

ATTORNEY GENERAL OF THE STATE OF NEW YORK  
BUREAU OF CONSUMER FRAUDS & PROTECTION

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In the Matter of the  
Investigation by Letitia James,  
Attorney General of New York, of

Assurance No. 20-061

Transworld Systems, Inc.,

Respondent.

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**ASSURANCE OF DISCONTINUANCE**

The Office of the Attorney General of the State of New York (“NYAG”) commenced an investigation under New York Executive Law § 63(12) and New York General Business Law § 349 concerning the debt collection practices of respondent Transworld Systems, Inc. (“TSI” and, together with the NYAG, the “Parties”). This Assurance of Discontinuance (“Assurance”) contains the findings of the NYAG’s investigation and the relief agreed to by the Parties.

**I. FINDINGS**

**A. TSI’s Role in the National Collegiate Student Loan Trust Servicing Structure**

1. TSI is a California corporation with its principal place of business in Pennsylvania. TSI provides account receivable management services, including consumer-facing loan servicing and debt collection, nationwide, including in New York.

2. Since 2014, TSI, as a special servicer, has provided services in connection with collecting defaulted debt owed to the National Collegiate Student Loan Trusts, fifteen

Delaware statutory trusts that collectively own hundreds of thousands of private student loans with a face value of approximately \$12 billion (“Trusts”).<sup>1</sup>

3. The fifteen Trusts are as follows: National Collegiate Master Student Loan Trust I, National Collegiate Student Loan Trust 2003-1, National Collegiate Student Loan Trust 2004-1, National Collegiate Student Loan Trust 2004-2, National Collegiate Student Loan Trust 2005-1, National Collegiate Student Loan Trust 2005-2, National Collegiate Student Loan Trust 2005-3, National Collegiate Student Loan Trust 2006-1, National Collegiate Student Loan Trust 2006-2, National Collegiate Student Loan Trust 2006-3, National Collegiate Student Loan Trust 2006-4, National Collegiate Student Loan Trust 2007-1, National Collegiate Student Loan Trust 2007-2, National Collegiate Student Loan Trust 2007-3, and the National Collegiate Student Loan Trust 2007-4.

4. The Trusts are passive entities with no employees, and therefore must hire third parties to carry out their business, including servicing performing and non-performing student loans.

5. TSI’s duties as special servicer are set forth in an agreement with the Trusts’ special servicer. The terms of this agreement and its multiple amendments provide that TSI “shall administer, manage and oversee collection litigation,” “shall be responsible for selecting and directly supervising collection attorneys,” and “shall review all complaints and affidavits

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<sup>1</sup> From 2012 to November 1, 2014, an entity known as NCO Financial Systems, Inc. (“NCO”) served as the special servicer to the Trusts.

utilized by” attorneys retained by TSI on behalf of the Trusts, all “with the goal of maximizing the collection of amounts payable on” the loans owned by the Trusts.

6. When a borrower with a Trust loan has not made a payment for 180 days, the loan is considered in default, and the defaulted loan is transferred to TSI from the pre-default servicer. Generally, if collection efforts have been unsuccessful after two years, TSI retains third-party law firms to attempt to collect the debt on behalf of the Trusts, including by filing lawsuits in the name of the particular Trust. TSI refers to these law firms as the “Attorney Network.”

7. In New York, TSI retained, on behalf of the Trusts, the Attorney Network law firms Forster & Garbus LLP, a New York limited liability partnership with its principal place of business in New York (“F&G”), and Rubin & Rothman LLC, a New York professional service limited liability company with its principal place of business in New York (“R&R”). TSI retained F&G and R&R pursuant to retainer agreements (“Retainer Agreements”).

8. TSI’s form Retainer Agreements provided that each Client, including the Trusts, “authorized [TSI], as its agent, to engage [F&G and R&R] to provide legal services on behalf of such Client in connection with the collection of certain account balances.” The Retainer Agreements give TSI “the absolute right to recall any of [sic] all Accounts placed with [the firms] at any time for any reason, in its sole discretion, with or without cause,” grant TSI the right to review written communications to borrowers and “all pleadings prior to filing,” and require F&G and R&R to comply with all applicable state and federal laws and TSI’s standard operating procedures for debt collection law firms in TSI’s Attorney Network.

9. Once a particular borrower account is placed with the firm, F&G and R&R are required to attempt to contact the borrower – and, if applicable, the co-signer – to try to collect

on the debt before filing a lawsuit. If traditional methods of debt collection such as phone calls and letters fail, F&G and R&R may turn to litigation. They have filed thousands of lawsuits against borrowers in New York state courts on behalf of the Trusts (“Trust Lawsuits”).<sup>2</sup> The majority of borrowers sued by the Trusts do not respond to the lawsuits in any way.

10. When borrowers fail to respond to the complaint filed against them, F&G and R&R generally prepare motions for default judgments, which require the plaintiff Trust to submit proof of service of the summons and complaint, and “proof of the facts constituting the claim, the default and the amount due by affidavit made by the party.” *See* N.Y.C.P.L.R. § 3215. Upon placement of an account to F&G and R&R, they receive certain documents for each account. Attorney Network law firms can request additional information from TSI, as well as an affidavit with supporting documents attached.

11. TSI employs a specialized group of employees known as “affiants” who, using templates, execute affidavits for use by Attorney Network law firms in lawsuits brought by the Trusts. When law firms request affidavits with supporting documents, affiants populate the template, then review the accuracy and completeness of the affidavit against TSI’s internal computer system and the computer system of the pre-default servicer. Following this review, affiants sign the affidavits under penalty of perjury. TSI then transmits the affidavit and attachments to the law firm that requested it. TSI’s standard operating procedures for its Attorney Network prohibit law firms from altering the format of these affidavits without TSI’s consent.

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<sup>2</sup> Unless otherwise indicated, this Assurance only concerns conduct that took place in New York and/or related to a New York resident.

12. On September 18, 2017, TSI resolved, without admitting or denying liability, a regulatory inquiry regarding its debt collection practices on behalf of the Trusts through a Consent Order with the Consumer Financial Protection Bureau.<sup>3</sup>

13. The NYAG commenced an investigation into TSI's role as the Trusts' special servicer in 2017. In the course of its investigation the NYAG reviewed documents produced by TSI, other entities involved in servicing the Trusts, and publicly-available documents from the period 2012 to 2019.

**B. TSI's Debt Collection Practices on Behalf of the Trusts**

14. Based on this investigation, the NYAG has found, as described below, that from November 2014 through at least April 2016, TSI has, directly or indirectly, repeatedly:

- a) made, or caused to be made, false, misleading, and deceptive statements in formal documents filed in Trust Lawsuits;
- b) made, or caused to be made, false, misleading, and deceptive statements in communications with borrowers; and
- c) engaged law firms on behalf of the Trusts that filed lawsuits beyond the applicable statute of limitations.

**1. Original Creditor**

15. Law firms retained by TSI on behalf of the Trusts repeatedly filed complaints in Trust Lawsuits that incorrectly identified the Trust as the borrower's "original creditor."

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<sup>3</sup> See CFPB, Press Release, *CFPB Takes Action Against National Collegiate Student Loan Trusts, Transworld Systems for Illegal Student Loan Debt Collection Lawsuits*, Sept. 18, 2017, available at <https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-against-national-collegiate-student-loan-trusts-transworld-systems-illegal-student-loan-debt-collection-lawsuits/>.

16. The statement that any Trust is an “original creditor” of any borrower is false because no borrower took out a loan from any of the Trusts. In fact, the Trusts are assignees of the original creditors (the large financial institutions that originated the loans).

17. Identifying a Trust as an “original creditor” may confuse consumers about the nature and legal status of the debt, impede consumers’ ability to respond to the lawsuit, and influence consumers to settle rather than litigate (or to settle on less favorable terms than they would otherwise accept).<sup>4</sup>

18. TSI has represented to the NYAG that law firms retained by TSI on behalf of the Trusts – including F&G and R&R – have ceased identifying the Trusts as “original creditors.”

## **2. “Redacted” Documents**

19. TSI repeatedly submitted sworn affidavits attaching documents TSI identified as “redacted” versions of student loan rosters when, in fact, they were excerpts of student loan rosters that had been cut and pasted into new documents with borrowers’ personally identifiable information redacted.<sup>5</sup>

20. The following is an example of a document identified by TSI as “a redacted copy of the Schedule of transferred loans”:

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<sup>4</sup> In 2017, a New York federal court held that F&G “violated both the [Fair Debt Collection Practices Act] and [New York General Business Law] Section 349 as a matter of law” when it filed complaints identifying Trusts as original creditors, and that “this false statement as to the Trust’s status as the ‘original creditor’ is material as a matter of law.” *Winslow v. Forster & Garbus, LLP*, Case No. 15-Civ.-2996 (AYS), 2017 WL 6375744, at \*10, 13, 19 (E.D.N.Y. Dec. 13, 2017).

<sup>5</sup> The Trust loans were originated by third parties and then subsequently assigned, directly or indirectly, to one of the Trusts. Each assignment agreement included a document identifying the specific student loans being assigned under that agreement. This list of loans is variously known as a student loan roster, schedule, or exhibit.

National Collegiate Student Loan Trust 2006-4				
Roster: CHASE BANK				
Lender	Lender Code	Marketer	Loan Product	BSSN
CHASE BANK	804976QT	Chase Bank	DTC - Ed One - Undergraduate	XXXXX0648
GUARREF	Disb. Date	Tier	Repay Type	Margin
04336894	14-Nov-06	6	DP	0.0725
Fee to Borrower	TERI Admin Fee	Marketing Fee	Total Gross Disbursed	Total Net Disbursed
0.105	0.0175	0.0725	\$26,068.16	\$23,331.00
Total Net Principal	Total Capitalized Interest	Total Outstanding Gross Principal	Total Outstanding Unpaid Interest	Fee Reimbursement on 0% Fee Loans
\$23,331.00	\$0.00	\$26,068.16	\$206.48	\$0.00
Final Reconciliation Settlement Figures				
Origination Fee Reimbursement Due Bank	Total Marketing Fees	Marketing Fees Due FMC	Marketing Fees Due Bank	Total Amount Due Bank
\$225.00	\$1,691.50	\$0.00	\$1,691.50	\$28,191.14

21. In fact, this is a document TSI *created* for the specific litigation by copying identical text and data from a large spreadsheet with multiple accounts and pasting it into a new account-specific document, and removing part of the borrower's Social Security number for privacy purposes.

22. The schedule listing the individual student loans transferred to the Trust in question is essential to establishing that the Trust is the owner of the loan. TSI's description of a

newly-created document as a “redacted” version of the original document may confuse consumers about the nature and legal status of the debt, impede consumers’ ability to respond to the lawsuit, and influence consumers to settle rather than litigate (or to settle on less favorable terms than they would otherwise accept).

23. TSI has represented to the NYAG that TSI has ceased identifying excerpts of loan rosters cut and pasted into new documents as “redacted” versions of original loan rosters.

### **3. Personal Knowledge**

24. TSI affiants repeatedly submitted affidavits in support of default judgment motions filed in Trust Lawsuits in which TSI affiants asserted that they had personal knowledge of certain business records when, in fact, they lacked such knowledge.

25. One New York judge, in dismissing a Trust Lawsuit, found that the affiant was “not involved” in preparing the underlying documents and that the TSI affidavit submitted in that case was, thus, “virtually all hearsay” and did not satisfy the business record exception.<sup>6</sup>

26. TSI statements purporting to have personal knowledge of key documents the affiants lack may confuse consumers about the nature and legal status of the debt, impede consumers’ ability to respond to the lawsuit, and influence consumers to settle rather than litigate (or to settle on less favorable terms than they would otherwise accept).<sup>7</sup>

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<sup>6</sup> See Doc. No. 35, *Nat’l Collegiate Student Loan Trust 2007-3 v. Ellison*, Index No. 2016EF1013 (Sup. Ct. Onondaga County).

<sup>7</sup> A New York federal court, in permitting a case to proceed, held that statements made in Trust lawsuit affidavits concerning the affiants’ personal knowledge were “materially misleading” under the Fair Debt Collection Practices Act and New York General Business Law § 349. *Michelo v. Nat’l Collegiate Student Loan Tr. 2007-2*, Case No. 18-Civ.-1781 (PGG), 2019 WL 5103885, at \*23 (S.D.N.Y. Oct. 11, 2019).



27. TSI has produced documents to the NYAG demonstrating that it has substantially revised its affiant training policies. TSI now requires affiants working on the Trust portfolio to receive comprehensive, substantive training and be tested on their knowledge periodically.

28. Among other things, TSI requires affiants to complete training modules on the computer systems used by TSI and the Trusts' pre-default servicer, and how those systems are "used in relation to the NCSLT student loan portfolio, including information on the utilization of both systems and training on data integrity, maintenance of the systems, the data contained within the systems, and the process of record entry/creation." This same training includes the computer system TSI uses to communicate with Attorney Network law firms. Following completion of the modules, affiants are required to take a test and answer every question correctly.

29. Affiants also must take a module called "NCSLT History," which teaches affiants about "the structure of NCSLT and general lifecycle of such loans, starting with the origination of the loans by national banks; the securitization process; servicing and default; and collections."

30. After affiants receive the foregoing and other substantive training, they are paired with experienced TSI employees for a three-week "nesting" period. Following this nesting period, affiants are given a test with 50 questions and must receive a score of 90% to pass. Affiants who pass the test are certified to work on the Trust portfolio, and must be re-certified six months later and semi-annually thereafter.

#### **4. Proof of Ownership**

31. TSI affiants repeatedly signed affidavits in support of default judgment motions filed in Trust Lawsuits that unequivocally stated that a particular student loan was transferred to

a particular Trust when, in fact, the documents submitted to support this assertion failed to conclusively demonstrate a link between the loan at issue and the plaintiff Trust.

32. As discussed above, in some instances TSI attached an excerpt of a loan roster to the affidavits law firms retained on behalf of the Trusts filed in support of default judgment motions. Barring any evidentiary objections, this excerpt provides a definitive link between the loan and the Trust.

33. But, previously, affidavits did not always include an excerpt of a loan roster, and generally linked a particular borrower's loan to the plaintiff Trust by referring to the name of the loan program. In some instances, however, the loan programs referenced in the documents were not an exact match, and a third-party reviewing the documents – such as a court – would have no non-speculative way to confirm the loan at issue is actually owned by the plaintiff Trust. Although affiants ensure a particular loan was transferred to a particular Trust by other means – for example, comparing borrower account numbers or Social Security numbers – these additional checks were not disclosed in the affidavits.

34. Affiants' statements concerning ownership may also confuse consumers about the nature and legal status of the debt, impede consumers' ability to respond to the lawsuit, and influence consumers to settle rather than litigate (or to settle on less favorable terms than they would otherwise accept).

35. TSI has represented to the NYAG that it attaches an excerpt of the loan roster to all affidavits submitted in Trust Lawsuits.

**5. Servicing Agent**

36. Law firms retained by TSI on behalf of the Trusts repeatedly filed complaints in Trust Lawsuits which referenced a loan's "servicing agent," thereby causing potential confusion about the entities involved in originating borrower loans.

37. These statements concerning a "servicing agent" may confuse consumers about the nature and legal status of the debt, impede consumers' ability to respond to the lawsuit, and influence consumers to settle rather than litigate (or to settle on less favorable terms than they would otherwise accept).

38. TSI has represented to the NYAG that law firms retained by TSI on behalf of the Trusts – including F&G and R&R – are no longer including references to an unidentified "servicing agent" in Trust Lawsuits.

**6. Lawsuits Filed Outside the Statute of Limitations**

39. Law firms retained by TSI on behalf of the Trusts repeatedly filed lawsuits in New York outside of the applicable three-year statute of limitations.

40. The NYAG maintains that the Trusts are subject to New York's borrowing statute, and, by operation of the borrowing statute, Trust Lawsuits must be filed within three years of the date of breach. While TSI does not agree that operation of the borrowing statute requires Trust Lawsuits be brought within three years, TSI has represented to the NYAG that, out of an abundance of caution, law firms bringing Trust Lawsuits have been applying a three-year statute of limitations.

**7. Communications Implying Actions TSI Cannot Legally Take**

41. Collection agencies retained by TSI on behalf of the Trusts have repeatedly threatened legal action against borrowers even though the Trusts could not or would not sue because the statute of limitations for suing on the debt had expired.

42. In attempting to collect time-barred debt, collection agencies retained by TSI on behalf of the Trusts sent certain borrowers a notice bearing a heading of “Settlement Offer” stating that the subject Trust was “willing to settle your account for [percentage] of your total balance due to settle your past balance.”

43. These communications may confuse consumers with debt as to which the statute of limitations has expired about the nature and legal status of the debt, impede consumers’ ability to respond, and influence consumers to settle rather than litigate (or to settle on less favorable terms than they would otherwise accept).

44. TSI amended its standard operating procedures – with which all agencies retained by TSI on behalf of the Trusts must comply – to “require[] that Agencies refrain from using certain words which have been deemed to imply litigation (‘settle’ or ‘settlement’) in any verbal or written communication related to TSI’s client’s debts that Agencies are attempting to collect outside of the statute of limitations.” TSI recommends “instead using words which do not imply litigation which may include ‘resolve,’ ‘resolution,’ ‘satisfaction,’ and ‘satisfied.’”

**C. The NYAG’s Conclusions**

45. The NYAG finds that TSI’s acts and practices as described in paragraphs 1 to 44 above (“Findings”) constitute repeated violations of New York Executive Law § 63(12) (“Executive Law § 63(12)”), New York General Business Law § 349 (“GBL § 349”), the Fair

Debt Collection Practices Act, 15 U.S.C. §§ 1692 *et seq.* (“FDCPA”), and the Consumer Financial Protection Act of 2010, 12 U.S.C. §§ 5531 *et seq.* (“CFPA”).

46. TSI neither admits nor denies the NYAG’s Findings.

The NYAG finds the relief and agreements contained in this Assurance appropriate and in the public interest.

THEREFORE, the NYAG is willing to accept this Assurance pursuant to Executive Law § 63(15), in lieu of commencing a statutory proceeding for violations of New York Executive Law § 63(12), GBL § 349, the FDCPA, and the CFPA, based on the conduct described above.

IT IS HEREBY UNDERSTOOD AND AGREED, by and between the Parties:

## **II. RELIEF**

### **A. Injunctive Relief**

47. This Assurance shall apply to TSI, its employees, agents, servants, representatives, parents, subsidiaries, affiliates, predecessors, shareholders, officers, directors, heirs, executors, administrators, principals, successors, and assigns, and all other persons or entities acting on TSI’s behalf or under its control, including law firms retained by TSI on behalf of the Trusts to file Trust Lawsuits. This Assurance concerns conduct in New York and/or related to a New York resident.

48. This Assurance shall be effective as of September 11, 2020 (“Effective Date”).

49. TSI, in collecting or attempting to collect debts on behalf of the Trusts, shall not engage or attempt to engage in conduct in violation of any applicable law, including, but not limited to, Executive Law § 63(12), GBL § 349, the FDCPA, and the CFPA.

50. TSI shall not directly or indirectly make, or cause to be made, false, misleading, or deceptive statements in any document filed in a Trust Lawsuit, including, but not limited to, the following:

- a) identifying excerpts of documents as “redacted” versions of original documents unless they are versions of original documents altered only by the obscuring of wholly irrelevant or sensitive information on pages, spreadsheet lines, or database records;
- b) representing that an affiant has personal knowledge of education loan records unless the affiant (i) has personally reviewed the education loan records; and (ii) has completed the following training concerning: (A) the names and types of systems in which the education loan records have been stored since their initial creation, and the entity which owned and controlled each system, or, alternatively, the representations of the prior servicer that it maintained the educational loan records in the course of its regularly conducted business activity; (B) the name, type, and methods of operation of the system in which the education loan records are now held; and (C) the means by which the education loan records were transferred into the system currently holding them, whether operated by TSI or another, and the methods used to check the integrity of the import or to verify the data imported by other means; and
- c) representing that an affiant has personal knowledge of the chain-of-title of a particular loan unless the affiant has personally reviewed the records establishing the Trust’s ownership of the loan, including the underlying loan agreements and each sales, pooling, or assignment agreement governing every sale or other transfer of the loan in question, including (if the loan is not specifically and individually identified in the body of the agreement) the schedule, excerpt from the loan roster, or exhibit establishing that the agreement refers specifically and individually to the loan being sued upon.

51. TSI shall take all reasonable steps available to TSI, including regular monitoring of its Attorney Network, to ensure that Attorney Network law firms retained by TSI on behalf of the Trusts shall not:

- a) file lawsuits outside the three-year statute of limitations applicable to Trust Lawsuits brought in New York;
- b) identify one of the Trusts as a borrower's "original creditor" (or substantially similar language); and
- c) represent that a borrower applied for a loan from a "servicing agent" or other entity if such entity did not receive or process such applications.

52. TSI shall take all reasonable steps available to TSI, including regular monitoring of collections agencies, to ensure that collections agencies retained by TSI shall not use the word "settlement" in communications with consumers regarding time-barred debt.

53. Within ninety (90) days of the Effective Date, law firms engaged by TSI on behalf of the Trusts shall voluntarily dismiss with prejudice all time-barred lawsuits filed after January 1, 2018 ("Untimely Trust Lawsuits") and pending as of the Effective Date.

54. Within ninety (90) days of the Effective Date, TSI shall release, vacate, or withdraw, or cause to be released, vacated, or withdrawn, all pending garnishments, levies, liens, restraining notices, attachments, or any other judgment enforcement mechanism, obtained as a result of judgments obtained in Untimely Trust Lawsuits and pending as of the Effective Date.

55. With respect to Untimely Trust Lawsuits no longer pending as of the Effective Date, TSI shall take steps toward obtaining the vacatur of any judgment, including requesting consent of the relevant parties to vacate and, upon receiving such consent, directing the law firm to so vacate by joint stipulation, pursuant to N.Y.C.P.L.R. 5015(b), provided the following conditions are met::

- a) the borrower requests vacatur of the judgment, either by filing a motion with a court or by request directed to TSI, F&G, R&R, or one of the Trusts;

- b) the lawsuit was filed on or after January 1, 2018;
- c) the lawsuit was filed more than three years from the date of breach;  
and
- d) a default judgment was entered.

56. With respect to all default judgments vacated by stipulation pursuant to the foregoing paragraph, TSI shall request consent from the relevant parties to return the amounts collected after the default judgment was entered and, upon receiving such consent, and monies from the Trust, return the monies collected pursuant to any such default judgment to a borrower.

57. Within fifteen (15) days of the Effective Date, TSI shall provide a copy of this Assurance to all individuals at TSI who have supervisory responsibilities regarding the Trust portfolio.

58. TSI shall maintain a training program for all TSI affiants involved with servicing the Trust portfolio that is substantially similar to the training program described in the Assurance and the materials TSI provided to the NYAG.

59. Within thirty (30) days of the Effective Date, TSI shall deliver a copy of this Assurance to all law firms retained on behalf of the Trusts to collect debts in New York. TSI shall secure a signed and dated statement from each law firm acknowledging receipt of the Assurance.

60. TSI shall take all reasonable steps to ensure that all law firms retained on behalf of the Trusts to collect debts in New York comply with the Assurance.

**B. Monetary Relief**

61. In consideration of the making and execution of this Assurance, TSI shall pay to the State of New York the sum of \$600,000.00, such money to be disbursed by the NYAG as the



NYAG deems appropriate. TSI shall pay the \$600,000 in two installments: \$300,000 shall be payable within thirty (30) days of the Effective Date, and the remaining \$300,000 shall be payable within ninety (90) days of the Effective Date. TSI shall make each installment payment by wire transfer using account information to be provided by the NYAG prior to the Effective Date.

62. Within ninety (90) days of the Effective Date, TSI shall submit to the NYAG an electronic database identifying all Untimely Trust Lawsuits. For each Untimely Trust Lawsuit, the database shall identify the plaintiff's name; the court where the lawsuit was filed; the defendant's name; the defendant's last known address, telephone number, and email address; the date on which the defendant allegedly breached the student loan agreement; the date on which the lawsuit was filed; and all amounts collected post-judgment.

63. Any funds not disbursed pursuant to paragraph 61 shall be retained by the NYAG as penalties and costs.

### **III. COMPLIANCE AND TRAINING**

64. Within ninety (90) days of the Effective Date and continuing for a period of two (2) years thereafter, TSI shall submit to the NYAG, no later than thirty (30) days after the conclusion of each three-month period, quarterly reports describing with specificity TSI's compliance with the provisions of this Assurance during the prior quarter, including, but not limited to, TSI's efforts to ensure all law firms and collection agencies retained on behalf of the Trusts to collect debts in New York have complied with this Assurance.

65. If TSI determines that it or any law firm or collection agency it retained on behalf of the Trusts in New York has engaged in any conduct prohibited by this Assurance, it shall promptly take all actions necessary to cease such conduct.

66. Within ten (10) days of making the determination described in the foregoing paragraph, TSI shall submit to the NYAG a report detailing the conduct, the specific TSI employees, law firms, or collection agencies who engaged in the conduct, and TSI's plan to ensure that the practices cease and to remediate any resulting harm.

67. TSI shall notify the NYAG of any development that may affect TSI's compliance obligations under this Assurance, including, but not limited to, a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor company; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Assurance; the filing of any bankruptcy or insolvency proceeding by or against TSI; or a change in TSI's name or address. TSI shall make all reasonable efforts to provide such notice at least thirty days (30) before the development, but in no event shall TSI provide such notice later than fourteen days after the development.

#### **IV. MISCELLANEOUS**

68. TSI expressly agrees and acknowledges that the NYAG may initiate a subsequent investigation, civil action, or proceeding to enforce this Assurance, for violations of the Assurance, or if the Assurance is voided for any reason, and agrees and acknowledges that in such event:

- a) any statute of limitations or other time-related defenses are tolled from and after the effective date of this Assurance;

- b) the NYAG may use statements, documents or other materials produced or provided by TSI prior to or after the effective date of this Assurance;
- c) any civil action or proceeding must be adjudicated by the courts of the State of New York, and that TSI irrevocably and unconditionally waives any objection based upon personal jurisdiction, inconvenient forum, or venue; and
- d) evidence of a violation of this Assurance shall constitute prima facie proof of a violation of the applicable law pursuant to Executive Law § 63(15).

69. If a court of competent jurisdiction determines that TSI has violated the Assurance, TSI shall pay to the NYAG the reasonable cost, if any, of obtaining such determination and of enforcing this Assurance, including, but not limited to, legal fees, expenses, and court costs.

70. All terms and conditions of this Assurance shall continue in full force and effect on any successor, assignee, or transferee of TSI.

71. Nothing contained herein shall be construed as to deprive any person of any private right under the law.

72. This Assurance may not be used by any third party in any other proceeding. This Assurance is not intended to be, and should not be construed as, an admission of liability by TSI.

73. This Assurance resolves and releases all claims by the NYAG against TSI for the alleged conduct described in the Findings from the commencement of the NYAG's investigation to the Effective Date; provided, however, that nothing in this Assurance shall be deemed to preclude the NYAG's review of conduct that occurs after the Effective Date, or any claims that may be brought by the NYAG to enforce TSI's compliance with this Assurance.

74. Any failure by the NYAG to insist upon the strict performance by TSI of any of the provisions of this Assurance shall not be deemed a waiver of any of the provisions hereof, and the NYAG, notwithstanding that failure, shall have the right thereafter to insist upon the strict performance of any and all of the provisions of this Assurance to be performed by TSI.

75. All notices, reports, requests, and other communications pursuant to this Assurance must reference Assurance No. 20-061, and shall be in writing and shall, unless expressly provided otherwise herein, be given by hand delivery; express courier; or electronic mail at an address designated in writing by the recipient, followed by postage prepaid mail, and shall be addressed as follows:

If to the NYAG:

New York State Office of the Attorney General  
Bureau of Consumer Frauds and Protection  
Attn: Christopher L. McCall, Assistant Attorney General  
28 Liberty Street, 20th Floor  
New York, New York 10005  
Telephone: (212) 416-8303  
Facsimile: (212) 416-6003

If to TSI:

Allyson B. Baker, Esq.  
Venable LLP  
600 Massachusetts Avenue, N.W.  
Washington, D.C. 20001  
Telephone: (202) 344-4708  
Facsimile: (202) 344-8300

76. The NYAG has agreed to the terms of this Assurance based on the NYAG's own investigation as set forth in the Findings, and representations that TSI has made to the NYAG. To the extent that any material representations by TSI or its counsel are later found to be inaccurate or misleading, this Assurance is voidable by the NYAG in its sole discretion.

77. No representation, inducement, promise, understanding, condition, or warranty not set forth in this Assurance has been made to or relied upon by TSI in agreeing to this Assurance.

78. TSI represents and warrants, through the signatures below, that the terms and conditions of this Assurance are duly approved.

79. Nothing in this Agreement shall relieve TSI of other obligations imposed by any applicable state or federal law or regulation or other applicable law.

80. Nothing contained herein shall be construed to limit the remedies available to the NYAG in the event that TSI violates the Assurance after its effective date.

81. This Assurance may not be amended except by an instrument in writing signed on behalf of the Parties to this Assurance.

82. In the event that any one or more of the provisions contained in this Assurance shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, in the sole discretion of the NYAG, such invalidity, illegality, or unenforceability shall not affect any other provision of this Assurance.

83. TSI acknowledges that it has entered this Assurance freely and voluntarily and upon due deliberation with the advice of counsel.

84. This Assurance shall be governed by the laws of the State of New York without regard to any conflict of laws principles.

85. This Assurance may be executed in multiple counterparts by the Parties hereto. All counterparts so executed shall constitute one agreement binding upon all Parties,

notwithstanding that all Parties are not signatories to the original or the same counterpart. Each counterpart shall be deemed an original to this Assurance, all of which shall constitute one agreement to be valid as of the effective date of this Assurance. For purposes of this Assurance, copies of signatures shall be treated the same as originals. Documents executed, scanned and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of this Assurance and all matters related thereto, with such scanned and electronic signatures having the same legal effect as original signatures.

Dated: September 11, 2020

TRANSWORLD SYSTEMS, INC.

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

Joseph E. Laughlin  
Chief Executive Officer

LETITIA JAMES

Attorney General of the State of New York



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

Jane M. Azia  
Bureau Chief



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

Christopher L. McCall  
Assistant Attorney General

Consumer Frauds and Protection Bureau  
28 Liberty Street  
New York, New York 10005

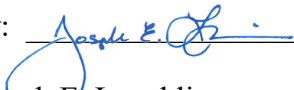
*Counsel for the Attorney General  
of the State of New York*

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Dated: August \_\_\_\_, 2020

TRANSWORLD SYSTEMS, INC.

LETITIA JAMES  
Attorney General of the State of New York

By:  \_\_\_\_\_  
Joseph E. Laughlin  
Chief Executive Officer

By: \_\_\_\_\_  
Jane M. Azia  
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Consumer Frauds and Protection Bureau  
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of the State of New York*