

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
 DIVISION _____
 CIVIL ACTION NO. _____

IN THE MATTER OF:

Tempoe, LLC

RESPONDENT

ASSURANCE OF VOLUNTARY COMPLIANCE

* * * * *

Pursuant to KRS 367.230, the Assurance of Voluntary Compliance attached hereto is provided to the Commonwealth of Kentucky, ex. rel. Daniel Cameron, Attorney General, by TEMPOE, LLC (as defined in the Assurance of Voluntary Compliance).

WHEREFORE, the parties being in agreement and having agreed to the approval and filing of this Assurance of Voluntary Compliance, the requirements of KRS 367.230 having been met, and the Court being well and sufficiently advised and having jurisdiction and venue pursuant to KRS 367.230, the Assurance of Voluntary Compliance attached hereto is hereby approved. The amount payable to the Commonwealth of Kentucky pursuant to the Assurance of Voluntary Compliance is \$15,000.00, for the recovery of the Attorney General’s reasonable costs of investigation and litigation.

DATE: _____



 JUDGE, FRANKLIN CIRCUIT COURT

1203BE62-8BAF-49D9-9E4A-E620A098FE20 : 000001 of 000021

OO : 000001 of 000021

**COMMONWEALTH OF KENTUCKY
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IN THE MATTER OF:

Tempoe, LLC

RESPONDENT

ASSURANCE OF VOLUNTARY COMPLIANCE

* * * * *

This Assurance of Voluntary Compliance (“Assurance”) is entered into between TEMPOE, LLC (“TEMPOE”) as defined below, and the Attorneys General of the States of Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland¹, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Utah², Vermont, Virginia, Washington, West Virginia, Wisconsin, and the District of Columbia (hereinafter referred to collectively as the “States” and/or “Attorneys General”) to resolve alleged violations of state and federal consumer protection laws without trial or adjudication on any issue of fact or law, and without admission of any wrongdoing or violation of law.

¹ With regard to Maryland, any references to the State(s), Attorney General or Attorneys General shall mean the Consumer Protection Division, Office of the Attorney General of Maryland.

² With regard to Utah, references to “Attorney General” mean the Utah Attorney General acting as counsel to the Utah Division of Consumer Protection (“Division”), the state agency charged with administering and enforcing the statutes listed in Utah Code Ann. § 13-2-6, including the Consumer Sales Practices Act, unless the context indicates otherwise.

I. PARTIES

1. The Attorneys General are responsible for the enforcement of state consumer protection laws.

2. Daniel Cameron is the duly elected Attorney General of the Commonwealth of Kentucky and is responsible for the enforcement and administration of Kentucky law, including the consumer protection laws set forth in Kentucky Revised Statutes (KRS) Chapter 367.

3. TEMPOE is a specialty consumer finance company incorporated in Delaware, with its principal place of business in Manchester, New Hampshire. TEMPOE also maintained an office, personnel, and operations in Cincinnati, Ohio. TEMPOE offered consumer lease contracts – leasing both personal goods and services – primarily through various retailers as well as online via certain retailers' websites.

4. This Court has jurisdiction over the parties and the subject matter of this Assurance pursuant to KRS 367.230 and pursuant to the agreement of the parties.

II. DEFINITIONS

1. "Consumer Protection Act(s)" means the following statutes: Alaska Unfair Trade Practices and Consumer Protection Act, AS 45.50.471, *et seq.*; Arizona Consumer Fraud Act, Ariz. Rev. Stat. Ann. §§ 44-1521, *et seq.*; Arkansas Deceptive Trade Practices Act, Ark. Code Ann. §§ 4-88-101, *et seq.*; Colorado Consumer Protection Act, §§ 6-1-101, *et seq.*, CRS; Connecticut Unfair Trade Practices Act, Conn. Gen. Stat. sec. 42-110b, *et seq.*; Consumer Fraud Act, 6 Del. C. §§ 2511, *et seq.*; Georgia Fair Business Practices Act of 1975, O.C.G.A. §§ 10-1-390, *et seq.*; Title 48, Chapter 6, Idaho Code; Illinois Consumer Fraud and Deceptive Business Practices Act, 815 Ill. Comp. Stat. 505/1, *et seq.*; Indiana Deceptive Consumer Sales Act, Indiana Code § 24-5-0.5-1, *et seq.*; Iowa Consumer Fraud Act, Iowa Code § 714.16, *et seq.*; Kansas Consumer

Protection Act, Kan. Stat. Ann. §§ 50-623, *et seq.*; Kentucky Consumer Protection Act, Ky. Rev. Stat. Ann. §§ 367.110, *et seq.*; Louisiana Unfair Trade Practices and Consumer Protection Law, La. Rev. Stat. §§ 51:1401, *et seq.*; Maine Unfair Trade Practices Act, 5 M.R.S.A. § 205-A, *et seq.*; Maryland Consumer Protection Act, Md. Code Ann., Com. Law §§ 13-101 through 13-50; Massachusetts Consumer Protection Act, Mass. Gen. Laws ch. 93A, §§ 1-11, *et seq.*; Michigan Consumer Protection Act, MCL 445.901 *et seq.*; Minnesota Prevention of Consumer Fraud Act, Minnesota Stat. §§ 325F.68–.694, Uniform Deceptive Trade Practices Act, Minnesota Stat. §§ 325D.43–.48, and False Statement in Advertisement Act, Minnesota Stat. § 325F.67; Miss. Code Ann. §§ 75-24-1, *et seq.*; Missouri Merchandising Practices Act, Mo. Rev. Stat. §407.010, *et seq.*; Nebraska Consumer Protection Act, Neb. Rev. Stat. § 59-1601, *et seq.* and Nebraska Uniform Deceptive Trade Practices Act, Neb. Rev. Stat. § 87-301, *et seq.*; Nevada NRS 598.903, *et seq.*; New Hampshire Consumer Protection Act, RSA 358-A, *et seq.*; New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 to -227; New York Executive Law § 63(12) and New York Consumer Protection from Deceptive Acts and Practices, General Business Law §§ 349-350, *et seq.*; North Carolina Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. §§ 75-1.1, *et seq.*; North Dakota Century Code § 51-15-01, *et seq.*, Unlawful Sales or Advertising Practices; Ohio Consumer Sales Practices Act, Ohio Rev. Code 1345.01, *et seq.* and its Substantive Rules, Ohio Admin. Code 109:4-3-01 *et seq.*; Oklahoma Consumer Protection Act, 15 O.S. §§ 751, *et seq.*; Oregon Unlawful Trade Practices Act, Or. Rev. Stat. §§ 646.605, *et seq.*; Pennsylvania’s Unfair Trade Practices and Consumer Protection Law, 73 Pa. Stat. Ann. §§ 201-1, *et seq.*; Deceptive Trade Practices Act, R.I. Gen. Laws §§ 6-13.1-1, *et seq.*; Tennessee Consumer Protection Act of 1977, Tenn. Code Ann. §§ 47-18-101, *et seq.*; Texas Deceptive Trade Practices-Consumer Protection Act, Tex. Bus. & Com. Code §§ 17.41, *et seq.*; Utah Consumer Sales Practices Act, Utah Code Ann. §§ 13-11-1 through

23; Vermont Consumer Protection Act, 9 V.S.A. chapter 63; Virginia Consumer Protection Act of 1977, Va. Code Ann. §§ 59.1-196, *et seq.*; Washington Consumer Protection Act, Wash. Rev. Code Ann. §§ 19.86.010, *et seq.*; West Virginia Consumer Credit and Protection Act, W. Va. Code §§ 46A-1-101, *et seq.*; Wisconsin Deceptive Trade Practices Act, Wis. Stat. § 100.18, and Wis. Stat. §100.26(4) and §100.263; and D.C. Code § 28-3901 *et seq.*

2. “Lessee(s)” means any person who has executed a TEMPOE Lease Contract as a counterparty.

3. “Multistate Executive Committee” means the Attorneys General of Illinois, Iowa, Nebraska, New Hampshire, Pennsylvania, Tennessee, and Texas.

4. “Multistate Executive Committee Lead States” means the Attorneys General of Iowa, Nebraska, and Tennessee.

5. “Participating State(s)” means the Attorney(s) General of Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and the District of Columbia.

6. “Remaining Balance” means a simple monetary amount equaling the total amount owed to TEMPOE under a TEMPOE Lease Contract less any amounts paid by Lessee to date.

7. “Retail Partner(s)” means any person or business entity that offers or has offered TEMPOE Lease Contracts to its customers; and any such person or business entity that has entered into an agreement with TEMPOE for the purpose of offering TEMPOE Lease Contracts to its customers.

8. “TEMPOE Lease Contract(s)” means any written agreement offered by TEMPOE to any person for the purpose of leasing personal property and ancillary services from TEMPOE for an initial term exceeding four months subject to the federal Consumer Leasing Act, 15 U.S.C. § 1667, *et seq.*, (the “Consumer Leasing Act”) and its implementing regulation, Regulation M, 12 C.F.R. § 1013, *et seq.* (“Reg. M”).

9. “TEMPOE” means: (1) TEMPOE, LLC, (2) all of TEMPOE’s employees, officers, executives, and agents, and (3) all successors in interest to TEMPOE, LLC.

10. The “Effective Date” means September 11, 2023.

III. BACKGROUND

1. TEMPOE has offered Lease Contracts to consumers governed by the federal Consumer Leasing Act, and its implementing regulation, Reg. M.

2. Since at least 2015, and continuing until at least April 1, 2022, TEMPOE purchased personal property and services from Retail Partners and leased such property and services to consumers nationwide. During this period, TEMPOE entered into about 1.85 million TEMPOE Lease Contracts with consumers. TEMPOE offered these Lease Contracts primarily through partnerships it maintained with Retail Partners nationwide.

3. The States allege that TEMPOE has violated the Consumer Protection Acts; the Consumer Leasing Act and its implementing regulation, Reg. M; and the federal Truth in Lending Act, 15 U.S.C. § 1602, *et seq.* (“TILA”) and its implementing regulation, Regulation Z, 12 C.F.R. § 1026, *et seq.* (“Reg. Z”), in connection with offering or entering into TEMPOE Lease Contracts. TEMPOE has denied and disputed, and continues to deny and dispute, the States’ allegations of any wrongdoing and any liability for the same.

4. Pursuant to KRS 367.170(1), the Kentucky Consumer Protection Act (“KCPA”) prohibits “[u]nfair, false, misleading, or deceptive acts or practices in the conduct of any trade or commerce.”

5. KRS 367.990(2) provides that a willful violation of the KCPA is punishable by:

a civil penalty of not more than two thousand dollars (\$2,000) per violation, or where the defendant's conduct is directed at a person aged sixty (60) or older, a civil penalty of not more than ten thousand dollars (\$10,000) per violation, if the trier of fact determines that the defendant knew or should have known that the person aged sixty (60) or older is substantially more vulnerable than other members of the public.

6. TEMPOE has agreed to settle the State’s allegations on the terms set forth below.

IV. TERMS OF SETTLEMENT

A. Representations by TEMPOE

1. TEMPOE has made assurances to the Attorneys General that:

- i. TEMPOE has not entered into any new TEMPOE Lease Contracts after April 1, 2022;
- ii. TEMPOE has disabled all computer-based and paper-based systems used by Retail Partners in initiating TEMPOE Lease Contracts on TEMPOE’s behalf; and
- iii. TEMPOE has not sold or assigned any Lease Contracts since April 2022.

2. TEMPOE’s assurances above are made with the full authorization of its board of directors, shareholders, members, officers, and executives.

3. The States have relied upon TEMPOE’s assurances above; and TEMPOE’s assurances above are material to the States deciding to agree to the provisions in, and entry of, this Assurance.

B. Treatment of TEMPOE Lease Contracts

4. TEMPOE shall close each Lessee account that it owns or controls without regard to whether such accounts are in default, and any Remaining Balance currently owed to TEMPOE by a Lessee shall be deemed by TEMPOE as satisfied in full.

5. The immediately preceding paragraph includes approximately 19,300 TEMPOE Lease Contracts with aggregate Remaining Balances totaling approximately \$33,649,417.

6. TEMPOE shall grant each existing Lessee currently in possession of leased property ownership of the leased property.

7. For the avoidance of doubt, the obligations in Sections IV.B.4-6 do not apply to debt or related TEMPOE Lease Contracts that TEMPOE may have sold or assigned prior to the Effective Date and, therefore, no longer owns or controls.

8. Any requirement under Sections IV.B.4-6 shall be completed by TEMPOE no later than thirty (30) days after the Effective Date of this Assurance.

9. Within 30 days after the Effective Date, or at the time it is submitted to the Consumer Financial Protection Bureau (“CFPB”), whichever is earlier, TEMPOE shall submit the same comprehensive written plan (“Redress Plan”) to the Multistate Executive Committee Lead States that is submitted to the CFPB. Pursuant to sections IV.B.4-6 above, the Redress Plan must notify all existing Lessees – regardless of whether a Lessee is current or past due on their TEMPOE account – that their account is closed in connection with their TEMPOE Lease Contract(s) and they are entitled to retain the leased products or services with no further financial obligation. The Multistate Executive Committee, in coordination with the CFPB, will have the discretion to either make a determination of non-objection to the Redress Plan or direct TEMPOE to revise it consistent with this Assurance. If the Multistate Executive Committee and the CFPB direct

TEMPOE to revise the Redress Plan, TEMPOE must revise and resubmit the Redress Plan to the Multistate Executive Committee Lead States within 15 days. After receiving notification that the Multistate Executive Committee has made a determination of non-objection to the Redress Plan, TEMPOE must implement and adhere to the steps, recommendations, deadlines, and timeframes outlined in the Redress Plan.

10. The Redress Plan must include: (i) the number of Lessee accounts closed in connection with TEMPOE Lease Contracts; (ii) the Remaining Balance under the TEMPOE Lease Contracts, including the amount of outstanding payments due for TEMPOE Lease Contracts in default and the aggregate amount of month-to-month payments remaining through the end of the maximum month-to-month extensions under the current TEMPOE Lease Contracts; (iii) a detailed description of how TEMPOE will identify and contact Lessees; (iv) any template communications that TEMPOE will send to consumers; and (v) a description of how TEMPOE will report on the results of the Redress Plan to the Multistate Executive Committee.

11. TEMPOE shall not collect any past due amounts from Lessees, either in-house or through a third-party debt collector, including, but not limited to, a Remaining Balance, past due amounts owed under the TEMPOE Lease Contract, and/or any and all fees related to the TEMPOE Lease Contract.

12. TEMPOE shall not sell, transfer, or assign any Lessee's debt to a debt buyer or any person(s) that would attempt to collect on a TEMPOE Lease Contract.

13. For the avoidance of doubt, this Section IV.B does not apply to debt or related TEMPOE Lease Contracts that TEMPOE may have sold or assigned prior to the Effective Date and, therefore, no longer owns or controls.

14. TEMPOE shall not provide negative information pertaining to a Lessee's account to any consumer reporting agency.

15. TEMPOE shall not enter into any new TEMPOE Lease Contracts with consumers.

16. TEMPOE shall have no activities in the future pertaining in any way to leasing personal property, goods, or services, to consumers other than the obligations set forth in this Assurance.

17. Within the context of complying with this Assurance, TEMPOE may take action(s) that are reasonably necessary and related – excluding collection efforts – to close each Lessee's account.

C. Warranties

18. TEMPOE shall not take any action to impair any Lessee's ability to receive and take advantage of warranty benefits available to owners of the leased goods, such as any warranty benefits that may have been advertised by manufacturers and Retail Partners prior to lease commencement.

D. Contract Disclosure Requirements

19. TEMPOE shall allow Lessees to withdraw their consent to receive electronic delivery of documents or other information from TEMPOE at any time. Upon such withdrawal, TEMPOE shall provide paper copies to the Lessee of all future documents or other information, unless the Lessee again consents to electronic delivery of documents or other information from TEMPOE.

20. If a Lessee requests a copy of their TEMPOE Lease Contract, for any reason, and regardless of whether the Lessee is able to access their TEMPOE Lease Contract online, TEMPOE shall provide the TEMPOE Lease Contract to the Lessee by mail or email as reasonable under the circumstances.

E. Reporting Compliance

21. TEMPOE must notify the Multistate Executive Committee Lead States of any development that may affect compliance obligations arising 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 to TEMPOE; 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 TEMPOE; or a change in TEMPOE's name or address. TEMPOE must provide this notice, if practicable, at least 30 days before the development, but in any case, no later than 14 days after the development.

22. Within ninety (90) days from the approval of the Redress Plan, TEMPOE shall provide to the Multistate Executive Committee Lead States the following:

- i. A list of all Lessees receiving the notice required by the Redress Plan, including the full name of the Lessee and the last known telephone number, address, and email address;
- ii. The total number of Lessee accounts closed in connection with TEMPOE Lease Contracts, and an estimate of the total amount owed by Lessees toward their TEMPOE Lease Contract at the time of account closure; and
- iii. A sworn statement from a duly authorized TEMPOE corporate representative verifying the information provided in Section IV.E.22.i-ii is accurate to the best of TEMPOE's knowledge.

23. TEMPOE shall retain all business records related to Lessees receiving the notice required by the Redress Plan for a minimum of one (1) year from the Effective Date.

24. TEMPOE shall retain all consumer TEMPOE Lease Contracts for a minimum of three (3) years following the Effective Date.

25. TEMPOE shall ensure that business records evidencing compliance with the obligations set forth in section IV.B.4-6 of this Assurance are retained for one (1) year following the Effective Date.

26. Within thirty (30) days of the Effective Date, TEMPOE shall provide, and is required to keep current, the name and contact information of a corporate contact for the States to direct inquiries for a period of eighteen (18) months.

27. TEMPOE shall employ a sufficient number of employees and/or contractors to ensure compliance with the provisions contained herein.

F. Monetary Remedies

28. TEMPOE shall pay a collective total of one million dollars (\$1,000,000) to the States ("Settlement Payment").

29. The States have chosen Rust Consulting, Inc. as the Settlement Administrator ("Settlement Administrator") to administer the distribution of the Settlement Payment. All costs and expenses of the Settlement Administrator shall be paid by the States.

30. Within fifteen (15) days of the Effective Date of this Assurance, TEMPOE shall deposit the Settlement Payment into a fund controlled by the Settlement Administrator.

31. After TEMPOE has made the required Settlement Payment, TEMPOE shall no longer have any property right, title, interest, or other legal claim in those funds.

32. The Office of the Kentucky Attorney General will receive a \$15,000.00 civil penalty paid from the Settlement Payment and, in accordance with KRS 48.005, shall be entitled to retain the entirety of that amount for recovery of the Attorney General's reasonable costs of investigation.

33. Each Participating State shall provide written payment processing instructions to the Settlement Administrator. The Settlement Administrator shall distribute an individual State's

share of the Settlement Payment within fifteen (15) days of the Settlement Administrator's receipt of written payment processing instructions from an individual Participating State.

34. The Settlement Administrator shall provide regular status reports to the Multistate Executive Committee regarding the distribution of the Settlement Payment to the Participating States.

V. EFFECT OF MISREPRESENTATION OR OMISSION REGARDING FINANCIAL CONDITION

1. The Attorneys General's willingness to enter into this Assurance and the monetary payment required in Section IV.F.28 is expressly premised on the truthfulness, accuracy, and completeness of the following TEMPOE financial statements and documents, which have been provided to the Attorneys General:

- i. 2021 Audited Financial Statements of TEMPOE, including attachments, submitted to the Attorneys General on or about June 27, 2022;
- ii. Financial statement and projections of TEMPOE submitted to the Attorneys General on or about December 1, 2022; and
- iii. 2022 Audited Financial Statements of TEMPOE, including all attachments, submitted to the Attorneys General on or about May 11, 2023.

2. If TEMPOE has failed to disclose any material asset or if any of its financial statements contain any material misrepresentation or omission, including materially misstating the value of any asset, then TEMPOE will be required to pay an additional Settlement Payment of \$10 million, which is the amount of the discount provided to account for TEMPOE's inability to pay a greater amount in determining the Settlement Payment imposed in Section IV.F.28. The States can seek to enforce this obligation in any state district court for a district in which TEMPOE is located or resides or has done business as of the Effective Date as immediately due and payable under this

Assurance for an additional Settlement Payment. The amount TEMPOE must pay the States collectively under this paragraph will be reduced by \$5 million upon TEMPOE's satisfaction of its obligation to pay that amount to the CFPB for any penalty for materially misstating the value of any asset or any of its financial statements.

VI. RELEASE

1. In exchange for full payment of the amount due under Section IV.F.28 of this Assurance, the Attorneys General release and discharge TEMPOE from all civil claims, causes of action, damages, costs, attorneys' fees, or penalties that the Attorneys General could have brought under the Consumer Protection Acts; the Consumer Leasing Act and its implementing regulation, Reg. M; and TILA and its implementing regulation, Reg. Z, based on the Covered Conduct the Attorneys General were aware of that occurred prior to the Effective Date. For purposes of this release, "Covered Conduct" shall mean all acts and practices in connection with TEMPOE Lease Contract(s), including: advertising of TEMPOE Lease Contracts; disclosures associated with TEMPOE Lease Contracts; debt collection practices by TEMPOE related to TEMPOE Lease Contracts; conduct by TEMPOE preceding consummation of the TEMPOE Lease Contracts; conduct that occurred at the time of consummation of the TEMPOE Lease Contracts; as well as conduct by TEMPOE after the execution of the TEMPOE Lease Contracts. Nothing in this Section shall be construed to limit the ability of the Attorneys General to enforce the obligations that TEMPOE has under this Assurance.

2. Notwithstanding any term of this Assurance, the following forms of liability are specifically reserved and excluded from the release in Section VI.1: any criminal liability; and any civil or administrative liability under any statute, regulation, or rule not covered by the release in

Section VI.1 above, or not under the purview of the Attorney General's authority to enforce his or her Consumer Protection Acts, including but not limited to the following claims:

- i. State or Federal antitrust violations;
- ii. State or Federal securities violations; and/or
- iii. State or Federal tax violations.

VII. DISPUTE RESOLUTION

1. For the purposes of resolving disputes with respect to TEMPOE's compliance with this Assurance, should the Attorney General have a reasonable basis to believe that TEMPOE has engaged in a practice that violates a provision of this Assurance subsequent to the Effective Date, and if in the Attorney General's sole discretion the conduct at issue does not threaten the health and safety of citizens and does not create an emergency requiring immediate action, then the Attorney General shall notify TEMPOE in writing of the objection, identify the provision(s) of this Assurance that the practice appears to violate, and give TEMPOE a minimum of twenty-one (21) days to respond to the notification.

2. Upon receipt of written notice from the Attorney General, TEMPOE shall provide a good faith written response to the Attorney General's notification, containing either a statement explaining why TEMPOE believes it is in compliance with the Assurance or a detailed explanation of how the alleged violation occurred and a statement explaining how and when TEMPOE intends to remedy the alleged violation.

3. Nothing in this Assurance shall be interpreted to limit the Attorney General's Civil Investigative Demand or investigative subpoena authority.

VIII. GENERAL PROVISIONS

1. TEMPOE is entering into this Assurance solely for the purposes of settlement, and nothing contained herein may be taken as or construed to be an admission by TEMPOE of any violation of any Consumer Protection Acts, law, regulation or local requirement, contractual obligation, or any duty whatsoever whether based in statute, regulation, common law, contract, or otherwise, all of which TEMPOE expressly denies. This Assurance is not intended to constitute evidence or precedent of any kind except in any action or proceeding by one of the parties to enforce, rescind, or otherwise implement or affirm any or all terms of this Assurance.

2. Nothing in this Assurance shall be construed to create, waive, or limit any private right of action.

3. Within thirty (30) days of the Effective Date, TEMPOE must deliver a copy of this Assurance to each of its board members and executive officers, as well as to any managers, employees, service providers, or other agents and representatives who have responsibilities related to the subject matter of this Assurance.

4. For five (5) years from the Effective Date, or until such time as TEMPOE has provided the Multistate Executive Committee Lead States with proof of its dissolution, whichever comes first, TEMPOE must deliver a copy of this Assurance to any business entity resulting from any change in structure referred to in Section IV.E.21, any future board members and executive officers, as well as to any managers, employees, or other agents and representatives who will have responsibilities related to the subject matter of this Assurance before they assume their responsibilities.

5. Nothing in this Assurance shall prevent TEMPOE from fulfilling its obligations to comply with the provisions contained in this Assurance through the assistance of third parties who

are not released under Section VI.1. In the event third parties do assist TEMPOE, it is solely TEMPOE's responsibility to ensure that the obligations of this Assurance are satisfied in full.

6. TEMPOE must provide all submissions, requests, communications, notice requirements, or other documents relating to this Assurance in writing, with the subject line, "*In re* Tempoe LLC, [Year]" and send them by first-class mail to the Multistate Executive Committee Lead States at the addresses below or by email to: jocelyn.brasher@nebraska.gov; patrick.madigan@ag.iowa.gov; and tate.ball@ag.tn.gov:

Nebraska Office of the Attorney General
Attention: AAG Jocelyn J. Brasher
Consumer Protection Division
2115 State Capitol
Lincoln, NE 68509;

Iowa Office of the Attorney General
Attention: AAG Patrick Madigan
Consumer Protection Division
1305 E. Walnut St.
Des Moines, Iowa 50319; and

Tennessee Office of the Attorney General
Attention: AAG Tate Ball
Consumer Protection Division
P.O. Box 20207
Nashville, TN 37202.

7. Unless otherwise directed in writing by TEMPOE, any notice that shall be made to TEMPOE by an Attorney General relating to this Assurance shall be sent by first-class mail to TEMPOE at the addresses below or by email to with copy to counsel:

TEMPOE, LLC
Attn: Chris Swartz, President
7755 Montgomery Rd #400,
Cincinnati, Ohio 45236
Email: info@tempoe.com

TEMPOE, LLC
Attn: Luke Williamson, Executive VP

7755 Montgomery Rd #400,
Cincinnati, Ohio 45236
Email: info@tempoe.com

Counsel for TEMPOE, LLC
Katten Muchin Rosenman LLP
Attn: Eric R. Hail
2121 North Pearl Street, Ste. 1100
Dallas, Texas 75201-2591
Email: eric.hail@katten.com

8. Either TEMPOE or any of the Multistate Executive Committee Lead States may update its designee or address by sending written notice to the other party informing them of the change.

9. TEMPOE shall not cause or direct third parties, nor knowingly permit third parties acting as TEMPOE's agent or under its control or direction, to engage in practices from which TEMPOE is prohibited by this Assurance or for any other purpose that would otherwise circumvent any part of this Assurance.

10. TEMPOE and the Attorneys General state that no promise of any kind or nature whatsoever (other than the written terms of this Assurance) was made to the other to induce or that did induce the other to enter into this Assurance; that they have entered into this Assurance voluntarily; and that this Assurance constitutes the full and complete terms of the Assurance between TEMPOE and the Attorneys General. In any action undertaken by the parties, the parties agree that neither prior versions of this Assurance nor prior versions of any of its terms may be introduced in any court proceeding for any purpose whatsoever.

11. All parties participated in the drafting of this Assurance.

12. Unless otherwise prohibited by law, this Assurance may be executed at different times and locations in counterparts, each of which shall be deemed an original, but all of which together constitute one and the same instrument.

13. Any failure by any party to this Assurance to insist upon strict performance by any other party of any provision of this Assurance shall not be deemed a waiver of any provision of this Assurance, and such party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all provisions of this Assurance. For the Attorneys General, this shall be without prejudice to the imposition of any applicable remedies, including but not limited to contempt or civil penalties as set forth in the Consumer Protection Acts and/or the payment of attorneys' fees to the Attorneys General, and any other remedies under applicable State law.

14. If any clause, provision, or section of this Assurance shall, for any reason, be held illegal, invalid, or unenforceable, such illegality, invalidity, or unenforceability shall not affect any other clause, provision or section of this Assurance, and this Assurance shall be construed and enforced as if such illegal, invalid, or unenforceable clause, section, or other provision had not been contained herein.

15. Nothing in this Assurance shall be construed as relieving TEMPOE of its obligation to comply with all State and Federal laws, regulations, or rules, nor shall any of the provisions of this Assurance be deemed to be permission to engage in any acts or practices prohibited by such laws, regulations, or rules.

16. The parties understand and agree that this Assurance shall not be construed as an approval of or sanction by the Attorneys General of TEMPOE's business practices, and TEMPOE shall not represent otherwise. The parties further understand and agree that any failure by the Attorneys General to take any action in response to any information submitted pursuant to this Assurance shall not be construed as an approval or sanction of any representation, act, or practice indicated by such information, nor shall it preclude action thereon at a later date.

17. Nothing in this Assurance shall be construed to waive any claims of Sovereign Immunity any State may have in any action or proceeding.

18. For those Attorneys General who must file Assurances with and seek approval from a court, TEMPOE waives any further notice of submission or filing of this Assurance with the court; TEMPOE does not require issuance or service of a summons; and all filing fees associated with commencing this action and obtaining a court's approval of this Assurance shall be borne by TEMPOE.

19. The undersigned counsel for TEMPOE, LLC, warrants and represents that he is fully authorized to execute this Assurance on behalf of TEMPOE.

20. TEMPOE acknowledges and agrees that the Attorneys General have relied on the representations and warranties set forth in this Assurance and that if any such representation is proved false, unfair, deceptive, misleading, or inaccurate in any material respect, the Attorneys General have the right to seek any relief or remedy afforded by law or equity in their respective states.

[Signature Page to Follow]

**COUNSEL FOR THE ATTORNEY GENERAL
of KENTUCKY**



Donald J. Haas
Assistant Attorney General
Office of Consumer Protection
Office of the Attorney General of Kentucky

9/11/2023

Date

COUNSEL FOR TEMPOE, LLC



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Dallas, Texas 75201
(214) 765-3638
eric.hail@katten.com

9/9/2023

Date

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