

## PREAMBLE

This Settlement Agreement and Release (the "Agreement") is entered into by and among plaintiff Donna Sempek ("Named Plaintiff") and all those on whose behalf she is prosecuting this action (each of them a "Plaintiff" and all of them "Plaintiffs"), on the one hand, and defendant Centris Federal Credit Union ("Defendant"), on the other hand. All references in this Agreement to a "Party" or the "Parties" shall refer to a party or the parties to this Agreement as identified above.

## RECITALS

A. On June 15, 2022, Named Plaintiff filed a putative class action complaint in the District Court of Douglas County, Nebraska, entitled *Donna Sempek v. Centris Federal Credit Union*, Case No. CI 22-4495, alleging claims on behalf of contract, including breach of the implied covenant of good faith and fair dealing, and unjust enrichment ("Complaint").

B. On September 28, 2022, Plaintiff filed the operative Amended Complaint, alleging claims on behalf of two classes for breach of contract, including breach of the implied covenant of good faith and fair dealing, and unjust enrichment ("Amended Complaint").

C. On February 10, 2023, Defendant answered the Amended Complaint, denying all material allegations and raising various affirmative defenses.

D. On June 21, 2023, the Parties participated in a mediation before Judge Gerald E. Rosen (Ret.), which resulted in this Agreement.

E. Defendant has entered into this Agreement to resolve any and all controversies and disputes arising out of or relating to the allegations made in the Complaint and Amended Complaint, and to avoid the burden, risk, uncertainty, expense, and disruption to its business operations associated with further litigation. Defendant does not in any way acknowledge, admit to or concede any of the allegations made in the Complaint or Amended Complaint, and expressly disclaims and denies any fault or liability, or any charges of wrongdoing that have been or could have been asserted in the Amended Complaint. Nothing contained in this Agreement shall be used or construed as an admission of liability and this Agreement shall not be offered or received in evidence in any action or proceeding in any court or other forum as an admission or concession of liability or wrongdoing of any nature or for any other purpose other than to enforce the terms of this Agreement.

F. Named Plaintiff has entered into this Agreement to liquidate and recover on the claims asserted in the Amended Complaint, and to avoid the risk, delay, and uncertainty of continued litigation. Named Plaintiff does not in any way concede the claims alleged in the Amended Complaint lack merit or are subject to any defenses.

## AGREEMENT

**NOW, THEREFORE**, in consideration of the foregoing recitals, which are incorporated into and are an integral part of this Agreement, and in consideration of the mutual promises below, the Parties agree as follows:

1. **DEFINITIONS.** In addition to the definitions contained elsewhere in this Agreement, the following definitions shall apply:

(a) “APPSN Fees” shall mean overdraft fees that were charged and not refunded from June 15, 2017 to April 30, 2022 on signature Point of Sale debit card transactions where there was a sufficient available balance at the time the transaction was authorized, but an insufficient available balance at the time the transaction was presented to Defendant for payment and posted to a member’s account.

(b) “APPSN Fee Class” shall mean those current or former members of Defendant who are residents of Nebraska and were assessed APPSN Fees.

(c) “Bar Date to Object” shall be the date set by the Court as the deadline for Class Members to file an Objection, and shall be fifteen (15) days after Class Counsel files the Motion for Award of Fees, Costs, and Service Award.

(d) “Bar Date to Opt Out” shall be the date set by the Court as the deadline for members of the Class to opt out, and shall be thirty (30) days after the date the Notice (defined below) must be delivered to Class Members.

(e) “Class Counsel” shall mean Lynn A. Toops of Cohen & Malad, LLP, Gerard Stranch, IV and Martin F. Schubert of Stranch, Jennings & Garvey, PLLC, Christopher D. Jennings of the Johnson Firm, and Frederick D. Stehlik and Zachary W. Lutz-Priefert of Gross Welch Marks Clare PC LLO.

(f) “Class Member(s)” shall mean those current or former members of Defendant who are in the APPSN Fee Class or the Retry Fee Class.

(g) “Court” shall mean the District Court of Douglas County, Nebraska.

(h) “Defendant’s Counsel” shall mean Stuart M. Richter of Katten Muchin Rosenman LLP and Kenneth W. Hartman of Baird Holm LLP.

(i) “Effective Date” shall be thirty (30) days after the entry of the Final Approval Order (defined below) provided no objections are made to this Agreement. If there are objections to the Agreement, then the Effective Date shall be the later of: (1) thirty (30) days after entry of the Final Approval Order if no appeals are taken from the Final Approval Order; or (2) if appeals are taken from the Final Approval Order, then thirty (30) days after an Appellate Court ruling affirming the Final Approval Order; or (3) thirty (30) days after entry of a dismissal of the appeal.

(j) "Email Notice" shall mean a short form of notice that shall be sent by email to Class Members who are current members of Defendant and agreed to receive account statements and notices electronically, in the form attached as **Exhibit 1**.

(k) "Final Approval Hearing Date" shall be the date set by the Court for the hearing on the Motion for Final Approval of this Agreement and the Motion for Award of Fees, Costs, and Service Award.

(l) "Final Approval Order" shall mean the Order and Judgment approving this Agreement issued by the Court at or after the Final Approval Hearing Date.

(m) "Final Report" shall mean the report prepared by the Settlement Administrator of all receipts and disbursements from the Settlement Fund, as described in Section 10, below.

(n) "Long Form Notice" shall mean the form of notice that shall be posted on the settlement website created by the Settlement Administrator and shall be available to Class Members by mail or e-mail on request made to the Settlement Administrator in the form attached as **Exhibit 2**.

(o) "Motion for Final Approval and Motion for Award of Fees, Costs, and Service Award" shall mean the motion or motions filed by Class Counsel, as referenced in Section 7, below, which shall be filed forty-five (45) days before the Final Approval Hearing date.

(p) "Negative Account Balances" shall mean the portions of any charged off negative account balances owing by Class Members that are attributable to APPSN Fees or Retry Fees assessed to and paid by those Class Members. For purposes of this Agreement, the Parties agree that the Negative Account Balances total Eighty Three Thousand Two Hundred Eight Dollars and Eighty Seven Cents (\$83,208.87).

(q) "Net Settlement Fund" shall mean the net amount of the Settlement Fund after payment of court approved attorneys' fees and costs, any service award allowed by the Court, and any fees and costs paid to the Settlement Administrator.

(r) "Notice" shall mean the Email Notice, Long Form Notice, and Postcard Notice that the Parties will ask the Court to approve in connection with the Motion for Preliminary Approval of the Settlement.

(s) "Postcard Notice" shall mean the short form notice that shall be sent by mail to Class Members who are not current members of Defendant or are current members but did not agree to receive notices by email, or Class Members to whom the Settlement Administrator is unable to send Email Notice using the email addresses provided by Defendant, in the form attached as **Exhibit 1**.

(t) "Preliminary Approval/Notice Order" shall mean the Order issued by the Court preliminarily approving this Agreement and authorizing the sending of the Notice to Class Members, as provided in Sections 5 and 6, below.

(u) "Retry Fees" shall mean overdraft and/or nonsufficient funds/returned item fees that were paid by Class Members and not refunded from September 28, 2017 to August 31, 2019, for Automated Clearing House (ACH) and check transactions that were re-submitted by a merchant after previously being returned by Defendant for insufficient funds.

(v) "Retry Fee Class" shall mean those current or former members of Defendant who are residents of Nebraska and were assessed Retry Fees.

(w) "Settlement Administrator" shall mean the entity appointed by the Court to provide the Notice and other administrative handling of this Agreement.

(x) "Settlement Fund" shall mean One Million Two Hundred Thousand Dollars (\$1,200,000.00) to be paid by Defendant under the terms of this Agreement, plus any accrued interest on such portion of the Settlement Fund held by the Settlement Administrator during the administration of the settlement.

(y) "Uncollected Fees" shall mean any APPSN Fees or Retry Fees that were assessed on Class Members but not collected. For purposes of this Agreement, the Parties agree that the Uncollected Fees are Thirty Six Thousand Seven Hundred Sixty Two Dollars (\$36,762.00).

(z) "Value of the Settlement" shall mean the Settlement Fund plus the Uncollected Fees and Negative Account Balances.

2. **CLASS ACTION SETTLEMENT.** Named Plaintiff shall propose and recommend to the Court that a settlement class shall be certified for purposes of implementing the terms of the settlement provided for in this Agreement. Defendant agrees solely for purposes of the settlement provided for in this Agreement, and the implementation of such settlement, that this case shall proceed as a class action; provided, however, that if a Final Approval Order is not issued, then Defendant shall retain all rights to object to maintaining this case as a class action. Plaintiff and Class Counsel shall not reference this Agreement in support of any subsequent motion relating to certification of a liability class.

3. **FORGIVENESS OF UNCOLLECTED FEES.** Within 10 days after the Effective Date, Defendant shall forgive all Uncollected Fees as defined in Section 1(y) and as identified by the Settlement Administrator. The forgiveness provided for in this Section 3 shall not apply to any unpaid balances owing by Class Members other than Uncollected Fees.

4. **FORGIVENESS OF NEGATIVE ACCOUNT BALANCES.** Within 10 days after the Effective Date, Defendant shall forgive the Negative Account Balances as defined in Section 1(p) and as identified by the Settlement Administrator. The forgiveness provided for in this Section 4 shall not apply to any unpaid balances owing by Class Members other than the Negative Account Balances.

5. **PRELIMINARY SETTLEMENT APPROVAL.** Class Counsel shall use reasonable efforts to promptly file a motion seeking a Preliminary Approval/Notice Order. The Preliminary Approval/Notice Order shall provide for: preliminary approval of this Agreement,

provisional certification of the settlement class for settlement purposes, appointment of Named Plaintiff as the class representative for the provisionally certified class, appointment of Class Counsel as counsel to the provisionally certified class, appointment of the Settlement Administrator, and the requirement that the Notice be given to the Class Members as provided in Section 6, below (or as otherwise determined by the Court).

**6. NOTICE TO THE CLASSES.**

(a) The Settlement Administrator shall send the Postcard Notice and Email Notice (as applicable) to all Class Members as specified below and by the Court in the Preliminary Approval/Notice Order. The Class Members shall be identified by Defendant, pursuant to an analysis of Defendant's business records, and Class Member information shall be transmitted from Defendant to the Settlement Administrator. Class Member information shall not be provided to Class Counsel except as expressly provided herein.

(b) For those Class Members who are current members of Defendant and have agreed to receive notices regarding their accounts from Defendant electronically, Defendant shall provide the Settlement Administrator with the most recent email addresses it has for these Class Members. The Settlement Administrator shall email an Email Notice to each such Class Member's last known email address, in a manner that is calculated to avoid being caught and excluded by spam filters or other devices intended to block mass email. For any emails that are returned undeliverable, the Settlement Administrator shall send a Postcard Notice in the manner described in subsection (c) below. The Email Notice shall inform Class Members how they may request a copy of the Long Form Notice.

(c) For those Class Members who are not current members of Defendant or who have not agreed to receive electronic notices regarding their accounts from Defendant, the Postcard Notice shall be mailed to them by first class United States mail to the best available mailing addresses. Defendant shall provide the Settlement Administrator with last known mailing addresses for these Class Members. The Settlement Administrator shall run the names and addresses through the National Change of Address Registry and update as appropriate. If a mailed Postcard Notice is returned with forwarding address information, the Settlement Administrator shall re-mail the Postcard Notice to the forwarding address. For all mailed Postcard Notices that are returned as undeliverable, the Settlement Administrator shall use standard skip tracing devices to obtain forwarding address information and, if the skip tracing yields a different forwarding address, the Settlement Administrator shall re-mail the Postcard Notice once to the address identified in the skip trace, as soon as reasonably practicable after the receipt of the returned mail. The Postcard Notice shall inform Class Members how they may request a copy of the Long Form Notice.

(d) The Long Form Notice shall be posted on the settlement website created by the Settlement Administrator and shall be available on request made to the Settlement Administrator by any Class Member.

(e) The Settlement Administrator shall maintain a database showing mail and email addresses to which each Notice was sent and any Notices that were not delivered by mail and/or email. A summary report of the Notices shall be provided to the Parties at least five (5) days

prior to the deadline to file the Motion for Final Approval. The database maintained by the Settlement Administrator regarding the notices shall be available to the Parties and the Court upon request. It shall otherwise be confidential and shall not be disclosed to any third party. To the extent the database is required by the Court to be provided to Class Counsel, it shall be used only for purposes of implementing the terms of this Agreement, and shall not be used for any other purposes.

(f) The Long Form Notice and Email Notice/Postcard Notice shall be in forms approved by the Court and substantially similar to the forms attached hereto as **Exhibits 1 and 2**. The Parties may by mutual written consent make non-substantive changes to the Notices without Court approval.

(g) All costs associated with publishing, mailing and administering the Notice as provided for in this Section, and all costs of administration including, but not limited to, the Settlement Administrator's fees and costs shall be paid out of the Settlement Fund.

**7. MOTION FOR FINAL APPROVAL AND MOTION FOR FEES, COSTS, AND SERVICE AWARD.** No later than fifteen (15) days after Postcard Notice and Email Notice are sent, Class Counsel shall file a Motion for Fees, Costs, and Service Award so that the same can be heard on the Final Approval Hearing Date. No later than seven (7) days before the Final Approval Hearing date, and provided the conditions in Section 16, below, are satisfied, Class Counsel shall file a Motion for Final Approval of this Agreement so that same can be heard on the Final Approval Hearing Date.

**8. ENTRY OF JUDGMENT.** The Final Approval Order shall constitute the Court's final judgment in this action. The Court shall retain jurisdiction to enforce the terms of the Final Approval Order.

**9. THE SETTLEMENT FUND AND DISTRIBUTION.**

(a) **Payments to Class Members.** Within fifteen (15) days after the entry of a Preliminary Approval Order, Defendant shall transfer the Settlement Fund to the Settlement Administrator, less the total amount that will be credited to certain Class Members by Defendant, as provided in Section 9(d)(iv), below. The Settlement Fund shall be utilized for all amounts to be paid to Class Members, and for any amounts to be paid by the Claims Administrator for (a) Class Counsel's fees and costs; (b) any service award payment to the Named Plaintiff; (c) costs associated with administering the Notice in accordance with Section 6, above; (d) any fees paid to the Settlement Administrator for services rendered in connection with the administration process; and (e) any other amounts required to be paid to implement this Agreement. The Settlement Fund shall be the total amount Defendant is obligated to pay under the terms of this Agreement. Defendant shall not make any additional or further contributions to the Settlement Fund, even if the total amount of all alleged APPSN Fees and Retry Fees charged to the Class Members exceeds the value of the Net Settlement Fund.

(b) All funds held by the Settlement Administrator shall be deemed and considered to be in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until distributed pursuant to this Agreement.

(c) All funds held by the Settlement Administrator at any time shall be deemed to be a Qualified Settlement Fund as described in Treasury Regulation §1.468B-1, 26 C.F.R. §1.468B-1.

(d) Payments shall be made from the Settlement Fund as follows:

(i) Class Counsel's Fees and Costs. Class Counsel's reasonable attorneys' fees and costs, as determined and approved by the Court, shall be paid from the Settlement Fund no later than ten (10) days after entry of a Final Approval Order. Class Counsel may apply for an award of attorneys' fees of up to one-third (33 1/3%) of the Value of the Settlement, plus reimbursement of reasonable litigation costs. Defendant agrees not to oppose an application for attorneys' fees of up to one-third (33 1/3%) of the Value of the Settlement, but reserves the right to oppose an application for fees in excess of that amount.

(ii) Service Award. Subject to Court approval, Named Plaintiff may apply to the Court for a service award of up to five thousand dollars (\$5,000.00). Subject to the Court's approval, the service award shall be paid from the Settlement Fund no later than ten (10) days after the Effective Date. Defendant shall not object to a Service Award of up to \$5,000.00 for Named Plaintiff.

(iii) Settlement Administrator's Fees and Costs. The Settlement Administrator's fees and costs shall be paid from the Settlement Fund within ten (10) days after invoicing to and approval by the Parties. The Parties and the Settlement Administrator agree that any fees or costs incurred by the Settlement Administrator prior to funding of the Settlement Fund shall be deferred and not invoiced until after the Effective Date. In the event the Final Approval Order is not entered or this Agreement is terminated pursuant to Section 16 below, Defendant agrees to cover any costs incurred and fees charged by the Settlement Administrator pursuant to Section 6 above prior to the denial of final approval or the termination of this Agreement.

(iv) Payments to Class Members. Payments to Class members shall be made on a pro rata basis based on the amount of APPSN Fees and Retry Fees the individual Class Member paid relative to the amount of APPSN Fees and Retry Fees all Class members paid. Payments from the "Net Settlement Fund" to the individual Class Members ("Individual Payments") shall be calculated as follows:

$$\text{Individual Payment} = \frac{\text{Total Amount of APPSN Fees and Retry Fees Paid by Class Member}}{\text{Total Amount of APPSN Fees and Retry Fees Paid by All Class Members}} \times \text{Net Settlement Fund}$$

(1) Individual Payments shall be made ten (10) days after the Effective Date, as follows:

A. For Class Members who are members of Defendant at the time of the distribution of the Net Settlement Fund, and who then own

an account maintained at Defendant which is individually titled in that Class Member's name (or Class Members' names if the subject Individual Payment is owing jointly to more than one Class Member), such account shall be credited in the amount of the Individual Payment. If by the deadline for Defendant to apply credits to accounts of Class Members Defendant is unable to complete certain credit(s), then Defendant shall deliver the total amount of such unsuccessful Individual Payments to the Settlement Administrator to be paid by check in accordance with subsection (B), below.

- B. For those Class Members who are not able to receive a credit as provided for in subsection (A), above, they shall be sent a check by the Settlement Administrator in the amount of their Individual Payments at the address used to provide the Notice, or at such other address as designated by the Class Member. For jointly held accounts, checks will be payable to all members, and will be mailed to the first accountholder listed on the account. The Settlement Administrator shall make reasonable efforts to locate the proper address for any check returned by the Postal Service as undeliverable and will re-mail it once to the updated address or, in the case of a jointly held account, and in the Settlement Administrator's discretion, to an accountholder other than the one listed first. The Class Member shall have one-hundred eighty (180) days to negotiate the check. Any checks uncashed after one-hundred eighty (180) days shall be distributed pursuant to Section 12.

(v) In no event shall any portion of the Settlement Fund revert to Defendant.

10. **FINAL REPORT.** Within the later of two hundred (200) days after the Effective Date or one-hundred eighty (180) days after the last check is issued to



Class Members, as provided in Section 9(d)(iv)(1)(B), above, Class Counsel shall file a report with the Court describing the payments made to Class Members, the amount of any unclaimed funds and the payment(s) made or to be paid to any *cy pres* recipient(s) in accordance with Section 12, below. For purposes of the Final Report, Defendant shall provide a declaration under penalty of perjury setting forth the amount of the credits issued to Class Members. Class Counsel shall be entitled to verify credits by confidential review of a reasonable sample of Class Member account statements (redacted as necessary to protect consumer privacy).

**11. THE SETTLEMENT ADMINISTRATOR.** In addition to the other obligations provided for under the terms of this Agreement, the Settlement Administrator shall have the following obligations:

(a) The Settlement Administrator shall execute a retainer agreement providing, among other things, that the Settlement Administrator shall be bound by and shall perform the obligations imposed on it under the terms of this Agreement. The retainer agreement shall include provisions requiring that all Class Member data shall be strictly confidential and secured by the Settlement Administrator by means of recognized data security measures, and shall not be disclosed other than as provided for under the terms of this Agreement or as ordered by the Court.

(b) The Settlement Administrator shall be subject to the jurisdiction of the Court with respect to the administration of this Agreement.

(c) The Settlement Administrator shall make the payments from the Settlement Fund as provided for in Section 9, above.

(d) The Settlement Administrator shall calculate the payments and/or credits owing to Class Members based on calculations provided by Ankura Consulting, as verified by Class Counsel.

(e) The Settlement Administrator shall keep all information regarding members of the Class confidential except as otherwise provided herein. All data created and/or obtained and maintained by the Settlement Administrator pursuant to this Agreement shall be destroyed twelve (12) months after the Final Report is submitted to the Court, provided that Class Counsel and Defendant's Counsel, or either of them, at their own cost, shall receive a complete copy of the Settlement Administrator's records, together with a declaration establishing completeness and authenticity, which they may maintain consistent with their own document retention policies. Class Member names and/or contact information shall not be provided to Class Counsel unless ordered by the Court. To the extent Class Counsel inadvertently receives a copy of the class list, or any part of it, it shall be subject to the protective order issued in this case and shall not be used for any purposes other than the implementation of this Agreement.

(f) The Settlement Administrator also shall be responsible for timely and properly filing all tax returns necessary or advisable, if any, with respect to the Settlement Fund. Except as provided herein, Class Members shall be responsible for their own tax reporting of payments or credits received under the terms of this Agreement.

(g) The Settlement Administrator shall establish and maintain a settlement website.

(h) The Settlement Administrator shall provide Class Counsel and Defendant's Counsel with weekly reports showing: the status of the Notice, opt-outs, objections, access to the website, communications with Class Members and the status of payments out of the Settlement Fund, including uncashed checks.

(i) The Settlement Administrator shall provide the data in its administration database to Defendant's Counsel and/or Class Counsel (except names and addresses of Class Members) in response to any written request, including an email request. The written request shall be copied to the other Party when made. Such information shall be used only for purposes of the implementation of this Agreement.

(j) The Settlement Administrator shall provide Class Counsel with a declaration, under penalty of perjury, confirming the payments made to Class Members and the amount of uncashed checks available for distribution to the *cy pres* recipient(s).

## 12. CY PRES PAYMENTS.

(a) Subject to Court approval, within thirty (30) days after the Final Report, the total amount of uncashed checks, and any other residual amounts held by the Settlement Administrator at the time of the Final Report, shall be paid 50% to Nebraska Legal Aid and Services Fund and 50% to the Children's Miracle Network Hospital in Omaha.

## 13. OPT-OUTS.

(a) Any Class Member who wishes to exclude himself or herself from this Agreement, and from the release of claims and defenses provided for under the terms of this Agreement, shall send a letter by mail to the Settlement Administrator postmarked on or before the Bar Date to Opt Out. The letter shall identify the Class Member, state that person's election to exclude himself or herself from the Agreement, and shall be signed and dated by the Class Member. Identification of the Class Member shall include the name, address, telephone number, and the last four digits of his or her account number or former account number. A letter electing to opt out by any joint owner of an account shall be deemed to apply to all owners.

(b) The Settlement Administrator shall maintain a list of persons who have excluded themselves and shall provide such list to Defendant's Counsel and Class Counsel at least five (5) days prior to the date Class Counsel is required to file the Motion for Final Approval. The Settlement Administrator shall retain the originals of all opt out letters (including the envelopes with the postmarks). The Settlement Administrator shall make the original opt out letters available to Class Counsel, Defendant's Counsel and/or the Court upon two (2) court days' written notice.

## 14. OBJECTIONS.

(a) Any Class Member may object to this Agreement.

(b) To be valid and considered by the Court, the objection must be in writing and sent by first class mail, postage pre-paid, to the Settlement Administrator and Class Counsel at the addresses provide below and in the Long Form Notice. The objection must be postmarked on or before the Bar Date to Object, and must include the following information:

- The name of this case, which is *Donna Sempek v. Centris Federal Credit Union*, Circuit Court of Douglas County, Nebraska, Case No. CI 22-4495.
- The objector's name, address, telephone number, the last four digits of his or her account number or former account number, and the contact information for any attorney retained by the objector in connection with the objection or otherwise in connection with this case who may be entitled to compensation for any reason related to the objection;
- A statement of the factual and legal basis for each objection and any exhibits the objector wishes the Court to consider in connection with the objection;
- A statement as to whether the objector intends to appear at the Final Approval Hearing, either in person or through counsel, and, if through counsel, identifying the counsel by name, address, and telephone number;
- A list of all persons who will be called to testify at the Final Approval Hearing in support of the objection, if any; and
- The objector's signature or the signature of the objector's legally authorized representative.

(c) Class Counsel shall file any objections and responses to any objections at least seven (7) days prior to the Final Approval Hearing Date. Defendant may, but is not required to, file any objections and responses to any objections at least seven (7) days prior to the Final Approval Hearing Date.

15. **RELEASE.** Except as to the rights and obligations provided for under the terms of this Agreement, Named Plaintiff, on behalf of herself and each of the Class Members, hereby releases and forever discharges Defendant, and all of its past, present and future predecessors, successors, parents, subsidiaries, divisions, employees, affiliates, assigns, officers, directors, shareholders, representatives, attorneys, insurers and agents (collectively, the "Defendant Releasees") from any and all losses, fees, charges, complaints, claims, debts, liabilities, demands, obligations, costs, expenses, actions, and causes of action of every nature, character, and description, whether known or unknown, asserted or unasserted, suspected or unsuspected, fixed or contingent, which Named Plaintiff and Class Members now have, own or hold against any of the Defendant Releasees that arise out of and/or relate to the facts and claims alleged in the Complaint and Amended Complaint.

16. **CONDITIONS TO SETTLEMENT.**

(a) This Agreement shall be subject to and is expressly conditioned on the occurrence of all of the following events:

- (i) The Court has entered the Preliminary Approval/Notice Order, as required by Section 5 above;

(ii) The Court has entered the Final Approval Order as required by Section 8, above, and all objections, if any, to such Order are overruled, and all appeals taken from such Order are resolved in favor of approval; and

(iii) The Effective Date has occurred.

(b) If all of the conditions specified in Section 16(a) are not met, then this Agreement shall be cancelled and terminated.

(c) Defendant shall have the option to terminate this Agreement if five percent (5%) or more of the Class Members opt out. Defendant shall notify Class Counsel and the Court of its intent to terminate this Agreement pursuant to this Section 16 within ten (10) business days after the Bar Date to Opt Out, or the option to terminate shall be considered waived.

(d) In the event this Agreement is terminated, pursuant to Section 16(c) immediately above, or fails to become effective in accordance with Sections 16(a) and (b) immediately above, then the Parties shall be restored to their respective positions in this case as they existed as of the date of the execution of this Agreement. In such event, the terms and provisions of this Agreement shall have no further force and effect with respect to the Parties and shall not be used in this case or in any other action or proceeding for any other purpose, and any order entered by this Court in accordance with the terms of this Agreement shall be treated as vacated, *nunc pro tunc*, provided however, that Defendant shall be responsible for payment of any costs of notice and settlement administration already incurred.

## 17. REPRESENTATIONS.

(a) The Parties to this Agreement represent that they have each read this Agreement and are fully aware of and understand all of its terms and the legal consequences thereof. The Parties represent that they have consulted or have had the opportunity to consult with and have received or have had the opportunity to receive advice from legal counsel in connection with their review and execution of this Agreement.

(b) The Parties have not relied on any representations, promises, or agreements other than those expressly set forth in this Agreement.

(c) The Named Plaintiff, on behalf of the Class Members, represents that she has made such inquiry into the terms and conditions of this Agreement as she deems appropriate, and that by executing this Agreement, she, based on Class Counsel's advice, and her understanding of the case, believes the Agreement and all the terms and conditions set forth herein, are fair and reasonable to all Class Members.

(d) The Named Plaintiff represents that she has no knowledge of conflicts or other personal interests that would in any way impact her representation of the class in connection with the execution of this Agreement.

(e) Defendant represents and warrants that it has obtained all corporate authority necessary to execute this Agreement.

18. **FURTHER ASSURANCES.** Each of the Parties hereto agrees to execute and deliver all such further documents consistent with this Agreement, and to take all such further actions consistent with this Agreement, as may be required in order to carry the provisions of this Agreement into effect, subject to Class Counsel's obligation to protect the interests of the Class Members.

19. **PUBLICITY.** The Parties and Class Counsel agree that they will not notify any member of the media regarding the terms and conditions of this Agreement and shall not issue a press release, or post or disseminate the terms of this Agreement on any social media or website, including Class Counsel's website. In response to media or any other inquiries, Class Counsel shall refer to the Settlement Administrator's website or publicly filed documents.

20. **APPLICABLE LAW.** This Agreement shall be governed by and interpreted, construed, and enforced pursuant to the laws of the State of Nebraska.

21. **NO ORAL WAIVER OR MODIFICATION.** No waiver or modification of any provision of this Agreement or of any breach thereof shall constitute a waiver or modification of any other provision or breach, whether or not similar. Nor shall any actual waiver or modification constitute a continuing waiver. No waiver or modification shall be binding unless executed in writing by the Party making the waiver or modification.

22. **ENTIRE AGREEMENT.** This Agreement, including the exhibits attached hereto, constitute the entire agreement made by and between the Parties pertaining to the subject matter hereof, and fully supersedes any and all prior or contemporaneous understandings, representations, warranties, and agreements made by the Parties hereto or their representatives pertaining to the subject matter hereof. No extrinsic evidence whatsoever may be introduced in any judicial proceeding involving the construction or interpretation of this Agreement.

23. **BINDING ON SUCCESSORS.** This Agreement shall inure to the benefit of, and shall bind, each of the Parties hereto and their successors.

24. **SEVERABILITY.** In the event any one or more of the provisions of this Agreement is determined to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained in this Agreement will not in any way be affected or impaired thereby.

25. **COUNTERPARTS AND FACSIMILE SIGNATURES.** This Agreement may be executed and delivered in separate counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts together shall constitute but one and the same instrument and agreement. Facsimile and pdf signature pages shall have the same force and effect as original signatures.

26. **NOTIFICATION.** Any notice to Class Counsel and/or Named Plaintiff shall be sent by email as follows:

Christopher D. Jennings  
JOHNSON FIRM

610 President Clinton Avenue, Suite 300  
Little Rock, Arkansas 72201  
Telephone: (501) 372-1300  
Facsimile: (888) 505-0909  
chris@yourattorney.com

Lynn A. Toops  
**COHEN & MALAD, LLP**  
One Indiana Square, Suite 1400  
Indianapolis, IN 46204  
Telephone: 317-636-6481  
Facsimile: 317-636-2593  
ltoops@cohenmalad.com

Gerard Stranch, IV  
Martin F. Schubert  
**STRANCH, JENNINGS & GARVEY, PLLC**  
223 Rosa L. Parks Avenue, Suite 200  
Nashville, Tennessee 37203  
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gstranch@stranchlaw.com  
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Frederick D. Stehlik  
Zachary W. Lutz-Priefert  
**GROSS WELCH MARKS CLARE PC LLO**  
1500 Omaha Tower  
Omaha, Nebraska 68124  
Telephone: 402-392-1500  
fstehlik@gwmclaw.com  
zlutzpriefert@gwmclaw.com

Any notice to be given to Defendant under the terms of this Agreement shall be sent by email as follows:

Stuart M. Richter  
**KATTEN MUCHIN ROSENMAN LLP**  
2029 Century Park East, Suite 2600  
Los Angeles, CA 90067  
Telephone: (310) 788-4400  
stuart.richter@katten.com

Kenneth W. Hartman  
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1700 Farnam Street  
Suite 1500  
Omaha, NE 68102-2068  
Telephone: 402-636-8341  
khartman@bairdholm.com

Any notice to the Settlement Administrator shall be sent by email to the address of the Settlement Administrator as provided in the Long Form Notice.

IN WITNESS WHEREOF, the Parties have entered this Agreement as of the dates set forth below.

Dated: July \_\_, 2023

**CENTRIS FEDERAL CREDIT UNION**

By: \_\_\_\_\_

Its: \_\_\_\_\_

7/17/2023

Dated: July \_\_, 2023

**DONNA SEMPEK**, an individual on behalf of herself and those she represents

By:  \_\_\_\_\_  
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Donna Sempek

**APPROVED AS TO FORM:**

Dated: July \_\_, 2023

**KATTEN MUCHIN ROSENMAN LLP**  
Stuart M. Richter

By: \_\_\_\_\_

Stuart M. Richter  
Attorneys for Defendant Centris Federal Credit Union

Dated: July \_\_, 2023

**BAIRD HOLM LLP**  
Kenneth W. Hartman

By: \_\_\_\_\_

Kenneth W. Hartman  
Attorneys for Defendant Centris Federal Credit Union

Kenneth W. Hartman  
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Any notice to the Settlement Administrator shall be sent by email to the address of the Settlement Administrator as provided in the Long Form Notice.

IN WITNESS WHEREOF, the Parties have entered this Agreement as of the dates set forth below.

Dated: July 20, 2023

CENTRIS FEDERAL CREDIT UNION

By: 

Its: EVP / CFO

Dated: July \_\_, 2023

DONNA SEMPEK, an individual on behalf  
of herself and those she represents

By: \_\_\_\_\_  
Donna Sempek

**APPROVED AS TO FORM:**

Dated: July 19, 2023

**KATTEN MUCHIN ROSENMAN LLP**  
Stuart M. Richter

By: 

Stuart M. Richter  
Attorneys for Defendant Centris Federal Credit Union

Dated: July \_\_, 2023

**BAIRD HOLM LLP**  
Kenneth W. Hartman

By: \_\_\_\_\_  
Kenneth W. Hartman  
Attorneys for Defendant Centris Federal Credit Union



7/17/2023

Dated: July \_\_\_\_, 2023

**COHEN & MALAD, LLP**

Lynn A. Toops  
DocuSigned by:

By:   
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Lynn A. Toops


Attorneys for Named Plaintiff and the Putative Class

7/17/2023

Dated: July \_\_\_\_, 2023

**STRANCH, JENNINGS & GARVEY, PLLC**

Gerard Stranch, IV

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Gerard Stranch, IV

Attorneys for Named Plaintiff and the Putative Class

7/17/2023

Dated: July \_\_\_\_, 2023

**JOHNSON FIRM**

Christopher D. Jennings

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Christopher D. Jennings


Attorneys for Named Plaintiff and the Putative Class

7/17/2023

Dated: July \_\_\_\_, 2023

**GROSS WELCH MARKS CLARE PC LLO**

Frederick D. Stehlik

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DocuSigned by:  
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Frederick D. Stehlik

Attorneys for Named Plaintiff and the Putative Class