

**IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT COURT  
VERMILLION COUNTY, ILLINOIS**

SEYON HAYWOOD individually and on  
behalf of all others similarly situated,

*Plaintiff,*

v.

THYSSENKRUPP DYNAMIC  
COMPONENTS DANVILLE, LLC,

*Defendant.*

Case No.: 2021 L 000057

**CLASS ACTION SETTLEMENT AND RELEASE AGREEMENT**

This Class Action Settlement and Release Agreement (“Settlement Agreement”) is made and entered into by and between the following parties: Seyon Haywood (“Plaintiff”), individually and on behalf of similarly situated persons, and thyssenkrupp Dynamic Components Danville, LLC (“Thyssenkrupp” or “Defendant”). Plaintiff and Defendant are collectively referred to herein as the “Parties.”

As more fully set forth in this Settlement Agreement, through the above-captioned class action lawsuit (case no. 2021L000057, in the Circuit Court of the Fifth Judicial Circuit, Vermillion County (the “Lawsuit”)), Plaintiff, individually and on behalf of similarly situated persons, seeks relief for Defendant’s alleged violations of the Illinois Biometric Information Privacy Act, 740 ILCS § 14/1, *et seq.* (“BIPA”). In consideration of the covenants, agreements, and releases set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed by and among the undersigned that the Lawsuit be settled and compromised, and that the Releasers release the Releasees of the Released Claims, without costs as to Releasees, Plaintiff, Class

Counsel, or the Settlement Class, except as explicitly provided for in this Agreement, subject to the approval of the Court, on the following terms and conditions.

## **INTRODUCTORY PROVISIONS**

1. **Introduction.** On November 3, 2021, Plaintiff filed the Lawsuit, on behalf of himself and similarly situated employees of Defendant, seeking relief individually, in the form of a class action under the Illinois Code of Civil Procedure pursuant to alleged violations of the BIPA. The Parties seek to settle all claims asserted in the Lawsuit.

2. **Attorneys.** The Parties are represented as follows:

- Fish Potter Bolaños P.C. is counsel of record for Plaintiff (“Named Plaintiff’s Counsel” or “Class Counsel”).
- Seyfarth Shaw LLP is counsel of record for Defendant (“Defendant’s Counsel”).

3. **Negotiations.** Following extensive arms-length negotiations, the Parties have negotiated a settlement by which the Parties agree and hereby wish to resolve all matters pertaining to, arising from, or associated with the Lawsuit, and as set forth herein, all claims Plaintiff and members of the class they seek to represent for purposes of the Settlement Agreement, have or may have had against Defendant, their direct or indirect parents and subsidiaries, brands, owners, shareholders, directors, officers, agents, managers, employees, assignors, representatives, and all related and affiliated parent or subsidiary companies and divisions, through the date on which the Parties sign this Settlement Agreement.

4. **Adequacy of Consideration.** Each Party acknowledges that the Settlement Payments and Release of Claims, as described in this Settlement Agreement, are a fair and reasonable resolution of a *bona fide* dispute over Plaintiff’s claims and constitute good, valid, and sufficient consideration for the promises contained in this Settlement Agreement. Plaintiff acknowledges and agrees that the Settlement Payments are consideration to which he and the Settlement Class members

covered by this Settlement Agreement would not otherwise be entitled to receive without the promises being made in this Settlement Agreement.

5. **Voluntariness.** Plaintiff acknowledges that he has been given the opportunity to consult, and has consulted, with Class Counsel before signing this Settlement Agreement, and has been given a reasonable period of time within which to consider this Settlement Agreement. Plaintiff further acknowledges that he understands the contents of this Settlement Agreement and voluntarily consents and agrees to each provision contained herein.

6. **Competency.** Plaintiff agrees that he is competent, as a matter of law, to enter into this Settlement Agreement.

7. **Non-Admission of Liability.** Defendant denies and continue to deny each and every allegation and all charges of wrongdoing or liability of any kind whatsoever that Plaintiff or members of the Settlement Class have asserted in the Lawsuit or may in the future assert. Despite Defendant's belief that they are not liable for, and have good defenses to, the claims alleged in the Lawsuit, Defendant desires to settle the Lawsuit, and thus avoid the expense, risk, exposure, inconvenience, and distraction of continued litigation of any action or proceeding relating to the matters being fully settled and finally put to rest in this Settlement Agreement. Neither this Settlement Agreement, nor any negotiation or act performed, or document created in relation to the Settlement Agreement or negotiation or discussion thereof is, or may be deemed to be, or may be used as, an admission of, or evidence of, any wrongdoing or liability.

8. **Full Agreement.** This Settlement Agreement contains the terms between the Parties and their respective counsel relating to the settlement of the Lawsuit. There are no side agreements between the Parties or their counsel. At all times, the negotiations leading to the Settlement Agreement were adversarial, non-collusive, and at arm's length.

9. **Effectiveness.** This Settlement Agreement shall, upon court approval and becoming

effective on the Effective Date, be a full and complete settlement and release of all “Released Claims,” defined in this Settlement Agreement, for Plaintiff and all persons in the classes covered by this Settlement Agreement who do not opt-out of the Settlement Agreement. The Parties agree to cooperate and take all necessary and appropriate steps to effectuate the terms of this Settlement Agreement.

10. **Settlement Class Certification.** The Parties agree that, for purposes of this Settlement Agreement only, the Settlement Class as defined in Paragraph 11(s) of this Settlement Agreement should be certified under 735 ILCS 5/2-801. Defendant does not consent to certification of the Class for any purpose other than to effectuate the Settlement Agreement. If the Court does not enter Final Approval of the Settlement Agreement, or if for any other reason final approval of the Settlement Agreement does not occur, is successfully objected to, or challenged on appeal, any certification of any Settlement Class will be vacated and the Parties will be returned to their positions with respect to the Lawsuit as if the Settlement Agreement had not been entered into. In the event that Final Approval of the Settlement Agreement is not achieved: (a) any Court orders preliminarily or finally approving the certification of any class contemplated by this Settlement Agreement shall be null, void, and vacated, and shall not be used or cited thereafter by any person or entity; and (b) the fact of the settlement reflected in this Settlement Agreement, that Defendant did not oppose the certification of a Class under this Settlement Agreement, or that the Court preliminarily approved the certification of a Class, shall not be used or cited thereafter by any person or entity, including in any manner whatsoever, including without limitation any contested proceeding relating to the certification of any class. If for any reason the Settlement Agreement is not granted preliminary and/or final approval, Defendant’s agreement to certification of the Settlement Class shall not be used for any purpose, including in any request for class certification in the Lawsuit or any other proceeding.

NOW THEREFORE, in consideration of the mutual covenants, promises and agreements

and other good and valuable consideration set forth in this Settlement Agreement, the Parties, intending to be legally bound, agree, subject to the Court's approval, as follows:

### **DEFINITIONS**

11. **Definitions.** The following definitions shall apply to terms used in this Settlement Agreement.

a. "Administrative Costs" means all regular and ordinary costs and expenses incurred by the Settlement Administrator in the administration of this Settlement Agreement, including, but not limited to, all printing, mailing, and other expenses incurred in providing the Notice, all costs related to the preparation and mailing of settlement payments, all fees and charges of the Settlement Administrator, all costs incurred in communicating with Settlement Class Members and implementing the administration of the Settlement Agreement as set forth herein, and any other expenses determined to be an expense reasonably necessary for the administration of this Settlement Agreement. The Parties agree to pay Administrative Costs associated with notice and administration of this Settlement Agreement as set forth in this Settlement Agreement.

b. "Class Period" means the time period from November 3, 2016 through the date of preliminary approval.

c. "Class Settlement Payments" means the payments made to Settlement Class Members pursuant to the terms of this Settlement Agreement.

d. "Effective Date" means the date on which this Settlement Agreement shall become effective, and shall be defined as the last date when all the following events have occurred:

- i. This Settlement Agreement has been executed by the Parties;
- ii. The Court has entered a Preliminary Approval Order;
- iii. Notice has been given to the Settlement Class Members;

iv. The Court has held a Final Approval Hearing and entered a Final Approval Order;

v. The later of the following events: when the period for filing any appeal, writ or other appellate proceeding opposing the Settlement Agreement has elapsed without any appeal, writ or other appellate proceeding having been filed; or any appeal, writ or other appellate proceeding opposing the Settlement Agreement has been dismissed finally and conclusively with no right to pursue further remedies or relief; or any appeal, writ or other appellate proceeding has upheld in all respects the Court's Final Approval Order approving the Settlement Agreement with no right to pursue further remedies or relief. It is the intention of the Parties that the Settlement Agreement shall not become effective until the Court's Order approving the Settlement Agreement is completely final, and there is no further recourse by an person who seeks to contest the Settlement.

e. "Fee Award" means the amount of attorneys' fees and reimbursement of costs and expenses awarded by the Court to Class Counsel.

f. "Final Approval Hearing" means the hearing contemplated by the Parties at which the Court will grant final approval of the Settlement Agreement and make such other final rulings as are contemplated by the Settlement Agreement.

g. "Final Approval Order" means the Court's Order granting final approval of this Settlement Agreement on the terms set forth in this Settlement Agreement, or as those terms may be modified by subsequent mutual agreement of the Parties. The Final Approval Order shall include a dismissal of the Lawsuit with prejudice.

h. “Incentive Award” shall have the meaning ascribed to it as set forth in Section 14(l) of this Agreement.

i. “Lawsuit” means civil action number 2021 L 000057 pending between the Parties in the Fifth Judicial Circuit Court of Vermillion County, Illinois, Law Division.

j. “Notice” or “Settlement Notice” means the Notice of Class Action Settlement, as attached as Exhibit 1.

k. “Notice Period” means the time period of 45 calendar days, commencing on the date when the Notice is initially sent to Settlement Class Members.

l. “Preliminary Approval Hearing” means the hearing contemplated by the Parties at which the Court will grant preliminary approval of the Settlement Agreement, order the sending of Notice to the Settlement Class Members, and make such other rulings as are contemplated by the Settlement Agreement.

m. “Preliminary Approval Order” means the Court’s Order granting preliminary approval of the terms of this Settlement Agreement, or as those terms may be modified by subsequent mutual written agreement of the Parties.

n. “Qualified Settlement Fund” or “QSF” or “Settlement Fund” means the qualified settlement fund established by the Settlement Administrator into which the Settlement Payments will be made by Defendant.

o. “Related Actions” shall mean any proceedings, other than the Lawsuit, that allege that Defendant violated the BIPA or any related statutes or common law claims, that were or could have been brought by a plaintiff who would be a Class Member.

p. “Released Claims” shall mean any and all claims against Releasees whatsoever arising out of, related to, or connected with the alleged capture, collection, storage, possession, transmission, conversion, and/or other use of biometric identifiers and/or biometric information,

including but not limited to claims brought under 740 ILCS § 14/1, *et seq.* (“BIPA”). “Released Claims” includes all claims that arise from and/or are reasonably related to the claims (whether common law and/or statutory) that were and/or could have been asserted in the Lawsuit based on allegations in the class action complaint or similar factual allegations in Related Actions, regardless of whether such claims are known or unknown, filed or unfiled, asserted or as yet unasserted, existing or contingent whether in contract, tort, or otherwise, including statutory, common law, property, employment related, and any additional constitutional, common law and/or statutory claims.

q. “Releasees” shall refer, jointly and severally, and individually and collectively, to Defendant, its past and present parents, predecessors, successors, affiliates, holding companies, brands, subsidiaries, employees, agents, board members, assigns, partners, contractors, joint venturers, or third-party agents with which it has or had contracts or their affiliates, including the vendors/licensors of Defendant’s timekeeping technology.

r. “Releasers” shall refer, jointly and severally, and individually and collectively, to Plaintiff, the Settlement Class Members, and to each of their predecessors, successors, heirs, executors, administrators, and assigns of each of the foregoing, and anyone claiming by, through, or on behalf of them.

s. “Settlement Class” is defined as follows: All persons working for Defendant thyssenkrupp Dynamic Components Danville, LLC (“Defendant”) in the State of Illinois during the Class Period who scanned their hands and/or fingers or anything that allegedly could be considered as biometric identifiers or biometric information under the Illinois Biometric Information Privacy Act when utilizing timekeeping technology provided by Defendant and who do not timely exclude themselves from the settlement. Members of the Settlement Class may also be referred to as “Class Members.”



t. “Settlement Administrator” means the third-party administrator selected by Plaintiff, subject to Defendant’s approval, that is charged with administering this Settlement Agreement, in concert with the Parties and their counsel, including as set forth in this Settlement Agreement.

## SETTLEMENT TERMS

12. **Parties and Settlement.** Plaintiff and Defendant agree that the claims in the Lawsuit be settled and compromised as between Named Plaintiff, the Settlement Class Members who do not exclude themselves from the Settlement Class, and Defendant, subject to the terms and conditions set forth in this Settlement Agreement and the approval of this Settlement Agreement by the Court.

13. **Class Settlement Payments.** Class Settlement Payments shall be as defined as follows:

a. Defendant agrees to pay, through the Settlement Administrator, as follows:

i. Defendant agrees to pay the Gross Settlement Amount of Six Hundred Thousand Dollars (\$600,000.00). This Gross Settlement Amount shall be mailed or otherwise paid into the Settlement Administrator’s QSF pursuant to the terms of this Settlement Agreement.

ii. Class Settlement Payments shall be disbursed from the Qualified Settlement Fund as set forth in this Settlement Agreement. The amounts are reflective of each Settlement Class Member’s pro-rata share of claims. The Parties stipulate that each Settlement Class Member’s share shall be determined as follows: settlement proceeds are determined by subtracting Administrative Costs, attorneys’ fees and costs, and Incentive Award from the Qualified Settlement Amount to reflect a Net Settlement Fund.

iii. Defendant has provided a good-faith estimate that there are approximately 633 Class Members. In the event that the number of Class Members increases by more

than 5%, the Settlement Fund shall increase by \$947.86 for each Class Member above 664 Class Members.

b. Any Class Member who opts out will not be entitled to any amount of the Qualified Settlement Fund, the Settlement Administrator will not pay that person the share he or she would otherwise receive, and he or she will not be a part of this Settlement Agreement or release any claims.

c. To the extent required by law, each Class Member will receive an IRS Form 1099 with respect to that Class Member's Settlement Payment.

d. The Settlement Administrator shall be responsible for preparing and filing all necessary tax forms (and the equivalent state tax forms), notices, mailings, and making any and all payments in accordance with this Settlement Agreement. Settlement Class Members who do not exclude themselves from the Settlement Class are responsible to pay the appropriate individual taxes due on the settlement payments they receive.

e. Class Counsel and Defendant's Counsel do not intend this Settlement Agreement to constitute legal advice relating to the tax liability of any Settlement Class Member who does not exclude himself or herself from the Settlement Class, and no part of this Settlement Agreement constitutes tax advice. To the extent that this Settlement Agreement, or any of its attachments, is interpreted to contain or constitute advice regarding any federal, state or local tax issue, such advice is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding any tax liability or penalties. Settlement Class Members who do not exclude themselves from the Settlement Class are urged to obtain counsel from a tax advisor regarding the tax consequences and obligations resulting from participating in the Settlement Agreement.

f. The settlement payments made to Class Members under this Settlement Agreement, as well as any other payments made pursuant to this Settlement Agreement, will not be

utilized to calculate any additional benefits under any benefit plans to which any Settlement Class Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Settlement Class Members may be entitled under any benefit plans.

14. **Attorneys' Fees, Costs and Expenses, and Incentive Award.** In consideration for the work already performed in this matter and all work remaining to be performed in documenting the Settlement Agreement, securing Court approval of the Settlement Agreement, administering the Settlement Agreement, and ensuring that the Settlement Agreement is correctly implemented, and in conjunction with the filing of a motion for final approval, Class Counsel will move the Court for an award of attorneys' fees and expenses not to exceed Thirty-Five Percent (35%) of the Qualified Settlement Fund plus unreimbursed costs, subject to Court approval.

g. Defendant agrees not to oppose an application for attorneys' fees by Class Counsel in an amount not more than Thirty-Five Percent (35%) of the Qualified Settlement Fund plus unreimbursed costs. Class Counsel, in turn, agree not to seek or accept attorneys' fees in excess of this amount from the Court. Defendant shall have no additional liability for Class Counsel's attorneys' fees, expenses and costs.

h. Notwithstanding any contrary provision of this Settlement Agreement, the Court's consideration of the Fee Award is to be conducted separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement Agreement, and any award made by the Court with respect to Class Counsel's attorneys' fees or expenses, or any proceedings incident thereto, including any appeal thereof, shall not operate to terminate or cancel this Settlement Agreement or be deemed material thereto. In the event that the Court awards a Fee Award less than

requested by Class Counsel, any unawarded funds will be added to the amount to be distributed to Settlement Class Members.

i. Defendant, through the Settlement Administrator, will issue an IRS Form 1099 to Class Counsel reflecting the attorneys' fees payment as required by law. Class Counsel shall provide Defendant and the Settlement Administrator with a fully-executed IRS Form W-9 from Class Counsel for this payment within three calendar days of the Final Approval Order being entered.

j. These payments shall be made from the QSF to the accounts designated by Class Counsel. The attorneys' fees shall be paid from the QSF no later than seven (7) calendar days after the Transfer of Funds described in Section 42 of this Settlement Agreement.

k. Prior to or at the same time as Plaintiff seeks final approval of the Settlement Agreement, Class Counsel shall move the Court for an Incentive Award for Plaintiff in an amount not to exceed Seven Thousand Five Hundred Dollars (\$7,500.00), and Defendant agrees that they will not oppose such a request.

l. The Incentive Award is in addition to the Settlement Payment that Plaintiff is entitled to receive as set forth in this Settlement Agreement. Plaintiff is responsible for correctly characterizing the payment for tax purposes and for paying any taxes due on the amounts received. Neither Plaintiff's Counsel nor Defendant's Counsel is providing any tax advice to Plaintiff in connection with any payments to Plaintiff under this Settlement Agreement. The Settlement Administrator shall remit the Incentive Award to Plaintiff, from the Qualified Settlement Fund, along with any applicable tax withholding documentation, within twenty-one (21) calendar days after the Transfer of Funds described in Section 42 of this Settlement Agreement.

m. All Administrative Costs and other costs associated with this Settlement Agreement, including costs of notice and settlement administration, including without limitation all fees and costs of the Settlement Administrator, all costs associated with the notices to the Settlement

Class and administration of this Settlement Agreement, and all costs associated with the manner in which administration of the Settlement Agreement is to be accomplished as set forth in this Settlement Agreement, shall be paid from the Qualified Settlement Fund.

n. Decisions regarding notice and settlement administration, including selection of the Settlement Administrator, are to be made with the consent of Class Counsel and Defendant's counsel. The payment of fees and costs of the Settlement Administrator for work done is not dependent on any outcome associated with this Settlement Agreement or the administration of this Settlement Agreement (other than misfeasance or malfeasance on the part of the Settlement Administrator) and will be paid regardless of any such outcome. The fees and costs shall be paid from the Qualified Settlement Fund once it is funded in accordance with the terms of this Settlement Agreement. If the Court does not give final approval to the Settlement Agreement such that the Qualified Settlement Fund is not funded, the Parties shall jointly pay the Settlement Administrator for its fees and costs actually incurred to date. The payment shall be equally divided between the Parties.

o. The Parties agree to cooperate in the administration of the Settlement Agreement and to make all reasonable efforts to control and minimize the costs and expenses incurred in administration of the Settlement Agreement.

p. In no event will Defendant's liability for attorney's fees, expenses, and costs, settlement administration costs, and/or an Incentive Award exceed its funding obligations set out in this Settlement Agreement. Defendant shall have no financial responsibility for this Settlement Agreement outside of the Qualified Settlement Fund. Defendant shall have no further obligation for attorneys' fees or expenses to any counsel representing or working on behalf of either one or more individual Settlement Class Members or the Settlement Class. Defendant will have no responsibility, obligation or liability for allocation of fees and expenses among Class Counsel.

15. **Mailing Of Settlement Payments to Settlement Class Members.** The Settlement Administrator shall cause the Settlement Payments to be mailed to Settlement Class Members who do not exclude themselves from the Settlement Class. Settlement Payments will be mailed within twenty-one (21) calendar days after the Transfer of Funds described in Section 42 of this Settlement Agreement, in the form of a Settlement Check. The Settlement Checks mailed to Settlement Class Members shall include a notice setting forth the 45-day time period, as set forth in this Settlement Agreement, in which the checks must be cashed, deposited or negotiated. Replacement checks may be requested during this 45-day time period. If any checks are returned to the Settlement Administrator as undeliverable, the Settlement Administrator will take reasonable measures to determine the accurate address, including review of information available in Defendant's records, such as phone numbers and alternative addresses, if any, and will re-send the check to the new address.

16. **Check Cashing Deadline.** Settlement Class Members who do not exclude themselves from the Settlement Class will have forty-five (45) calendar days after the mailing of the Settlement Payments to cash, deposit, or negotiate their Settlement Payment checks. If Settlement Class Members who do not exclude themselves from the Settlement Class do not cash, deposit, or negotiate their Settlement Payment checks within the forty-five (45) day period, their Settlement Payment checks will be void and a stop-payment order will be placed on such checks. The Settlement Administrator shall clearly disclose this deadline by including on each Settlement Payment check a statement that the check must be cashed, deposited, or negotiated within forty-five (45) days after the mailing or it will be canceled.

17. **Remaining Funds.** Any remaining funds in the Qualified Settlement Fund after all Class Payments have been made and the check cashing deadline has passed and all Administrative Costs, attorneys' fees and costs, and Incentive Award have been paid shall remain the property of

Defendant. Any remaining funds shall be returned to Defendant within forty-five (45) days of the Check Cashing Deadline referred to in para. 16 of this Agreement.

18. **Certification.** Defendant's signature on this Settlement Agreement certifies that Defendant has used reasonable efforts to ensure that information for the administration of the Settlement Agreement, including its business records to determine the contact information for Class Member lists that Defendant produces in order to disseminate the Notice, are complete and correct in all material respects to the best of Defendant's knowledge.

19. **Certification By Settlement Administrator.** Upon completion of administration of the Settlement Agreement, the Settlement Administrator will provide a written declaration under oath to certify such completion to the Court and counsel for all Parties. The Settlement Administrator will be solely responsible for preparation of the declaration, and the Settlement Administrator's failure to comply with this requirement will not affect the settlement's validity.

#### **SETTLEMENT AGREEMENT APPROVAL, OPT-OUT AND OBJECTIONS**

20. **Conditions Precedent.** This Settlement Agreement requires the occurrence of all of the following events: (a) execution of the Settlement Agreement by the Parties; (b) submission of the Settlement Agreement by the Parties to the Court for preliminary approval; (c) entry of the Preliminary Approval Order by the Court; (d) Court approval of the method of distribution and the form and content of the Settlement Notice; (e) dissemination of the Settlement Notice as set forth in this Settlement Agreement or as otherwise ordered by the Court; (f) the holding of a Final Approval Hearing and the Court's entry of the Final Approval Order; and (g) the Effective Date occurs. The Settlement Agreement will become final and effective only when the Effective Date occurs.

21. **Preliminary Approval.** Within twenty-eight (28) calendar days after the last signature to this Settlement Agreement Plaintiff will file a Motion for Preliminary Approval of Settlement ("Preliminary Approval Motion"). In the Preliminary Approval Motion, Plaintiff shall request that the

Court: (a) grant preliminary approval to the Settlement Agreement; (b) approve the Settlement Notice and the proposed plan of settlement administration described in this Settlement Agreement; and (c) schedule a tentative date for a Final Approval Hearing. The Preliminary Approval Motion shall be prepared in consultation with Defendant and no Preliminary Approval Motion shall be filed unless Defendant have agreed to the text of the Preliminary Approval Motion.

22. **Provision of Class Member Information.** Within fifteen (15) calendar days after the Court enters the Preliminary Approval Order, Defendant will directly provide to the Settlement Administrator the last known names, addresses, and phone numbers, as well as social security numbers of Settlement Class Members and email addresses if available. The Settlement Administrator shall take all reasonable steps to obtain contact information for any Class Members for whom Defendant cannot provide adequate information to contact them. The Settlement Administrator shall keep all information confidential and shall not disclose any information except as necessary in carrying out its administration of this Settlement Agreement. Notwithstanding the previous sentence, the Settlement Administrator shall share the class list data, other than the social security numbers, with Class Counsel. This requirement of confidentiality shall be included in the contract retaining the Settlement Administrator. Pursuant to Illinois Supreme Court Rule 138, social security numbers and last known mailing address shall not be included in any document filed with or otherwise submitted to the Court and shall not in any other way be made publicly available.

23. **Settlement Notice.** Within fourteen (14) calendar days after receiving the information in the preceding Paragraph, the Settlement Administrator shall send the Settlement Notice, as approved by the Court, to the Settlement Class Members by first class U.S. mail and email, if available.

24. **Non-Delivered Notice.** The Settlement Administrator shall promptly resend any Settlement Notice returned to the Settlement Administrator as non-delivered.



25. **Content of Notice.** The Notice shall be used for the purpose of informing proposed Settlement Class Members, prior to the Final Approval Hearing, that there is a pending settlement, and to further (a) inform Settlement Class Members as to how they may protect their rights regarding the settlement; (b) request exclusion from the Settlement Class and the proposed settlement, if desired; (c) object to any aspect of the proposed settlement, if desired; and (d) participate in the Final Approval Hearing, if desired. The Notice shall make clear the binding effect of the Settlement Agreement on all persons who do not timely request exclusion from the Settlement Class.

26. **Declaration of Settlement Administrator.** At least fourteen (14) calendar days prior to the Final Approval Hearing, the Settlement Administrator shall provide to Class Counsel and Defendant's Counsel, for filing with the Court, a declaration by the Settlement Administrator indicating due diligence and proof of mailing with regard to the mailing of the Notice as set forth above and other information as reasonably requested by Class Counsel or Defendant's Counsel.

27. **Opting-Out of Settlement Agreement.** Settlement Class Members who do not want to participate in the Settlement Agreement may opt out by sending a letter to the Settlement Administrator expressing their intent to be excluded from the Settlement Agreement pursuant to the instructions on the Notice. To be valid, the letter requesting exclusion must include: (1) the individual's name, and former name if any; (2) their Social Security Number; (3) a statement that they agree not to participate in the Settlement Agreement; and (4) their signature, and must be mailed to the Settlement Administrator whose address is listed on the Settlement Notice, by the date specified in the Settlement Notice (45 days after the initial mailing of the Settlement Notice.) Within three (3) business days after receiving a request for exclusion, the Settlement Administrator must notify Class Counsel and Defendant's Counsel *via* e-mail of the name of the Class Member who submitted the request for exclusion. The Settlement Administrator shall retain the requests for exclusion and the envelopes showing the postmark of the request for exclusion and permit inspection and copying of

same Class Counsel or Defendant's Counsel at their request. Requests for exclusion shall be disregarded if they are not post-marked on or before the applicable deadline. Settlement Class Members who do not submit a timely and valid request for exclusion in the manner described in this Settlement Agreement shall be deemed bound by this Settlement Agreement.

28. **Limitation of Liability.** No person shall have any claim against Defendant, Defendant's counsel, the Plaintiff, Plaintiff's Counsel, Class Counsel, or the Settlement Administrator based on any claim that a request for exclusion was not received in a timely manner.

29. **Exclusion Neutrality.** At no time shall any of the Parties, Settlement Class Members, or their counsel: (a) discourage any Settlement Class Member from participating in the Settlement Agreement; or (b) encourage any Settlement Class Member to object to the Settlement Agreement or request exclusion from the Settlement Agreement.

30. **Objections.** Settlement Class Members may object to the Settlement Agreement. To object to the Settlement Agreement or any terms of it, the person making the objection must be a Settlement Class Member, must not have opted out of the Settlement Agreement, and must send to the Settlement Administrator and file with the Court a written statement of the grounds of objection, signed by the Class Member or his or her attorney, by the date specified in the Settlement Notice (forty-five (45) calendar days after the initial mailing of the Settlement Notice). Any objection that does not meet this requirements shall not be considered by the Court, unless otherwise ordered by the Court. Settlement Class Members who fail to serve timely and proper written objections shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement Agreement. The Parties may file a response to any objections prior to the Final Approval Hearing. Any Settlement Class Member filing an objection who intends to appear at the Final Approval Hearing either in person or through counsel, must state in the

objection the intention to appear, the purpose of the appearance, and whether the Settlement Class Member is represented by counsel.

31. **List of Opt-Outs.** No later than seven (7) calendar days after the opt-out and objection deadline, the Settlement Administrator shall provide Class Counsel and Defendant's Counsel with a declaration (the "Administrator's Declaration") that includes a complete list of all individuals who have timely requested exclusion from the Settlement Class ("Opt-outs") and all Settlement Class Members who have timely objected to the Settlement Agreement. The portion of the Qualified Settlement Fund that would have been allocated to Opt-outs shall revert to Defendant.

32. **Reports.** The Settlement Administrator shall provide reports of Settlement Class Member responses to the Notice, including Opt-outs and objections; the number of returned Notices and re-mailed Notices; and other information requested by Defendant's Counsel or Class Counsel.

33. **Final Approval Motion.** At least seven (7) calendar days before the Final Approval Hearing, Plaintiff shall file with the Court a Motion for Final Approval of the Settlement Agreement. The Final Approval Motion shall be prepared in consultation with Defendant and no Final Approval Motion shall be filed unless Defendant has agreed to the text of the Final Approval Motion.

34. **Final Approval Hearing.** At the Final Approval Hearing, the Parties will ask the Court to: certify the Settlement Class and approve the Settlement Agreement, adjudging the terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and provisions; to a Fee Award to Class Counsel for attorneys' fees and costs; and to approve the Incentive Award to Named Plaintiff.

35. **Final Approval Order.** Counsel for the Parties shall jointly present the Court with a proposed Final Approval Order:

a. Certifying the Settlement Class and approving the Settlement Agreement, adjudging the terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and provisions;

b. Approving the payment to Class Counsel for attorneys' fees and reimbursement of costs;

c. Approving the Incentive Award; and

d. Dismissing the Lawsuit with prejudice.

36. **Voidability.** The Settlement Agreement is conditioned upon preliminary and final approval of the Parties' written Settlement Agreement, and all terms and conditions thereof without material change, material amendments, or material modifications by the Court (except to the extent such changes, amendments or modifications are agreed to in writing between the Parties). Accordingly, this Settlement Agreement shall be terminated and cancelled within ten (10) days of any of the following events:

a. This Settlement Agreement is changed in any material respect to which the Parties have not agreed in writing.

b. The Court refuses to grant Preliminary Approval of this Settlement Agreement;

c. The Court refuses to grant final approval of this Settlement Agreement in any material respect;

d. The Court refuses to enter a final judgment in this Lawsuit in any material respect.

37. The Settlement Agreement may be terminated and cancelled, at the sole and exclusive discretion of Defendant, if more than 10% of the Settlement Class Members timely and validly exclude themselves from the Settlement Agreement. If the Defendant revokes the Settlement Agreement, the Parties will engage in a good faith effort to reach a modified settlement.

38. In the event the Settlement Agreement is not approved or does not become final, or

is terminated consistent with this Settlement Agreement, the Parties, pleadings, and proceedings will return to the *status quo ante* as if no settlement had been negotiated or entered into, and the Parties will negotiate in good faith to establish a new schedule for the Litigation.

### **WAIVER AND RELEASE OF CLAIMS**

39. **Waiver and Release of Claims.** In addition to the effect of any final judgment entered in accordance with this Settlement Agreement, upon final approval of this Settlement Agreement, and for other valuable consideration as described herein, Releasees shall be completely released, acquitted, and forever discharged from any and all Released Claims.

40. As of the Effective Date, and with the approval of the Court, all Releasers hereby fully, finally, and forever release, waive, discharge, surrender, forego, give up, abandon, and cancel any and all Released Claims against Releasees. As of the Effective Date, all Releasers will be forever barred and enjoined from prosecuting any action against the Releasees asserting any and/or all Released Claims.

41. Each Releaser waives any and all defenses, rights, and benefits that may be derived from the provisions of applicable law in any jurisdiction that, absent such waiver, may limit the extent or effect of the release contained in this Agreement.

### **TRANSFER OF FUNDS FOR SETTLEMENT PAYMENTS**

42. **Transfer of Funds.** Defendant will mail or otherwise transfer funds (“deposit”) into the QSF as follows:

- a. Within thirty (30) calendar days following the Effective Date, Defendant shall deposit Six Hundred Thousand Dollars (\$600,000.00), or if the class sizes increase then such additional amount, if any, that as is required by paragraph 13 of this Settlement Agreement, with the Settlement Administrator.

- b. The Settlement Administrator shall distribute the Settlement Payments, attorneys' fees and costs, Administrative Costs, and Incentive Award as set forth in this Settlement Agreement from the Qualified Settlement Fund. Plaintiff's Counsel and Defendant's Counsel may make reasonable inquiry with the Settlement Administrator as to the status of this account.
- c. The Qualified Settlement Fund represents the total extent of the Releasees' monetary obligations under the Settlement Agreement. Defendant's contribution to the Settlement Fund shall be fixed under this Section 42 and be final. Releasees shall have no obligation to make further payments into the Settlement Fund, and shall have no financial responsibility or obligation relating to the settlement beyond the Settlement Fund except as may be required by paragraph 13 of this Agreement.
- d. If the Settlement Agreement is not finally approved, the Qualified Settlement Fund belongs to Defendant, less any Administrative Costs paid to date.

#### **PARTIES' AUTHORITY**

43. **Parties' Authority.** The signatories represent that they are fully authorized to enter into this Settlement Agreement and bind the Parties to its terms and conditions.

#### **NOTICES**

44. **Notices and Communications.** Unless otherwise specifically provided, all notices, demands or other communications in connection with this Settlement Agreement shall be: (1) in writing; (2) deemed given on the third business day after mailing; and (3) sent by United States registered or certified mail, return receipt requested, addressed as follows:

To Plaintiff or Class Members:

David Fish  
Fish Potter Bolaños P.C. 200 E. 5th Avenue, Suite 123  
Naperville, IL 60563

To Defendant:

Kyle Petersen  
Seyfarth Shaw LLP  
233 S. Wacker Dr., Suite 8000  
Chicago, IL 60606

#### **STAY OF DEADLINES/RELATED ACTIONS BY CLASS MEMBERS**

45. **Stay and Certification.** Consistent with this Settlement Agreement, the Parties agree to the stay of all discovery and other case deadlines in the Lawsuit, pending the issuance of the Final Approval Order.

46. In addition, the Parties will ask the Court upon Preliminary Approval of the Settlement, to enjoin all Class Members from filing, joining, or becoming a party, class member or representative in any actions, claims, complaints, or proceedings in any state or federal court on an individual, representative, class action basis, or with any state agency, or from initiating any proceedings, regarding any of the Released Claims defined in the Settlement Agreement. If another lawsuit is filed by a Class Member pursuing BIPA or wage claims, the Parties agree to seek to stay any such action pending Final Approval of the Settlement Agreement in this Lawsuit.

#### **MISCELLANEOUS**

47. **Non-Admission of Liability.** Neither this Settlement Agreement, nor any document referred to herein, nor any action taken to carry out this Settlement Agreement, is, or may be construed as, or may be used as an admission, concession or indication by or against Defendant of any fault, wrongdoing or liability whatsoever.

48. **Non-Assignment.** Plaintiff and Plaintiff's Counsel represent, covenant, and warrant that they have not directly or indirectly, assigned, transferred, encumbered or purported to assign, transfer or encumber to any person or entity any portion of any claims, causes of actions, demands, rights and liabilities of every nature and description released under this Settlement Agreement.

49. **Appeal Waiver.** Provided that the Final Approval Order is consistent with the terms and conditions of this Settlement Agreement in all material respects, the Plaintiff, Plaintiff's Counsel, and Defendant hereby waives any and all rights to appeal from the Final Approval Order, including all rights to institute any post-judgment proceedings, such as a motion to vacate or set-aside judgment, a motion for a new trial, and any extraordinary writ, and the Final Approval Order will become final and non-appealable as to Plaintiff, Plaintiff's Counsel, and Defendant at the time it is entered. The waiver does not include any waiver of the right to oppose any appeal, appellate proceedings, or post-judgment proceedings.

50. **Choice of Law.** This Agreement shall be construed and enforced under the laws of the State of Illinois.

51. **Non-Collusion.** The Parties agree that the terms and conditions of this Settlement Agreement are the result of intensive, arms-length negotiations between the Parties and that this Settlement Agreement shall not be construed in favor or against any of the Parties by reason of their participation in the drafting of this Settlement Agreement.

52. **Titles and Headings.** Paragraph titles and headings are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement Agreement or any of its provisions. Each term of this Settlement Agreement is contractual and not merely a recital.

53. **Integration.** This Settlement Agreement contains the entire agreement between the Parties relating to any and all matters addressed in this Settlement Agreement (including settlement of the Lawsuit). Any other prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by one of the Parties or such Parties' legal counsel, with respect to such matters are extinguished. No rights hereunder may be waived or modified except in a writing signed by all Parties and approved by the Court.



54. **Counterparts.** This Settlement Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, trustees, executors, administrators, successors and assigns. This Settlement Agreement may be executed in multiple counterparts with each constituting an original, and, when taken together with other signed counterparts, shall constitute one Settlement Agreement, which shall be binding upon and effective as to the Parties and each of them. Signatures sent by facsimile machine, scanned signatures in Portable Document Format sent by email, or signatures supplied through DocuSign or similar technology shall be deemed original signatures.

55. **Jurisdiction.** Any disputes related to this Settlement Agreement that arise prior to the dismissal of this Lawsuit shall be referred to the Court. The Court shall retain jurisdiction solely for purposes of addressing: (1) the interpretation and enforcement of the Settlement Agreement; and (2) settlement administration matters.

56. **Non-Disclosure.** Except as may be necessary in response to lawful process of any judicial or adjudicative authority, otherwise required by law, or otherwise permitted in this Settlement Agreement or consistent with their duties to communicate the Settlement Class Members, Plaintiff and/or her attorneys will not by any means (including, but not limited to, by email, text message, posting on social media, a website, or a social media platform, or through any other form of electronic or personal communication) publicize the confidentiality term sheet related to this Settlement.

IN WITNESS WHEREOF, the undersigned duly executed this Settlement Agreement as of the date indicated below:

**PLAINTIFF**

Dated: 02/17/2022 20:06 UTC  
\_\_\_\_\_

Seyon Haywood  
*Seyon Haywood*  
\_\_\_\_\_

**DEFENDANT**

Dated: 2/11/2022, 2022

thyssenkrupp Dynamic Components Danville, LLC

By: 

**NOTICE OF CLASS ACTION SETTLEMENT**

*Haywood v. thyssenkrupp Dynamic Components Danville, LLC,*  
No. 2021 L 57 (Vermillion Cty., IL)

**This is a court-authorized notice of a proposed class action settlement.**

**This is not a solicitation from a lawyer. This is not a notice of a lawsuit against you.**

**TO:** All persons who worked for thyssenkrupp Dynamic Components Danville, LLC formerly known as thyssenkrupp Presta Danville, LLC (“Defendant”) in the State of Illinois between November 3, 2016 and [date of preliminary approval] who used timekeeping technology provided by Defendant which used a scan of their finger and/or hand. These persons are the “Settlement Class” discussed below.

**A. WHY HAVE YOU RECEIVED THIS NOTICE?** The Court ordered us to send you this notice because you may have used timekeeping technology at one of Defendant’s facilities which utilized a scan of your finger and/or hand.

**B. WHAT IS THIS LAWSUIT ABOUT?** The named Plaintiff filed a class action lawsuit alleging that Defendant collected employees’ biometric information without making the disclosures and receiving the written consent required by the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, et seq. (“BIPA”). Defendant denied these allegations. Notwithstanding their disagreements, the parties have proposed a settlement that, if approved by the Court, will resolve the claims.

**C. WHAT IS THE PROPOSED SETTLEMENT?** Without admitting any fault or liability, and in exchange for a release of all claims about the Settlement Class’s biometrics, Defendant has agreed to make available a settlement fund of \$600,000 (the “Settlement Fund”) to pay Settlement Class members, to pay an incentive award to the Plaintiff for serving as a Class Representative, and to pay attorneys’ fees and expenses to Plaintiff’s attorneys. Each person who does not timely exclude themselves from the settlement will be mailed a check for their pro rata share of the Settlement Fund. Each Class Member who does not exclude themselves from the settlement is estimated to receive \$ \_\_\_\_.

The Court has preliminarily approved this settlement, subject to a fairness hearing that will occur on \_\_\_\_\_, in Courtroom 4A of the Vermillion County Courthouse. You are not required to appear at this hearing unless you object to the settlement.

**D. WHAT CAN YOU DO NOW? YOU HAVE THREE OPTIONS.**

1. **Do nothing.** If you want to receive a settlement payment, *you do not need to do anything*. If you do nothing, you will receive your pro rata share of the Settlement Fund and be bound by the settlement agreement, including the release of claims against Defendant and the Releasees (as that term is defined in the settlement agreement). If required by law, you may also be sent a 1099 tax reporting form.

2. **Exclude yourself from the Settlement Class and the settlement.** If you do not want to be legally bound by the settlement, you must exclude yourself by **45 days after**

**the initial mailing of the settlement Notice).** If you do this, you will NOT get a payment. To exclude yourself, you must mail your written request for exclusion to the settlement Administrator (contact information below). Your written request for exclusion must include your full name, address, telephone number, the last four digits of your Social Security Number, a statement that you wish to be excluded from the settlement and agree not to participate in the settlement, and it must be signed by you. If you exclude yourself, you will not receive money from this settlement, but you will keep your legal rights regarding any claims that you may have against Defendant and the other Releasees.

3. **Object to the settlement in writing.** If you object to the settlement and wish to file an objection rather than excluding yourself, you must file your objection in writing with the Clerk of the Clerk of the Circuit Court of Vermillion County, 7 N. Vermillion St., Danville, IL 61832. Your objection must be filed by **(45 days after the initial mailing of the settlement Notice).** You must also serve copies of your objection and any supporting memoranda or materials on the administrator, Analytics, LLC, at the contact information listed below, by Your objection must be postmarked by **(45 days after the initial mailing of the settlement Notice).** Your objection must be signed by you or your attorneys, must identify your name, address, and telephone number, and must include a written statement of the grounds for the objection. If your objection does not comply with these requirements, the Court may strike and disregard your objection. It is not enough to say that you object; you must state the reasons why you believe the Court should reject the settlement. If you file an objection, then you must appear at the final approval hearing before Judge Fahey in Courtroom 4A of the Vermillion County Courthouse, 7 N. Vermillion St., Danville, IL 61832 on \_\_\_\_\_, at \_\_\_\_\_ a.m. You are not required to attend this hearing unless you object to the settlement.

**E. WHO REPRESENTS THE CLASS?** The Court appointed Plaintiff to be the “Class Representative” and appointed Fish Potter Bolaños, P.C. as “Class Counsel.” At the fairness hearing, Class Counsel will request that the Court approve an incentive award of \$7,500 from the Settlement Fund for the Class Representative for their service on behalf of the Settlement Class. Class Counsel will request that the Court award them up to 35% of the Settlement Fund as attorneys’ fees, plus their out-of-pocket litigation expenses also to be paid from the Settlement Fund.

**F. WHEN WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?** The Court will hold a hearing to decide whether the proposed settlement is fair and reasonable and should be approved. At that fairness hearing, the Court will hear any objections and arguments about the proposed settlement, including about the attorneys’ fees and expenses requested by Class Counsel and the incentive award requested for the Class Representative. The fairness hearing will take place on \_\_\_\_\_, at \_\_\_ a.m., in Courtroom 4A of the Vermillion County Courthouse, 7 N. Vermillion St., Danville, IL 61832. **You do not need to attend this hearing unless you object.** The fairness hearing may be continued to a future date without further notice. If the Court does not approve the settlement, the litigation will proceed as if no settlement has been attempted. If the settlement is not approved, there is no assurance that the Settlement Class will recover more than is provided in the settlement, or anything at all.

**G. HOW DO I OBTAIN MORE INFORMATION?** This Notice is general and does not cover all the issues and proceedings in the settlement or the underlying litigation. You can learn more about the settlement by contacting the settlement administrator, Analytics Consulting LLC, at 1-xxx-xxx-xxxx, or Settlement Class counsel, Fish Potter Bolaños, P.C. at (312) 861-1800. You may also review the settlement agreement and related case documents at the website: \_\_\_\_\_

If you have any questions or for more information, contact the settlement administrator or Settlement Class counsel at:

<b><u>Settlement Administrator</u></b>	<b><u>Settlement Class Counsel</u></b>
Analytics Consulting LLC	David Fish
Address Line 1	Mara Baltabols
Address Line 2	Fish Potter Bolaños, P.C.
Telephone Number	200 East Fifth Ave.
Email address	Suite 123
	Naperville, IL 60563
	(312) 861-1800
	admin@fishlawfirm.com

Please do not contact the Clerk of the Court, the Judge, or the Judge’s staff, because they cannot answer your questions or give you advice about this settlement.

**BY ORDER OF THE COURT**