

## SETTLEMENT AGREEMENT

Plaintiff, the Commonwealth of Massachusetts, by and through its Attorney General, Maura Healey, (the “Commonwealth”) and Defendant, the Pennsylvania Higher Education Assistance Agency d/b/a FedLoan Servicing and American Education Services, (“PHEAA”) enter into this Settlement Agreement (“Agreement”) in order to resolve a lawsuit filed in the Massachusetts Superior Court for Suffolk County (hereinafter “Court”) entitled *Commonwealth of Massachusetts v. Pennsylvania Higher Education Assistance Agency, d/b/a FedLoan Servicing and American Education Services*, Suffolk Superior Court C.A. No. 1784-02682 BLS2 (“Lawsuit”) without further proceedings or trial.

In entering into this Agreement, PHEAA expressly consents to the retention of jurisdiction by the Court, following dismissal of the Lawsuit, to adjudicate any disputes arising from the interpretation or implementation of this Agreement and to enforce the Agreement’s terms. PHEAA waives all defenses in any proceeding to adjudicate compliance or for enforcement, except that PHEAA has performed the Agreement by its terms.

### I. INTRODUCTION AND BACKGROUND

The Commonwealth filed its Complaint against PHEAA on August 23, 2017 pursuant to G.L. c. 93A § 4, and an Amended Complaint, alleging that PHEAA committed unfair or deceptive acts or practices in violation of G.L. c. 93A, § 2 relating to its federal student loan servicing practices including, without limitation, with respect to the Public Service Loan Forgiveness (“PSLF”) program, the Teacher Education Assistance for College and Higher Education (“TEACH”) Grant program, Income Driven Repayment (“IDR”) plans, and loan account billing practices. In particular, the Commonwealth alleged that PHEAA: (i) prevented borrowers participating in the PSLF program from making progress towards and achieving loan forgiveness by depriving them of the opportunity to make necessary payments to obtain

forgiveness and by misrepresenting the eligibility requirements of the program, (ii) caused TEACH Grant recipients to have their grants wrongly converted to loans the recipients are obligated to repay, (iii) prevented borrowers from timely obtaining affordable IDR plans, and (iv) overcharged borrowers in monthly billing statements. Prior to the execution of this Agreement, PHEAA resolved the Commonwealth's claim that PHEAA overcharged Massachusetts borrowers by offering refunds to affected borrowers nationally in September 2017, including to 906 borrowers in Massachusetts, and by subsequently enacting a policy addressing this issue. The parties have agreed to resolve the remaining claims in accordance with this Agreement.

PHEAA enters into this Agreement for settlement purposes only and neither admits nor denies allegations of wrongdoing or any liability for the claims asserted in the Complaint and Amended Complaint. PHEAA contends that it is a federal contractor and that, as such, it is solely an administrator of the PSLF and TEACH programs and does not have any discretion to act contrary to the laws as passed by the United States Congress, the implementing regulations set forth by the United States Department of Education (the "Department"), or the Department's directives. PHEAA contends that it was required to obtain the Department's approval to enter into this Agreement, and PHEAA has received permission from the Department to undertake the obligations described herein. While PHEAA has contended that the laws of the Commonwealth do not apply to PHEAA's activities as a federal contractor, PHEAA acknowledges that this Court has subject matter jurisdiction and personal jurisdiction over it, and that venue is proper in this Court.

NOW THEREFORE, the Commonwealth and PHEAA agree as follows:

1. The Court has jurisdiction over the parties and the subject matter of this action.

Venue in this Court is proper under G.L. c. 233, § 5.

2. The Attorney General was authorized to bring the Lawsuit under G.L. c. 93A, § 4.

3. The effective date of this Agreement (the “Effective Date”) shall be the date on which the Court enters its Order Approving the Settlement.

## II. DEFINITIONS

4. “Borrowers” shall mean current and former Massachusetts residents whose student loans PHEAA has serviced at any time during the person’s term of residence in Massachusetts on or after January 1, 2013.

5. “Direct Loans” shall refer to loans originated and guaranteed by the Department under 20 U.S. Code §§ 1087a – 1087j.

6. “ECF” shall mean the Department’s Public Service Loan Forgiveness Employer Certification Form that a borrower must submit to PHEAA in order to certify that the borrower was in qualifying full-time public service employment for the purposes of the Public Service Loan Forgiveness program while making the required 120 qualifying monthly loan payments.

7. “Income Driven Repayment plan” (or “IDR plan”) shall refer to a loan repayment plan for a federal student loan that sets the borrower’s monthly student loan payment at an amount that is intended to be affordable based on the borrower’s income and family size, including the Income-Contingent Repayment (“ICR”) plan, the Income-Based Repayment (“IBR”) plan, the Pay as You Earn Repayment plan (“PAYE”), and the Revised Pay as You Earn Repayment plan (“REPAYE”).

8. “IDR payments” shall mean borrower payments made under an IDR plan.

9. The “TEACH program” shall refer to the Teacher Education Assistance for College and Higher Education grant program authorized under 20 U.S.C. § 1070g-1.

10. The “PSLF” program shall refer to the Public Service Loan Forgiveness program authorized under 34 CFR § 685.219 and “intended to encourage individuals to enter and continue

in full-time public service employment by forgiving the remaining balance of their Direct loans after they satisfy the public service and loan payment requirements” of the regulation. *Id.* § 685.219(a).

11. “Department preapproved loan account correction” shall mean one or more types of non-monetary relief, which the Department has authorized PHEAA to implement for specified cohorts of borrowers including, without limitation, crediting missed months and overriding payments deemed as non-qualifying to change and record them as PSLF Qualifying Payments or IDR payments.

12. “Servicer Error” shall refer to, without limitation, the following servicing conduct by PHEAA:

- A. Failing to adhere to a Borrower’s request(s) with respect to payment allocations, participation in an IDR plan, or deferment and/or forbearance of loan payments, when the applicable regulations permitted the requested action;
- B. Making a misrepresentation(s) to a Borrower concerning eligibility, documentation, or other requirements of a loan or repayment program with respect to making progress toward PSLF;
- C. Failing to give proper advice to a Borrower about PSLF eligibility requirements or loan consolidation;
- D. Miscalculating a Borrower’s PSLF Qualifying Payments;
- E. Incorrectly entering data in a Borrower account on its servicing system;
- F. Processing a Borrower’s IDR application more than 30 business days after receipt;

- G. Inaccurately approving or denying a Borrower's ECF or loan forgiveness application;
  - H. Improperly placing a Borrower in "paid ahead" status;
  - I. Improperly billing a Borrower; or
  - J. Failing to adhere to a statute, regulation or contractual requirement.
  - K. "Servicer Error" shall not include errors made by prior servicers or instances where PHEAA acted according to then-applicable federal regulations or guidance by the Department.
13. "PSLF Qualifying Payment" shall mean a monthly payment made:
- A. on a Direct Loan;
  - B. after October 1, 2007;
  - C. for the full amount then due;
  - D. no later than 15 days after the due date;
  - E. under the 10-year Standard Repayment Plan or under an IDR plan; and
  - F. while employed for 30 hours per week or more by a public service organization as defined in 34 CFR § 685.219(b).

### III. NOTICE AND CLAIMS PROCESS

14. PHEAA shall implement a Notice and Claims Process for Borrowers to: (i) provide Borrowers an opportunity to obtain an Account Review, (ii) determine whether PHEAA made a Servicer Error, and (iii) obtain relief as provided under this Agreement in the event that a Servicer Error is identified. PHEAA shall pay all costs of administration and implementation of the process, as set forth below.

15. **Notice and Claim Form:** Beginning no later than 60 days after the Effective Date, PHEAA shall send a Notice and Claim Form (collectively, the "Notice"), substantially

similar to the form attached hereto as Exhibit 1, to all Borrowers whose loans are owned by the federal government and serviced by PHEAA. The Notices shall be sent by PHEAA on a staggered schedule, with the last Notices sent on or before 120 days after the Effective Date, and shall be provided in accordance with the Borrower's expressed preferred communication channel, which may include, but not be limited to, electronic communications. To avoid any discrepancies between PSLF Qualifying Payment counts in the Notice and the Borrower's monthly invoice, PHEAA may elect to send the Notice on the same date as the Borrower's monthly invoice, as separate communications.

16. **Claim Form Submission:** Borrowers may obtain an Account Review by submitting the Claim Form accompanying the Notice within 90 days after the date the Borrower receives the Notice. Borrowers shall have the option to submit the Claim Form by mail, email, or electronic upload to PHEAA.

17. Borrowers whose application for PSLF loan forgiveness was denied for any reason (other than having a loan that entered into repayment less than 10 years prior) automatically shall be considered to have submitted a Claim Form, regardless of whether the Borrower submits a completed Claim Form to PHEAA. PHEAA's Account Review for such Borrowers shall commence within 30 days of the Effective Date and be completed within 120 days of the Effective Date.

18. **Account Review:** For each Borrower who submits a Claim Form, PHEAA shall review the Borrower's loan account as set forth in Paragraph 19 below to identify whether there was a Servicer Error entitling the Borrower to relief. PHEAA may use any information Borrowers submit with their Claim Form to assist PHEAA in identifying a Servicer Error, however, PHEAA shall not limit the scope of its Account Review based on the information

Borrowers provide. PHEAA shall complete its Account Review within 90 days of receipt of the Borrower's Claim Form.

19. To determine whether there was a Servicer Error, PHEAA shall review all of the following, if in its possession and to the extent relevant to the Borrower's request(s), relating to the Borrower's account:

- A. Payment history;
- B. ECFs;
- C. Loan type;
- D. Telephone call notes;
- E. Telephone call recordings;
- F. Correspondence (mail, e-mail);
- G. Processor or customer service representative performance reports;
- H. Prior audits involving the Borrower's account;
- I. Records of a prior servicer when necessary to determine accuracy of PSLF Qualifying Payment count; and
- J. Any other information/documentation PHEAA typically reviews to identify Servicer Errors.
- K. If necessary, PHEAA may request that the Borrower provide additional information to facilitate its review, such as income-related information to determine IDR plan eligibility or ECF-related documentation to determine PSLF eligibility.

20. **Account Review Outcomes:** The following provisions set forth the action(s) that PHEAA shall take following an Account Review.

- A. If, in its review, PHEAA identifies that a Borrower's PSLF Qualifying Payment count is incorrect due to miscounting or incorrect data entry, the Borrower shall receive a credit as set forth in Paragraph 22, for each PSLF Qualifying Payment that was not counted due to the error.
- B. If, in its review, PHEAA identifies a processing error on a Borrower's IDR application that caused the Borrower to miss an opportunity to make a PSLF Qualifying Payment or IDR payment, the Borrower shall receive the relief set forth in Paragraph 23 for each PSLF Qualifying Payment or IDR Payment missed.
- C. If PHEAA's records contain evidence that PHEAA made a misrepresentation to or failed to properly advise a Borrower about a PSLF eligibility requirement and the Borrower was subsequently not in compliance with that requirement, such Borrower shall receive relief as set forth in Paragraphs 24-26, as applicable.
- D. If PHEAA's records are inconclusive as to whether PHEAA made a misrepresentation to or failed to properly advise a Borrower about a PSLF eligibility requirement, such Borrower shall receive relief as set forth in Paragraphs 24-26, as applicable, if the Borrower attests in writing in the form substantially similar to the document attached hereto as Exhibit 2 that they relied on PHEAA's alleged misrepresentation or failure to advise. In those instances, subject to the below exception, PHEAA shall provide the Borrower with the relief as set forth in Paragraphs 24-26, as applicable.



- i. Exception: PHEAA shall not have an obligation to provide relief to Borrowers under Paragraph 20(D) if PHEAA identifies evidence of a prior verbal communication(s) between PHEAA and such Borrower, in the form of written account notes or telephone call recording(s), that took place during the prior six (6) months, in which the Borrower raised the same question or concern and received accurate and complete information, and PHEAA provides such notes or call recording to the Commonwealth attesting to their authenticity.
- ii. In the event PHEAA is required under Paragraph 20(D) to provide relief, PHEAA may request that the Department authorize an override under which PHEAA would designate any non-qualifying payments or months as PSLF Qualifying Payments. The Borrower shall receive such relief if the Department authorizes it within 90 business days of PHEAA's request. If the Department determines that such relief is not available or does not respond to PHEAA's request within 90 business days, PHEAA shall provide the Borrower with the relief as set forth in Paragraphs 24-26, as applicable.

21. **Borrower Dispute Process:** The following provisions set forth the process PHEAA shall follow for Borrower Disputes and Additional Review of accounts:
  - A. On or before 10 business days after completing each Borrower's Account Review as set forth in Paragraph 20, PHEAA shall send a notice to such

Borrower containing the following information:

- i. The relief the Borrower will receive, if any;
- ii. The reason(s) why PHEAA has determined that the Borrower is or is not entitled to relief;
- iii. For each payment or month that does not receive credit as a PSLF Qualifying Payment, the reason(s) the payment or month was not a PSLF Qualifying Payment;
- iv. Contact information for PHEAA's Office of Consumer Advocacy and the Student Loan Ombudsman at the Department of Education; and
- v. A statement informing the Borrower that they can dispute PHEAA's findings by sending PHEAA additional information, documentation and/or explanation, on an Additional Review Form provided by PHEAA, within 30 days of receipt of the notice.

B. The Additional Review shall consider the additional information, documentation and/or explanation provided by the Borrower to determine whether a Servicer Error that resulted in a loss of Borrower credit towards loan forgiveness occurred.

- i. If PHEAA identifies a Servicer Error during its Additional Review, the Borrower shall receive relief as set forth in Section IV below, as applicable and a notice explaining the relief within 10 business days of the completion of its additional review.
- ii. If PHEAA does not identify a Servicer Error during its Additional Review, PHEAA shall send such Borrower a notice with an

explanation of its findings and the contact information for PHEAA's Office of Consumer Advocacy and the Student Loan Ombudsman at the Department of Education within 10 business days of the completion of its Additional Review.

#### **IV. BORROWER LOAN ACCOUNT CORRECTIONS AND MONETARY RELIEF**

22. For Borrowers whose PSLF Qualifying Payment count and/or IDR payment count is incorrect due to a counting error or incorrect data entry, PHEAA shall credit the undercounted payments to the Borrower's account.

23. For Borrowers who missed opportunities to make PSLF Qualifying Payments and/or IDR Payments due to an IDR application processing error:

- A. PHEAA shall provide a Department pre-approved loan account correction that provides relief by overriding payments deemed as non-qualifying to change and record them as PSLF Qualifying Payments to the Borrower's account for all such missed payment opportunities, and by making any payments necessary for such override to be effectuated on the Borrower's behalf directly to the Department.
- B. For the 23 Borrowers entitled to such relief whom PHEAA identified prior to the Effective Date, PHEAA shall provide the relief set forth in Paragraph 23(A) automatically within 60 days after the Effective Date, without the need for such Borrowers to file a Claim Form.

24. For all Borrowers who missed opportunities to make PSLF Qualifying Payments due to PHEAA's misrepresentation or failure to properly advise about whether a repayment plan or repayment status (such as forbearance, deferment or paid ahead) qualified for PSLF, PHEAA shall provide the following relief:

- A. Where PHEAA has misrepresented that a repayment plan or repayment status (including, without limitation forbearance, deferment, paid ahead) qualifies for PSLF when it does not, PHEAA shall provide a Department preapproved loan account correction that overrides payments deemed as non-qualifying to change and record them as PSLF Qualifying Payments to the Borrower's account for each month spent under such repayment plan or status.
- B. Where PHEAA failed to properly advise Borrowers about repayment plan or repayment status eligibility for PSLF, PHEAA may first seek a loan account correction from the Department that overrides payments deemed as non-qualifying to change and record them as PSLF Qualifying Payments or credits PSLF Qualifying Payments to the Borrower's account for each month spent under such repayment plan or status. PHEAA shall make such request within 5 days of determining the outcome of the Account Review or 5 days of receipt of the Borrower's Attestation, if one is necessary as a predicate to relief under Paragraph 20(D). If the Department fails or refuses to approve an override within 90 days of PHEAA's request, PHEAA shall make the following monetary payment to the Borrower:
- i. Monetary Payment: The monetary payment shall be calculated by valuing each month in which the Borrower lost the opportunity to make a PSLF Qualifying Payment as equal to 1/12 of 10% of the Borrower's outstanding principal balance on the relevant loan(s) as of the date of the first missed PSLF Qualifying Payment

opportunity month, then multiplying that figure by the number of missed PSLF Qualifying Payment opportunity months that occurred: (i) after such Borrower was subject to the misrepresentation or failure to properly advise, and (ii) during which the Borrower was otherwise in compliance with the other requirements of PSLF. Such payment shall be sent to the Borrower via check on or before 30 days after the expiration of the 90-day period for the Department to consider PHEAA's override request.

25. **Loan Type.** For all Borrowers who missed opportunities to make PSLF Qualifying Payments due to PHEAA's misrepresentation or failure to properly advise about whether a loan type qualified for PSLF, PHEAA shall make a monetary payment to the Borrower as set forth in Paragraph 24(B)(i).

26. **Public service employer.** For all Borrowers who missed opportunities to make PSLF Qualifying Payments due to PHEAA's misrepresentation about whether an employer qualified for the PSLF program, PHEAA shall make a monetary payment to the Borrower as set forth in Paragraph 24(B)(i).

A. For the 2 Borrowers whom PHEAA identified prior to the Effective Date who were subject to a misrepresentation by PHEAA about whether an employer qualified for PSLF and as a result missed opportunities to make PSLF Qualifying Payments, PHEAA shall provide such relief automatically without the need for these Borrowers to file a Claim Form within 60 days of the Effective Date.

27. Any and all Borrowers whose application for PSLF loan forgiveness was granted and who had a Servicer Error cause them to make payments in excess of the 120 payments necessary for loan forgiveness shall receive refunds of such payments on or before 30 business days after PHEAA identifies the overpayments.

28. **TEACH Grant Program.** PHEAA shall identify all Massachusetts TEACH Grant recipients: (i) whose grants PHEAA erroneously converted to loans while the recipients were completing their teaching service requirements, and (ii) who have applied or who apply within two years of the Effective Date for reconsideration by the Department but do not have their grants reinstated by the Department's reconsideration process. For all such recipients, PHEAA shall reimburse such recipients for all amounts paid on such loans and shall pay off any remaining balance of such loans.

#### V. ENHANCED QUALITY ASSURANCE REVIEW PRACTICES

29. PHEAA shall implement enhanced quality assurance review practices designed to identify Servicer Errors, the Borrowers affected by Servicer Errors, and the root causes of Servicer Errors, which shall include the following components:

- A. Beginning 30 days after the Effective Date, and for a period of two years following the Effective Date, PHEAA shall increase the size of the population it samples when conducting Quality Assurance sampling relating to IDR and PSLF processing for Borrowers to 5%.
- B. For a period of two years following the Effective Date, PHEAA shall broaden the scope of its root cause analysis for non-typographical errors related to PSLF or IDR such that, in instances where any Borrower has been identified as being negatively impacted by a Servicer Error, PHEAA

shall seek to identify similarly-situated Borrowers affected by a similar Servicer Error.

- C. PHEAA shall conduct affirmative outreach to all Borrowers identified as a result of the preceding paragraph.
- D. PHEAA shall create a system flag on Borrowers' accounts that will automatically identify any Borrowers whose IDR application was processed in excess of 30 days so that PHEAA can identify such Borrowers in the future (i.e. those who do not submit a Claim Form but are later determined to be entitled to relief).
- E. If a Department override or other loan account correction is available to Borrowers identified pursuant to this Section, PHEAA shall provide such Borrowers the override or loan account correction with a notice of explanation.

#### **VI. BORROWER COMPLAINT HANDLING**

30. On or before the Effective Date, PHEAA shall designate a Single Point of Contact ("SPOC") who will assist the Massachusetts Attorney General's Office ("MA AGO") in responding to Borrower inquiries and complaints the MA AGO receives.

#### **VII. COMPLIANCE MONITORING AND REPORTING**

31. On or before the Effective Date, PHEAA shall provide the MA AGO with the following lists of Borrowers, each of which shall contain the Borrowers' and co-Borrowers' name(s), mailing addresses, email addresses (if applicable) and telephone number(s):

- A. All Borrowers who will receive a Notice pursuant to Paragraph 15.
- B. All Borrowers who had their final application for PSLF loan forgiveness denied for any reason other than having a loan that entered into repayment

less than 10 years prior, who will receive an automatic Account Review and any applicable relief without having to submit a Claim Form pursuant to Paragraph 17.

- C. All Massachusetts TEACH Grant recipients: (i) whose grants PHEAA erroneously converted to loans while they were on track to completing their teaching service requirements, and (ii) who have applied for reconsideration by the Department but did not have their grants reinstated by the Department's reconsideration process due to a Servicer Error, pursuant to Paragraph 28.
- D. The Borrowers identified in Paragraph 23(B).
- E. The Borrowers identified in Paragraph 26.

32. PHEAA shall provide reports to the MA AGO on a monthly basis, or when requested by the MA AGO, during the Notice and Claims process, which will identify all of the Borrowers who submitted a Claim Form, whether they received relief, and if they were denied, the reason for denial. PHEAA will provide the MA AGO with a final report collecting this information in the aggregate within 30 days after the Notice and Claims process is complete.

#### **VIII. OTHER PROVISIONS**

33. PHEAA shall provide the relief described herein for a period of two years or through the expiration of PHEAA's current contract (or extension of such contract) with the Department following the Effective Date, whichever is shorter, except: (i) in the event that this time limitation is triggered before PHEAA has completed processing every Claim Form submitted by Borrowers and/or has made all of the monetary payments required under this Agreement, PHEAA shall nonetheless remain obligated to complete processing of such Claim Forms and such payments; and (ii) in the event that this time limitation is triggered before



PHEAA has provided all of the non-monetary relief under this Agreement as set forth in Paragraphs 24(B), 25-27, above, PHEAA shall make a monetary payment to those Borrowers as set forth in Paragraph 24(B)(i). PHEAA shall provide notice to the MA AGO of any contract extension or expiration.

34. None of the relief required under this Agreement shall be binding on other federal student loan servicers.

35. Nothing in this Agreement constitutes an admission, declaration, or other evidence of any fact or law.

36. This Agreement does not affect the rights or liabilities of any person or entity, not a party to this action, except with respect to the relief provided in this Agreement for the benefit of Borrowers and TEACH grant recipients.

37. Upon execution by all signatories to this Agreement, the Commonwealth shall file with the Court an Unopposed Motion To Approve Settlement Agreement (attaching a copy of this Agreement, as executed) along with a proposed Order Approving the Settlement Agreement (“Order”), in the forms attached hereto as Exhibits 3 and 4, respectively. On or before five (5) business days after the Court enters the Order, the parties shall enter into and file a Stipulation of Dismissal pursuant to Mass. R. Civ. P. 41(a)(1)(ii) in the form attached hereto as Exhibit 5. PHEAA waives all rights of appeal and also waives the requirements of Rule 52 of the Massachusetts Rules of Civil Procedure.

38. Nothing contained herein, nor any negotiations or transactions connected in any way with this Agreement, shall be offered or received in evidence in any other proceeding to prove any liability, any wrongdoing, or an admission on the part of PHEAA or any individual or entity not a party hereto; provided, however, that this Agreement may be used, offered, or

received in evidence in a proceeding by the Commonwealth under the Court's retained jurisdiction to enforce any or all of the Agreement's terms.

39. Where PHEAA is required to make monetary payments to Borrowers or the Department under this Agreement, the fact of such payment does not: (i) imply that any determination has been made that the Borrower will qualify for loan forgiveness under the PSLF; and/or (ii) impact the Borrower's obligations under the loan(s), including to make all required payments; and the Department will not be required to change any credit bureau reporting as a result of PHEAA's payment.

40. The Court retains jurisdiction of this case pursuant to G.L. c. 93A, § 4 for purposes of enforcing this Agreement and granting such further relief as is necessary to implement its terms.

41. The parties shall fully cooperate with one another in the implementation of this Agreement.

42. Nothing in this Agreement shall relieve PHEAA of its duty to comply with the laws and regulations applicable to its business in the Commonwealth.

42. Full compliance with this Agreement resolves and settles all civil claims the Commonwealth has or had against PHEAA based on the allegations and facts set forth in the Complaint and Amended Complaint.

43. This Agreement is without prejudice to, and in no way waives or limits, any individual's private rights of action, or other rights or ability to obtain relief, in any forum or by any process that may be or become available to them, or through any other means, including, without limitation, pursuant to any judgment or settlement, involving the Department, the Consumer Financial Protection Bureau, state Attorneys General, the Massachusetts Division of Banks, or any other federal, state, or local officials.

44. This Agreement may not be changed, altered, or modified, except by a writing signed by the Parties and further order of the Court adopting such changes, alterations or modifications.

45. Each party shall bear its own attorneys' fees and costs.

46. If the Commonwealth demonstrates noncompliance with this Agreement in proceedings under the Court's retained jurisdiction, PHEAA shall, in addition to any other relief, pay the Commonwealth: (i) a sum of up to \$10,000, to be determined in the Court's discretion, for each student loan account materially affected by PHEAA's failure to comply with the Agreement, as determined by the Court, and (ii) the Commonwealth's reasonable attorneys' fees and costs incurred in pursuing enforcement. The payment provided in this paragraph shall be made by wire transfer (pursuant to instructions to be provided by the Office of the Attorney General), or by certified or cashier's check made payable to the Commonwealth of Massachusetts and delivered to Shennan Kavanagh, Assistant Attorney General, Consumer Protection Division, One Ashburton Place, 18th Floor, Boston, Massachusetts 02108.

47. The Parties agree that this Agreement may be executed in counterparts, and that copies, facsimiles, and electronic copies of this Agreement shall have the same force and effect for all purposes as the original.

**THE UNDERSIGNED HAVE READ THE FOREGOING SETTLEMENT AGREEMENT, FULLY UNDERSTAND IT, AGREE TO THE TERMS SET FORTH HEREIN AND ARE AUTHORIZED TO SIGN AND BIND THE PARTY ON WHOSE BEHALF THEY SIGN,**

