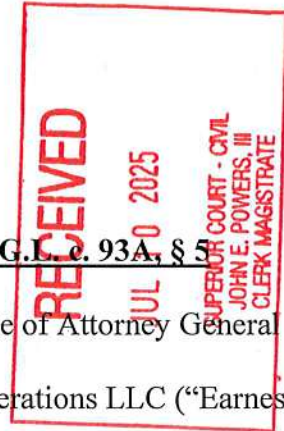
I. INTRODUCTION

1. The Attorney General is responsible for enforcing the Consumer Protection Act, G.L. c. 93A (“Chapter 93A”), which prohibits unfair and deceptive acts and practices in the conduct of any trade or commerce, and all other consumer protection laws and regulations in Massachusetts.

2. Earnest is an active Delaware Domestic Limited Liability Company, formed in 2013. Earnest has customers who reside in Massachusetts.

3. Earnest is primarily a private student loan company. It originates private student loans and refinances student loans. Between 2014 to 2020, Earnest also originated private personal loans.

4. Pursuant to G.L. c. 93A, § 6, the AGO investigated Earnest’s practices and policies for underwriting and targeted advertising.



5. Based on the investigation, the AGO alleges that Earnest violated G.L. c. 93A, § 2, by:

- a. failing to guard against disparate outcomes in underwriting Massachusetts consumers' applications for credit in both its Algorithmic and Judgmental Underwriting;
- b. using variables such as Cohort Default Rate in its Algorithmic Underwriting that led to disparate outcomes for Massachusetts consumers;
- c. generating inaccurate and non-specific adverse action notices in violation of the Equal Credit Opportunity Act ("ECOA"), 15 U.S.C. § 1691, *et seq.* and Regulation B ("Reg. B"), 12 C.F.R. § 1002.1; and
- d. automatically denying loan applications based on immigration status in violation of ECOA.

6. In lieu of litigation and in recognition of Earnest's assistance and cooperation throughout the investigation, the AGO agrees to accept this AOD on the terms and conditions contained herein, pursuant to the Massachusetts Consumer Protection Act, G.L. c. 93A, § 5.

7. Earnest denies the AGO's allegations and further denies that it has violated Massachusetts or federal law. In an effort to avoid the uncertainty of litigation and to resolve this investigation, Earnest agrees to enter into and be bound by the terms of this AOD. Earnest's agreement to this AOD does not constitute an admission to any of the AGO's allegations.

II. DEFINITIONS

The following definitions shall apply to this AOD:

8. "Covered Conduct" means those acts or practices alleged in Paragraphs 23-63, below.

9. “Effective Date” means the date that this AOD is filed in a Massachusetts court.

10. “Artificial Intelligence Model” or “Model” shall mean any algorithmic program or tool used by Earnest for automated decision-making in underwriting loans. Artificial Intelligence Models include machine learning algorithms that are machine-based systems that, for given human-defined objectives, make predictions, recommendations, or decisions influencing lending outcomes using machine- and human-based inputs to perceive real and virtual environments, abstract such perceptions into models through analysis in an automated manner, and use model inference to formulate options for information or action related to underwriting.

11. “Underwriting” shall include the process for both approving or denying a loan and pricing an approved loan.

12. “Algorithmic Underwriting” shall refer to any Underwriting process used by Earnest that uses data for the purpose of developing automated decision-making tools, which includes Artificial Intelligence Models.

13. “Judgmental Underwriting” shall refer to any Underwriting process used by Earnest in which a human evaluator exercises discretion in assessing an applicant’s creditworthiness for the purpose of making or contributing to a credit decision on the application. This term does not include human review conducted solely for fraud prevention, identity verification, income verification, document validation, data entry, or other administrative purposes that do not involve evaluating creditworthiness.

14. “Knockout Rules” shall mean rules that use specific criteria or thresholds based on Earnest’s policies that should result in an automatic decline of a potential borrower, such as prescreen decline rules or quick decline rules.

15. “Adverse Action Notice” is the notice provided as required in 12 CFR Part 1002.9 (Regulation B) after an adverse action is taken.

16. “Student Loan Refinance” or “SLR” refers to one of the lending products offered by Earnest, which was designed and launched in 2015 and continues to be available.

17. “Student Loan Origination” or “SLO” refers to one of the lending products offered by Earnest, which was launched in 2019 and continues to be available.

18. “Personal Loan” or “PL” refers to one of the non-student-specific lending products offered by Earnest, which was launched in 2014 and discontinued in 2020.

19. “Inputs” are the features of a credit application that are considered and used by Artificial Intelligence Models.

20. “Weighted Inputs” are the features of a credit application that are used by Artificial Intelligence Models and have an effect on the overall Model Score.

21. “Outputs” are the values generated by Artificial Intelligence Models after running the Models using the Inputs for a particular loan applicant.

22. “Score” shall mean a numeric Output generated by a Model or a value given through Judgmental Underwriting for a particular loan applicant used in Underwriting decisions.

III. THE COMMONWEALTH’S ALLEGATIONS

A. Chapter 93A Violations Related to Judgmental Underwriting.

23. Beginning in 2014, Earnest offered personal and student lending products, including Personal Loans, Student Loan Refinances, and Student Loan Originations.

24. Earnest uses Artificial Intelligence Models to underwrite a particular consumer’s application for a loan.

25. Earnest's Algorithmic Underwriting process generally involved three stages that used different Models at different points in time. The three stages were (1) "prescreen decline" or "pre-verification decline", (2) "quick decline" or "quick score" and (3) "risk score."

26. The "prescreen decline" and "quick decline" stages also involved "Knockout Rules," which were threshold attributes Earnest determined an applicant needed to meet in order to be eligible for a loan.

27. Earnest's Models would generate a Score that recommended whether an applicant should be approved for a loan, and if approved, at what interest rate the loan should be offered to the applicant.

28. Although written policies required that a senior credit officer or credit committee approve any exception to Earnest Model recommendations, in practice, until 2018, underwriters had discretion to override Earnest Model recommendations on both approvals/denials and pricing.

29. Internal communications show Underwriters were at times unsure whether to decline or approve an application and included discussions of individual underwriters' biases. There was no written policy for how exceptions to the Earnest Model recommendations would be made, nor was there a practice for how to record these decisions when they were made.

30. Earnest had a written policy that included a five-page appendix of numerous factors to take into consideration when Underwriting a loan application, without a corresponding written policy as to how to balance any of those factors.

31. Part of an underwriter's judgment was based on the theory that certain careers, degrees, and jobs would be predictive of a high income in the future. For example, an underwriter could give discounts to the loan terms for an applicant who had a job at a top law firm, even if the Model Score generated for the applicant would match higher rates.

32. Due to the discretion and Judgmental Underwriting Earnest employed as a matter of policy and practice, there were some instances in which two applicants with similar financial circumstances were given different outcomes.

33. The use of manual risk adjustments could materially affect the outcome of an application, as one individual factor could bump an application above or below the threshold for approval. Internal chat communications show concern about underwriters misapplying adjustments.

34. The Attorney General alleges that the acts or practices identified in paragraphs 28-33 above are independently or in combination unfair or deceptive, and as such constitute violations of G.L. c. 93A, § 2.

35. The Attorney General alleges that Earnest knew or should have known that these acts were unfair or deceptive and violated G.L. c. 93A, § 2.

B. Chapter 93A Violations Related to Use of the Cohort Default Rate Variable in its Algorithmic Underwriting.

36. At the time Earnest began using an algorithmic Model to conduct its SLR Underwriting, Earnest's SLR Model was a "scorecard model" based on human-selected variables and weights that were hypothesized to predict probability of default.

37. The higher the Model Score an applicant received, the better lending rates that applicant was offered by Earnest.

38. The SLR Model included an evaluation of the applicant's Cohort Default Rate ("CDR") as a Weighted Input until September 13, 2017.

39. The Cohort Default Rate is produced by the U.S. Department of Education and describes the average rate of loan defaults associated with specific higher education institutions.

40. The CDR variable was assigned a subscore that contributed to the ultimate Model Score of a particular loan applicant.

41. Earnest's use of the CDR subscore in its SLR Underwriting Model resulted in disparate impact in approval rates and loan terms in the SLR product, with Black and Hispanic applicants more likely to be penalized than White applicants.

42. The Attorney General alleges that each time Earnest used the CDR variable in Underwriting, it violated ECOA, and thereby violated G.L. c. 93A, § 2.

43. The Attorney General alleges that Earnest's use of the CDR variable discriminated against applicants on the basis of race and is an unfair and deceptive business practice in violation of G.L. c. 93A, § 2.

44. The Attorney General alleges that Earnest knew or should have known that these acts were unfair or deceptive and violated G.L. c. 93A, § 2.

C. Violations of Chapter 93A Related to Use of Knockout Rules Based on Immigration Status.

45. Until June 30, 2023, Earnest included Knockout Rules in its Underwriting decisions based on an applicant's immigration status. Specifically, if the applicant did not have at least a green card, the applicant would be automatically denied.

46. This set of Knockout Rules was applied during the “prescreen decline” stage of the application process flow, leading to denial of applicants before submitting a full application or additional information and without any determination of creditworthiness or ability to repay.

47. Massachusetts applicants across all three products (SLR, SLO, and PL) were declined for citizenship reasons.

48. The Attorney General alleges that Earnest’s prior practice of an automatic denial of an application based on immigration status created a risk of a disparate outcome against applicants on the basis of national origin in violation of ECOA, 15 U.S.C. § 1691(a)(1), and Regulation B, 12 C.F.R. §§ 1002.4(a), 1002.6, and thereby in violation of G.L. c. 93A, § 2.

49. The Attorney General alleges that Earnest’s use of its prior immigration status Knockout Rules was an unfair and deceptive business practice, in violation of G.L. c. 93A, § 2.

50. The Attorney General alleges that Earnest knew or should have known that these acts were unfair or deceptive and violated G.L. c. 93A, § 2.

D. Violations of Chapter 93A through Earnest’s Adverse Action Notices.

51. When taking an adverse action against an applicant, such as declining a loan application, Earnest is required to provide notice to the applicant that contains specific reasons for the adverse action taken. 15 U.S.C. § 1691(d) and 12 C.F.R. § 1002.9(a)-(b).

52. Earnest sent Adverse Action Notices to applicants that were incorrect or failed to identify specific reasons for declining an applicant in the following ways:

- a. When Earnest employees manually declined loan applicants, they had the option of selecting between one and three reasons for each declined applicant and were

limited to a list of decline reasons that were hard-coded into a drop-down menu in Earnest's database. However, various iterations of this drop-down menu did not include all educational variables, even though Earnest's SLR and SLO Models used educational variables as Weighted Inputs, such as Cohort Default Rate, school rank, and degree type, and such Weighted Inputs led to Model Scores that resulted in declines or an otherwise negative impact on the Model Score for applicants.

- b. When an Earnest employee declined an application for a reason that was unavailable in the drop-down menu, the employee would select another reason that was available. There were numerous reasons that were missing from the drop-down menu at various points of Earnest's operations.
- c. In various circumstances, Earnest employees were otherwise unable to determine specific and accurate reasons contributing to a decline. When Earnest deployed a model to auto-generate decline reasons for adverse action notices, the model sometimes failed to generate a specific reason, and the declined loan application would be sent to an employee to determine why the applicable Model had declined that particular application, without insight as to why the model declined the application.

53. The Attorney General alleges that Earnest's practice of choosing alternate decline reasons when the actual decline reason did not exist in the system, which in some instances resulted in inaccurate decline reasons, was a violation of ECOA and Regulation B, thereby violating G.L. c. 93A, § 2.

54. The Attorney General alleges that, by providing inaccurate reasons for declining an application to consumers in Adverse Action Notices, Earnest engaged in unfair and deceptive business practices in violation of G.L. c. 93A, § 2, and prevented consumers from understanding the circumstances surrounding their individual creditworthiness.

55. The Attorney General alleges that Earnest knew or should have known that these acts were unfair or deceptive and violated G.L. c. 93A, § 2.

E. Violations of Chapter 93A in Earnest's Policy and Procedures for Mitigating Fair Lending Risks.

56. As a lending institution, Earnest has a duty to comply with applicable laws in conducting business in Massachusetts, including fair lending laws such as ECOA.

57. Earnest deployed its Artificial Intelligence Models without taking reasonable measures to mitigate fair lending risks while using those Models.

58. The Attorney General alleges that Earnest failed to take reasonable measures to mitigate fair lending risks in its Underwriting practices in the following ways:

- a. Earnest failed to test its Models for disparate impact.
- b. In developing the SLR Model, Earnest trained the Model based on arbitrary, discretionary human selections on particular variables without providing firm procedures on how to determine whether those variables would be predictive of default or ability to repay, *see supra* Parts A and B.
- c. Earnest designed the SLO Model, in part or in whole, to replicate the arbitrary and unfair and deceptive SLR applicant decisions, *see supra* Parts A and B.
- d. Earnest failed to conduct any transactional testing of its Judgmental Underwriting processes for fair lending concerns.

- e. Earnest failed to conduct disparate impact testing on the effect of certain Weighted Inputs that contribute to an applicant's Model Score.

59. Earnest further failed to implement adequate policies to assess whether its Underwriting practices or policies were resulting in a disparate impact.

60. Earnest failed to ensure compliance with those policies that it did put in place. For example, while Earnest had a policy requiring its Compliance Officer to receive a certification that any new underwriting criterion was compliant with Earnest's Fair Lending policy, Earnest's Compliance Officer never received any such written certification from any Earnest employee.

61. Earnest advertised its products to Massachusetts consumers and referred to its Underwriting technology. Massachusetts consumers reasonably expected that Earnest deployed such technology in a legally compliant way, including having adequate policies and procedures in place to mitigate fair lending risks.

62. The Attorney General alleges that the acts or practices identified in paragraphs 57-61 above are independently or in combination unfair or deceptive, and as such constitute violations of G.L. c. 93A, § 2.

63. The Attorney General alleges that Earnest knew or should have known that these acts were unfair or deceptive and violated G.L. c. 93A, § 2.

IV. ASSURANCES AND UNDERTAKINGS

A. Monetary Payment

64. On or before thirty (30) days from the Effective Date of this AOD, Earnest shall pay \$2,500,000 to the AGO by check or wire transfer payable to the "Commonwealth of Massachusetts."

65. At her sole discretion, the Attorney General may use or distribute the payment described in the foregoing paragraph in any amount, allocation or apportionment and for any purpose permitted by law, including but not limited to: (a) payments to or for consumers and for the facilitation of this AOD; (b) payments to the General Fund of the Commonwealth of Massachusetts; (c) payments to the Local Consumer Aid Fund established pursuant to G.L. c. 12, § 11G; or (d) for programs or initiatives in furtherance of the protection of the people of the Commonwealth.

66. For avoidance of doubt, Earnest shall have no right to direct, nor any responsibility as to the use or application of funds by the Attorney General.

B. Corporate Governance

67. Earnest shall develop, implement, and maintain a written corporate governance system of fair lending testing,¹ internal controls, and risk assessments for the use of Artificial Intelligence Models.

68. Earnest shall ensure that its governance program and any benchmarks for compliance with the program reflect, at a minimum, applicable guidance and best practices for artificial intelligence governance and risk management.

69. Earnest's governance program shall include information ensuring compliance for data that is, or may be, used for Model development, training, or validation.

70. Earnest shall review its Model-related information governance practices and policies at least annually and update them as appropriate.

¹ "Fair lending testing" shall include not only the actual operations of testing, but also the reports created from the testing, any documentation of the testing mechanisms, the results from the tests, and any analyses thereof.

71. Earnest shall design and implement an internal algorithmic oversight team and appoint a chairperson who is responsible for the team's work and fair lending testing, inventories of Models, documentation, and data maintenance pursuant to the policies and procedures under Section IV.C.

72. Earnest shall design and implement a process for anyone at Earnest to report concerns about algorithmic bias to the internal algorithmic oversight team without repercussions and develop a process for the team to respond to these concerns.

C. Written Policies and Procedures

73. Earnest shall develop, implement, and maintain written corporate policies to govern the responsible design, development, and deployment of Artificial Intelligence Models. These policies must include:

- a. Processes to ensure that Models comply with anti-discrimination, consumer protection, and fair lending laws, including, *inter alia*, the Equal Credit Opportunity Act, Regulation B, and Massachusetts consumer protection laws;
- b. Processes for monitoring for compliance with policies;
- c. Processes for updates to the policies in response to business developments;
- d. Processes for response management when algorithmic bias concerns are internally raised; and
- e. Processes for holding internal units accountable for documenting all decision making when developing new Models.

74. Among the written corporate policies pursuant to paragraph 73 above, Earnest shall establish and maintain a corporate Model Risk Management policy that includes requirements for implementing the injunctive terms included herein, including specific

provisions designed to ensure compliance with 12 C.F.R. Part 1002 (Regulation B) in Underwriting Model results.

75. Also among the written corporate policies pursuant to paragraph 73 above, Earnest shall include the following on Underwriting Models:

- a. Earnest shall test, monitor, train, retrain, or otherwise modify all Algorithmic Underwriting Models to ensure compliance with anti-discrimination, consumer protection, and fair lending laws.
- b. *Fair Lending Testing*. Earnest shall conduct annual fair lending testing of Algorithmic Underwriting Models, including a schedule for fair lending testing and the identification of trigger events² that would require additional fair lending testing.
- c. *Inventory*. On at least an annual basis, or as otherwise needed based on material changes to business practices, Earnest shall inventory all Underwriting Models used or developed at Earnest, including:
 - i. Algorithms used to train each Model;
 - ii. Data used to train and test each Model;
 - iii. The parameters of each Model in active use;
 - iv. The dates each Model was in active use; and
 - v. Fair lending testing results of each Model.

² A “trigger event” may include events such as: (1) an update of a Model, (2) the creation of a new Model, (3) credible complaints raised by employees regarding Model development or deployment, as well as compliance with fair lending laws, such as ECOA, Regulation B, and consumer protection laws, (4) changes in regulatory guidance, and (5) changes in industry norms or best practices that implicate Earnest’s Models.

- d. *Documentation*. Earnest shall ensure that all Algorithmic Underwriting decisions are documented and that such documentation is retained for a period of four years from the date that Earnest took action on each application.
- e. *Data Maintenance*. Earnest shall maintain and manage account level data in an accessible format for each applicant's account that includes:
 - i. The Underwriting inputs for each application;
 - ii. The predictions of the relevant Model for each application;
 - iii. How that prediction was used in Underwriting the application;
 - iv. Whether the application was approved or denied;
 - v. If approved, the price offered; and
 - vi. If the application was approved and accepted, the default and delinquency history of the loan.

76. Also among the written corporate policies pursuant to paragraph 73 above, Earnest shall include the following policies on Knockout Rules:

- a. Earnest shall assess and monitor all Knockout Rules to ensure compliance with anti-discrimination, consumer protection, and fair lending laws.
- b. *Fair Lending Testing*. Earnest shall conduct annual fair lending testing of Knockout Rules, including a schedule for annual fair lending testing and the identification of trigger events that would result in additional fair lending testing.
- c. *Inventory*. Earnest shall inventory all Knockout Rules used or developed at Earnest, including:
 - i. The features considered by that rule;
 - ii. The thresholds for each feature or feature combination;

- iii. The time periods that each rule was in use; and
 - iv. The fair lending testing results of each rule.
- d. *Data Maintenance*. Earnest shall maintain data related to Knockout Rules.
 - e. *Steward*. Earnest shall designate a steward within Earnest who oversees and is responsible for the fair lending testing, inventory, documentation, and data maintenance described above.

77. Also among the written corporate policies pursuant to paragraph 73 above, Earnest shall include the following policies on Judgmental Underwriting, to the extent Earnest engages in Judgmental Underwriting:

- a. Earnest shall ensure that Judgmental Underwriters are trained on the requirements of anti-discrimination, consumer protection and fair lending laws.
- b. Earnest shall assess and monitor Judgmental Underwriting decisions and policies for compliance with anti-discrimination, consumer protection, and fair lending laws on an annual basis.
- c. Earnest shall implement controls to ensure that judgmental overrides or adjustments to Scores or prices do not violate anti-discrimination, consumer protection and fair lending laws.
- d. Earnest shall ensure that all Judgmental Underwriting decisions are documented and retain documentation for no fewer than four years from the date that Earnest took action on each application.

78. Also among the written corporate policies pursuant to paragraph 73 above, Earnest shall include the following policies on Adverse Action Notices:

- a. Earnest shall develop policies and procedures to ensure that adverse action models comply with 15 U.S.C. § 1691(d).
- b. Earnest's policies and procedures shall include the following specific safeguards to ensure that Adverse Action Notices are issued to consumers in a manner that complies with 15 U.S.C. § 1691(d):
 - i. *Interpretable Models*. Methods to ensure the use of interpretable models for credit underwriting;
 - ii. *Validation*. Methods to confirm the accuracy of all decline reasons systems and enable validation of the accuracy of each reason on every individual Adverse Action Notice; and
 - iii. *Specific and Accurate Reasons*. Methods to ensure that all Adverse Action Notices issued are specific and accurately indicate the principal reason(s) for the adverse action.

D. Discontinued Use of Certain Variables or Requirements in Underwriting

79. Earnest shall ensure that no current or future Artificial Intelligence Models or processes use the school rank variable or the Cohort Default Rate variable as Inputs.

80. To the extent it is still in use, Earnest shall discontinue the eligibility rule that automatically knocks out all non-citizen applicants without a green card prior to the Underwriting process for all products.

81. Earnest shall ensure that any and all Underwriting Models used or designed by Earnest will not replicate the Knockout Rule that automatically disqualified all non-citizen applicants without a green card prior to going through Earnest's full Underwriting process.

82. Earnest shall not ask any consumer to grant it access to any social media account as a step to applying for a loan.

E. Reporting to the AGO

83. Within one hundred eighty (180) days of the Effective Date of the AOD, Earnest shall review and assess Earnest's compliance with ECOA and Regulation B and the terms of this AOD. Earnest may choose to engage an independent third-party to assist with such review, provided that Earnest remains fully responsible for compliance with this AOD. Should Earnest subcontract with third parties for such purposes, Earnest shall provide written notice to the AGO identifying the subcontractor(s) and the scope of the applicable contract(s) on a semi-annual basis for four (4) years after the Effective Date.

84. Within ninety (90) days of the completion of the review and assessment described in paragraph 83 directly above, Earnest shall implement corrective actions to address any and all identified areas of noncompliance.

85. Within sixty (60) days of the completion of all corrective actions described in paragraph 84 directly above, Earnest shall submit a written report to the AGO that describes the process and result(s) of the review and assessment, and the corrective actions that Earnest has taken in response to the findings of such review and assessment.

86. Following the submission of the written report required under paragraph 85 directly above, Earnest shall thereafter submit subsequent annual reports to the AGO for three (3) years demonstrating compliance with all injunctive terms. During these three (3) years, if the AGO reasonably deems additional information is necessary to determine Earnest's compliance, Earnest will provide such additional reports upon reasonable notice and request from the AGO.

87. Upon reasonable notice and request, Earnest will provide the AGO with raw data, documents, and/or other underlying information related to Massachusetts consumers for the purpose of determining compliance with the AOD.

88. Earnest shall provide the AGO, within fourteen (14) days of the Effective Date, information that the AGO requests to implement the terms of the AOD.

F. Other Applicable Terms

89. Where the AGO believes Earnest is not in compliance with terms of the AOD reflected in paragraphs 67-88, prior to seeking judicial intervention, the AGO shall notify Earnest of its concerns. The AGO will provide ten (10) days for Earnest to respond after such notification, and the AGO and Earnest shall meet and confer within two (2) weeks of such notification.

90. The AGO agrees that all confidential information disclosed to it by Earnest in the course of the investigation and in connection with this AOD shall be kept confidential by the AGO as provided by G.L. c. 93A, § 6, and other applicable law.

V. RELEASE

91. The AGO fully and finally releases Earnest, its past or present employees, officers, subsidiaries, agents, representatives, affiliates, parent corporation(s), owners, successors, and/or assigns from all civil liability to the Attorney General for all civil claims arising from the Covered Conduct occurring prior to the Effective Date. This release shall not bind any other private or governmental entity.

92. Nothing in this AOD shall be deemed to preclude the AGO's review of or enforcement concerning conduct that occurs after the Effective Date, or any claims that may be brought by the AGO to enforce Earnest's compliance with the AOD.

VI. NOTICE

93. Any notice that is made or required under the terms of this AOD shall be provided via electronic mail and first-class mail to the following addresses.

For the Commonwealth:

Massachusetts Attorney General's Office
Consumer Protection Division
ATTN: Alda Chan
One Ashburton Place, 18th Floor
Boston, MA 02108
alda.chan@mass.gov

For Earnest:

Earnest Operations LLC
ATTN: Legal
300 Frank H. Ogawa Plaza, Suite 340
Oakland, California 94612
legal@earnest.com

VII. GENERAL PROVISIONS

94. This AOD shall be governed by and interpreted in accordance with the laws of the Commonwealth of Massachusetts.

95. The parties to this AOD consent to the continuing jurisdiction of the Superior Court for Suffolk County for the purpose of enforcing or modifying the terms of this AOD or for granting such further relief as the Court deems just and proper.

96. This AOD shall be effective as of the Effective Date.

97. This AOD contains the complete agreement between the Parties. No promises, representations, or warranties other than those set forth in this AOD have been made by either party. This AOD supersedes all prior communications, discussions, or understandings, if any, of the Parties, whether written or oral.

98. The provisions of this AOD are severable. If any provision herein is found to be legally insufficient, invalid, void, or unenforceable, the remaining provisions shall continue in full force and effect and shall in no way be affected, impaired, or invalidated.

99. This AOD shall be binding on Earnest's successors, subsidiaries, and all other persons who have authority to control or who in fact control and direct Earnest's business in the Commonwealth of Massachusetts.

100. Earnest waives all rights to appeal or to otherwise challenge or contest the validity of this AOD.

101. Except as to the Notice provision, this AOD can be amended or supplemented only by a written document signed by all parties or by court order.

102. This AOD, as well as any amendments thereto, may be signed in multiple counterparts, each of which will be considered an original and all of which, when considered together, will constitute a whole.

103. Nothing in this AOD shall relieve Earnest of any obligations to comply with all applicable federal and state laws, rules, and regulations.

104. This AOD does not constitute an approval by the AGO of Earnest's acts or practices, and Earnest shall make no representation to the contrary.

105. Earnest shall not cause, encourage, or knowingly permit third parties acting as Earnest's agent, on Earnest's behalf or for its benefit, or otherwise under Earnest's control or direction, to engage in practices from which Earnest is prohibited by this AOD.

106. Earnest and its signatories have consulted with counsel in connection with their decision to enter into this AOD.

107. Earnest and the AGO participated in the drafting of this AOD.

108. Signatories for Earnest represent and warrant that they have the full legal power, capacity, and authority to bind Earnest.

109. By signing below, Earnest agrees to comply with all of the terms of this AOD.

COMMONWEALTH OF MASSACHUSETTS
ANDREA JOY CAMPBELL, ATTORNEY GENERAL

Signed by:

By: 12BBF2BB01914D4...
Alda Chan (BBO #705204)
Yael Shavit (BBO #695333)
Assistant Attorneys General
Consumer Protection Division
One Ashburton Place
Boston, MA 02108
Tel: (617) 963-2525
Email: alda.chan@mass.gov
yael.shavit@mass.go
7/8/2025
Dated: _____

EARNEST

DocuSigned by:

By: E99992A9E15B4E8...
David Green
Chief Executive Officer
Earnest Operations LLC
300 Frank H. Ogawa Plaza, Suite 340
Oakland, California 94612
Email: David.Green@earnest.com

7/8/2025
Dated: _____