UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

AMY TAKALA and JENNIFER WESCOTT on behalf of themselves and all others similarly situated,

Plaintiffs,

vs.

NORDSTROM, INC.,

Defendant.

Civil Action No.: 2:25-cv-1396-JHC

CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (the "Settlement Agreement") is entered into between and among Plaintiffs (as Class Representatives, on behalf of themselves, the Plan, and all Class Members), the Plan, all Class Members, and Defendant (as those terms are defined below).

RECITALS

A. This Action ("Action") was initiated on July 24, 2025. On October 10, 2025, Plaintiffs Amy Takala and Jennifer Wescott (collectively, "Plaintiffs" or "Class Representatives"), on behalf of themselves and all others similarly situated, filed the first amended complaint (Dkt. 18, the "Complaint") in the United States District Court for the Western District of Washington asserting claims under Section 702 of ERISA (29 U.S.C. § 1182), Section 404 of ERISA (29 U.S.C. § 1104), and Section 406 of ERISA (29 U.S.C. § 1106), in connection with the tobacco surcharge wellness program of the Nordstrom Welfare Benefit Plan (the "Plan").

B. Defendant Nordstrom, Inc. ("Nordstrom" or "Defendant") denies each and every allegation of wrongdoing made in the Action and/or Complaint and contends that it has no liability in the Action, and specifically denies that it violated any provision of ERISA, breached its fiduciary duties under ERISA, or engaged in any of ERISA's prohibited transactions in connection with its operation of the Plan or otherwise.

C. On November 10, 2025, Defendant moved to dismiss the Complaint. On December 10, 2025, Plaintiffs filed their opposition, and Defendant filed its Reply on January 21, 2026.

D. Thereafter, the Parties jointly selected to mediate the case before Robert A. Meyer, Esq. of JAMS, who is well-versed in class actions and familiar with the types of claims raised in the Action.

E. On June 18, 2026, the Parties participated in a full-day mediation and ultimately reached a settlement in principle through arm's-length negotiations.

F. Based on their investigation of the merits of this Action, the course of the litigation to date, and their knowledge and experience with respect to similar ERISA litigations, Class Counsel believe that the Settlement will provide substantial benefits to the Class. When the benefits conferred by the Settlement are weighed against the attendant risks of continuing to prosecute the Action, Class Counsel believe that the Settlement represents a reasonable and fair resolution of the claims of the Class. In reaching this conclusion, Class Counsel have considered, among other things, the risks of litigation (including the risks of establishing both liability and loss to the Plan), the time necessary to achieve a final resolution through litigation and any appeals, the complexity of the claims set forth in the Complaint, and the benefits accruing to the Class under the Settlement.

G. Defendant has denied and continues to deny all liability with respect to the claims alleged in the Complaint. Defendant considers it desirable that any and all possible controversies and disputes arising out of or during the Class Period that relate to the matters, transactions, and occurrences referenced in the Complaint be conclusively resolved and terminated on the terms and conditions set forth below because the Settlement and the attendant final dismissal of the Complaint with prejudice will avoid the substantial expense, inconvenience, and risk of continued litigation and will bring Plaintiffs' and the Class Members' claims and potential claims to an end.

H. NOW, THEREFORE, without any admission or concession on the part of Plaintiffs of any lack of merit of the Action whatsoever, and without any admission or concession on the part of Defendant as to the merits of the allegations or claims asserted in the Action, the Parties, in consideration of the promises, covenants, and agreements described herein, and for other good and valuable consideration, mutually stipulate and agree that all Released Claims against the Released Parties shall be compromised, settled, released, and dismissed with prejudice, upon and subject to the following terms and conditions:

I. DEFINITIONS

For purposes of this Settlement Agreement, the following terms, when used in capitalized form, will have the meanings indicated below. Occasionally, a term may be defined in this or another section of the Settlement Agreement (including the sections above) by putting quotation marks around the term and placing the term in a parenthetical following its definition or by putting quotation marks around the term within a sentence defining the term; a term defined in this manner is defined in this Section I.

1. "Action" means the lawsuit pending in this Court under the caption *Takala, et al. v. Nordstrom Inc.*, Case No. 2:25-cv-1396 (W.D. Wash.).

2. "Administrative Expenses" means any expenses incurred in the administration of this Settlement and Settlement Agreement, including all:

   a. fees, expenses, and costs associated with providing the Settlement Notice to the Class Members;

   b. Taxes;

   c. expenses and costs associated with the distribution of funds under the Plan of Allocation;

   d. fees and expenses of the Settlement Administrator; and

   e. Independent Fiduciary Fees (as defined below).

   All Administrative Expenses shall be paid from the Gross Settlement Amount.

3. "Attorneys' Fees and Costs" means (a) the amount, if any, requested by Class Counsel and awarded by the Court as compensation for services rendered in the Action, which shall not exceed 33.33% of the Gross Settlement Amount, and (b) all reasonable costs and expenses incurred by Class Counsel in connection with the prosecution of the Action, which shall be requested separately from and in addition to the attorneys' fees described in subpart (a). Both attorneys' fees and costs shall be recovered and deducted from the Gross Settlement Amount.

4. "Beneficiary" means any individual, trust, estate, or other recipient entitled to receive death benefits payable under the Plan, on either a primary or contingent basis.

5. "CAFA" means the Class Action Fairness Act of 2005, 28 U.S.C. §§ 1711–1715.

6. "CAFA Notice" means notice of this proposed Settlement to be issued by the Settlement Administrator pursuant to 28 U.S.C. § 1715. A proposed Form of the CAFA Notice is attached hereto as Exhibit E.

7. "Case Contribution Awards" means the monetary amount, if any, requested by Class Counsel to be awarded to the Class Representatives at the Final Approval Hearing.

8. "Class" or "Settlement Class" means all individuals meeting the following criteria:

   a. The individual resides in the United States; and

   b. was a Plan participant or beneficiary at any point from July 24, 2019, through the date of entry of the Preliminary Approval Order; and

   c. paid a tobacco or nicotine surcharge in connection with their participation in the Plan from July 24, 2019, through the entry of the Preliminary Approval Order.

9. "Class Counsel" means William H. Payne and Oren Faircloth of Siri & Glimstad LLP.

10. "Class Members" means all individuals in the Settlement Class, including the Class Representatives.

11. "Class Member List" is the list of names, dates of birth, final four digits of social security numbers, and last known primary address of Class Members for purposes of effectuating the administration of the Plan of Allocation. The information provided pursuant to this paragraph is the information as last known to Defendant at the time the data for the Class Member List is provided. The Released Parties are not responsible for the accuracy of the data provided.

12. "Class Period" means the period from July 24, 2019, through the date of entry of the Preliminary Approval Order.

13. "Class Representatives" means the named Plaintiffs in the Action, Amy Takala and Jennifer Wescott.

14. "Complaint" collectively means the First Amended Class Action Complaint filed in the Action on October 10, 2025 (Dkt. 18), and any prior complaints or pleadings filed in the Action.

15. "Court" means the United States District Court for the Western District of Washington.

16. "Defendant" means Nordstrom, Inc.

17. "Defense Counsel" means Morgan, Lewis & Bockius LLP.

18. "ERISA" means the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001, et seq.

19. "Final" when referring to any judicial ruling, order, or judgment means: (1) that the time for any motions for reconsideration, motions for rehearing, appeals, petitions for certiorari, or the like ("Review Proceeding") has expired under applicable law, and no Review Proceedings have been taken; or (2) if a Review Proceedings has been timely initiated, (a) that the Review Proceedings has been fully and finally resolved, either by court action or voluntary action of the Parties, without causing a material change in the judicial ruling, order, or judgment; or (b) that the judicial ruling, order, or judgment has been upheld on appeal and is no longer subject to appellate review by further appeal or writ of certiorari or other type of Review Proceeding.

20. "Final Approval" of this Settlement occurs when the Final Approval Order and Judgment has been entered by the Court and either (1) the time for any Review Proceeding of the Final Approval Order and Judgment has expired under applicable law, and no Review Proceeding has been initiated; or (2) if there has been a Review Proceeding, (a) that Review Proceeding has been decided by all appellate courts without causing a material change in the Final Approval Order and Judgment; or (b) that the Final Approval Order and Judgment has been upheld on appeal and is no longer subject to appellate review by further appeal or writ of certiorari.

21. "Final Approval Hearing" means the hearing set by the Court in the Preliminary Approval Order pursuant to Rule 23(e) of the Federal Rules of Civil Procedure to consider, among other things: (a) approval of the Settlement under Fed. R. Civ. P. 23(e); (b) any objections by Class Members to the Settlement; (c) Class Counsel's Motion for Attorneys' Fees and Costs and Class Representatives' Case Contribution Awards. The Final Approval Hearing may be conducted telephonically or virtually by videoconference.

22. "Final Approval Order and Judgment" means the entry of the [Proposed] Final Approval Order and Final Judgment, implementing the terms of this Settlement Agreement, and dismissing the Action with prejudice, in substantially the form attached as Exhibit D.

23. "Gross Settlement Amount" means four hundred fifty thousand dollars ($450,000.00) that shall be paid by Defendant to the Qualified Settlement Fund and shall be the full and sole monetary payment to the Class, Plaintiffs, and Class Counsel, made by or on behalf of Defendant (and the Released Parties) in connection with the Settlement, effectuated through this Settlement Agreement. Neither Defendant nor any Released Parties will be required to make any additional payment to the Class, Plaintiffs, or Class Counsel in connection with the Settlement of the Action.

24. "Independent Fiduciary" means the person or entity that will serve as an independent fiduciary to the Plan to approve and authorize the settlement of Released Claims on behalf of the Plan in accordance with Section II(5) of this Settlement Agreement.

25. "Independent Fiduciary Fees" means all fees and expenses associated with retaining the Independent Fiduciary, and all fees and expenses incurred by the Independent Fiduciary and any employees, attorneys, consultants, advisers, or agents employed by the Independent Fiduciary.

26. "Mediator" means Robert A. Meyer, Esq.

27. "Net Settlement Amount" means the Gross Settlement Amount minus:

    a. all Attorneys' Fees and Costs paid to Class Counsel as authorized by the Court;

    b. the Case Contribution Awards as authorized by the Court;

    c. all Administrative Expenses;

    d. a contingency reserve not to exceed an amount to be mutually agreed upon by the Parties that is set aside by the Settlement Administrator for:

        (i) Administrative Expenses incurred before the Settlement Effective Date but not yet paid;

        (ii) Administrative Expenses estimated to be incurred after the Settlement Effective Date; and

        (iii) an amount estimated for adjustments of data or calculation errors.

28. "Parties" collectively means the Defendant and Plaintiffs, on behalf of themselves, the Plan, and each of the Class Members. "Party" means Defendant or Plaintiffs, individually.

29. "Person" means an individual, partnership, corporation, governmental entity or any other form of entity or organization.

30. "Plaintiffs" means Amy Takala and Jennifer Wescott.

31. "Plan" means The Nordstrom Welfare Benefit Plan and any predecessor plans, successor plans, and any trust created and attendant to all such plans.

32. "Plan of Allocation" means the method of allocating settlement funds to Class Members. A proposed form of the Plan of Allocation for Class Settlement is attached hereto as Exhibit B.

33. "Preliminary Approval Order" means the [Proposed] Order Preliminarily Approving Settlement in substantially the form attached hereto as Exhibit C, whereby the Court preliminarily approves this Settlement.

34. "Qualified Settlement Fund" means the interest-bearing settlement fund account within the meaning of Treas. Reg. § 1.468B-1 and as described in the Internal Revenue Code of 1986 ("Code"), to be established and maintained by the Settlement Administrator (also acting in its capacity as the Escrow Agent), holding the Gross Settlement Amount. The Settlement Administrator shall be liable and responsible for compliance with all applicable laws concerning the handling, management, and distribution of the Qualified Settlement Fund.

35. "Released Claims" means any and all past, present, or future, to the extent permitted by law, known or unknown, asserted or unasserted, foreseen or unforeseen, actual or contingent, liquidated or unliquidated, actions, causes of action, claims, demands, liability, obligations, promises, rights, and suits of every kind, nature, and description (including claims for any and all losses, damages, unjust enrichment, penalties, fees, attorneys' fees, disgorgement, restitution, reimbursement, costs, injunctive relief, declaratory relief, contribution, indemnification, or any other type or nature of legal or equitable relief), accrued or not, whether arising under federal, state, local, common, or foreign law, whether based on statute, ordinance, regulation, constitutional provision, contract, the terms of the Plan, or any other source (including but not limited to ERISA, the Americans with Disabilities Act ("ADA"), the Public Health Service Act ("PHSA"), the Health Insurance Portability and Accountability Act ("HIPAA"), the Affordable Care Act ("ACA"), the Genetic Information Nondiscrimination Act of 2008 ("GINA") or any regulation or formal or informal administrative or interpretative guidance issued related to ERISA, the ADA, the PHSA, the HIPAA, the ACA, or GINA), and whether brought by way of demand, complaint, cross-claim, counterclaim, third-party claim or otherwise, brought in an individual or representative capacity, whether known or unknown, suspected or unsuspected, foreseen or unforeseen, that (a) were asserted in the Complaint; (b) could have been asserted in the Complaint; or (c) arise out of, are based on, or are attributable to the facts, circumstances, situations, transactions, events, or alleged wrongful acts (or any series of related facts, circumstances, situations, transactions, events, or alleged wrongful acts) alleged or underlying the Complaint and Action, including but not limited to (a) the implementation or collection of any tobacco or nicotine surcharges by Defendant and/or the Plan; (b) any and all participant communications or disclosures (or alleged lack of disclosures) related to any tobacco or nicotine surcharges under the Plan; and (c) any alleged breaches of fiduciary duty, prohibited transaction, statutory violation or violation of the Plan related to any tobacco or nicotine surcharges under the Plan.

36. "Released Parties" means: (a) Defendant and any of Defendant's employees, benefit plan fiduciaries, administrators, service providers, investment advisors, and their respective affiliates or employees; (b) Defendant's insurers, co-insurers, and reinsurers; (c) Defendant's direct and indirect past, present, and future affiliates, parents, including but not limited to Nordstrom Holdings, subsidiaries, divisions, joint ventures, predecessors, successors, successors-in-interest, assigns, boards of trustees, boards of directors, officers, trustees, directors, partners, agents, managers, members, or employees (including any individuals who serve or served in any of the foregoing capacities, such as members of the boards of trustees or boards of directors that are associated with any of Defendant's past, present, and future affiliates), and each Person that controls, is controlled by, or is under common control with them; (d) for (a) through (c) above, their past, present, and future agents, officers, employees, trustees, board of directors or trustees, members of the board of directors or trustees, independent contractors, representatives, attorneys, administrators, insurers, fiduciaries, accountants, auditors, advisors, personal representatives, spouses, heirs, executors, administrators, associates, employee benefit plan fiduciaries (with the exception of the Independent Fiduciary), employee benefit plan administrators, employee benefit plan committees and subcommittees, service providers to the Plan (including their owners and employees), members of their immediate families, consultants, subcontractors, and all persons acting under, by, through, or in concert with any of them; and (e) the Plan and the Plan's current and past fiduciaries, committees, subcommittees, administrators, plan administrators, recordkeepers, service providers, consultants, attorneys, agents, insurers, and parties-in-interest.

37. "Settlement" means the settlement consummated under this Settlement Agreement and its exhibits, including any modifications or amendments as agreed to under the terms of this Settlement Agreement.

38. "Settlement Administrator" means the entity selected and retained by Class Counsel to administer the Settlement, Plan of Allocation, and Settlement Notice, and to act as an Escrow Agent for any portion of the Gross Settlement Amount that is deposited into the Qualified Settlement Fund under the terms of this Settlement Agreement.

39. "Settlement Agreement" means this agreement embodying the terms of the Settlement, including any modifications or amendments hereto under the terms of this Settlement Agreement.

40. "Settlement Effective Date" means the date on which the Final Approval Order and Judgment is Final, provided that by such date the Settlement has not been terminated in accordance with this Settlement Agreement.

41. "Settlement Notice" means the document sent to Class Members regarding the Settlement, the Action, and the Final Approval Hearing as approved by the Court, substantially in the form attached hereto as Exhibit A – Notice of Class Action Settlement, Settlement Approval Hearing and Motion for Attorneys' Fees and Costs.

42. "Taxes" means:

    a. all taxes, if any, on the income of the Qualified Settlement Fund,

    b. taxes, if any, associated with the payment of settlement amounts to the Class or individual members of the Settlement Class,

    c. expenses and costs incurred in connection with the taxation of the Qualified Settlement Fund (including, without limitation, interest, penalties and the expenses of tax attorneys and accountants).

43. "Transferor" means Defendant as the "transferor" within the meaning of Treas. Reg. § 1.468B-1(d)(1).

II. PROCEDURE

1. Stipulation to Certification of Settlement Class. Upon the date the final signature is applied to this Settlement Agreement, the Parties stipulate and agree that, for Settlement purposes only and subject to any reservation of rights to later dispute class certification upon termination of the Settlement under the terms of this Settlement Agreement, this Action shall proceed as a non-opt-out class action pursuant to Fed. R. Civ. P. 23(a) and 23(b)(1), with respect to the Settlement Class.

2. Preliminary Approval. Class Counsel shall file with the Court a motion seeking preliminary approval of this Settlement and Settlement Agreement and for entry of the Preliminary Approval Order in substantially the form attached hereto as Exhibit C that provides for, among other things: (a) Certification of a conditional Settlement Class pursuant to Fed. R. Civ. P. 23(b)(1) as described under Section II(1) above, comprised of the members of the Settlement Class; (b) Preliminary approval of the Settlement Agreement pursuant to Fed. R. Civ. P. 23(e); (c) Appointment of Class Counsel under Fed. R. Civ. P. 23(g); (d) Approval of the contents and methods of the Settlement Notice, in substantially the form attached hereto as Exhibit A, including that, under Fed. R. Civ. P. 23(c)(2), the Settlement Notice constitutes the best notice practicable under the circumstances, provides due and sufficient notice of the Fairness Hearing and of the rights of all Class Members, and complies fully with the requirements of Fed. R. Civ. P. 23, the Constitution of the United States, and any other applicable law; (e) Provides that, pending final determination of whether the Settlement Agreement should be approved, no Class Member may directly, through Representatives, or in any other capacity, commence any action or proceeding in

any court or tribunal asserting any of the Released Claims against Defendant, the Released Parties, and/or the Plan; (f) Provides that any objections to any aspect of the Settlement Agreement shall be heard, and any materials submitted in support of said objections shall be considered, by the Court at the Final Approval Hearing if they have been filed validly with the Clerk of the Court and copies were provided to Class Counsel and Defense Counsel, and that, to be filed validly, the objection and any notice of intent to participate or supporting documents must be filed or postmarked at least thirty (30) calendar days prior to the scheduled Final Approval Hearing, any person wishing to speak at the Final Approval Hearing shall file and serve a notice of intent to participate at least fourteen (14) calendar days before the Final Approval Hearing, and that any Party may file a response to an objection by a Class Member at least seven (7) calendar days before the Final Approval Hearing; and (e) Scheduling of a Final Approval Hearing to be conducted in person or virtually.

a. Plaintiffs shall request a Final Approval Hearing be set at least one hundred and twenty (120) days from the date of the entry of the Preliminary Approval Order.

b. Class Counsel shall send the Motion for Preliminary Approval to Defense Counsel at least five (5) calendar days prior to filing the Motion for Preliminary Approval.

c. While Defendant may not agree with all averments of Plaintiffs' Motion for Preliminary Approval of the Settlement, Defendant will not oppose Plaintiffs' Motion for Preliminary Approval, provided it is consistent with the terms and conditions of the Settlement and this Settlement Agreement, and it reasonably characterizes the factual allegations in this lawsuit.

3. Settlement Administrator. If the Settlement or Settlement Agreement (including any modification thereto as made with the consent of the Parties provided for herein) is approved preliminarily by the Court, Class Counsel shall retain a Settlement Administrator to administer the Settlement, including issuing Settlement Notice to the members of the Settlement Class, subject to the agreement of Defendant, which shall not be unreasonably withheld. Defendant and Defense Counsel shall use reasonable efforts to respond to timely and reasonable written requests from the Settlement Administrator for readily accessible data.

a. No later than twenty-one (21) days after entry of the Preliminary Approval Order, Defendant shall provide the Settlement Administrator with the Class Member List. Defendant agrees to use reasonable efforts to provide the Settlement Administrator other data or information needed to effectuate the Settlement Notice, implement the Plan of Allocation, and distribute the funds in the Qualified Settlement Fund.

4. Settlement Notice. Within the time period set forth in the Preliminary Approval Order, the Settlement Administrator shall cause the Settlement Notice, which shall be in substantially

the form attached hereto as Exhibit A or a form subsequently agreed to by the Parties and approved by the Court, to be sent via U.S. Mail to each Class Member identified on the Class Member List.

a. Class Counsel shall confirm that the Settlement Administrator uses commercially reasonable efforts to locate any Class Member whose Settlement Notice is returned and re-send the Settlement Notice one additional time.

5. Independent Fiduciary. Defendant shall select and retain an Independent Fiduciary to review and consider the Settlement on behalf of the Plan and its current fiduciary or fiduciaries and determine whether the Settlement is reasonable and fair. The Independent Fiduciary shall have the following responsibilities, including whether to approve and authorize the settlement of Released Claims on behalf of the Plan: (a) Approving the Settlement and giving a release in its capacity as a fiduciary of the Plan and for and on behalf of the Plan coextensive with the release from the Plaintiffs and the Settlement Class; (b) Complying with and authorizing the Settlement in accordance with Prohibited Transaction Class Exemption 2003-39 (as amended) ("PTE 2003-39"), or finding that the Settlement does not constitute a prohibited transaction under ERISA § 406, 29 U.S.C. § 1106; and (c) no later than thirty (30) days prior to the Final Approval Hearing, providing Defendant with written determination of whether the Independent Fiduciary approves the Settlement, and whether the Settlement complies with the PTE 2003-39 or is otherwise not a prohibited transaction.

a. All Independent Fiduciary Fees shall qualify as Administrative Expenses and shall be paid from the Gross Settlement Amount.

b. The Settlement Administrator shall be responsible for the payment of the Independent Fiduciary Fees from the Gross Settlement Amount to the Independent Fiduciary.

c. If Defendant concludes that the Independent Fiduciary's determination does not comply with PTE 2003-39 or is otherwise deficient, Defendant shall inform the Independent Fiduciary within ten (10) calendar days of receipt of the determination.

d. A copy of the Independent Fiduciary's written determination shall be provided to Class Counsel, who may file it with the Court in support of Final Approval of the Settlement.

e. Defendant, Defense Counsel, and Class Counsel shall respond to reasonable requests from the Independent Fiduciary for information so that the Independent Fiduciary can review and evaluate the Settlement and Settlement Agreement.

6. CAFA Notice. No later than ten (10) calendar days after Class Counsel files the Motion for Preliminary Approval of the Settlement, the Settlement Administrator will send or cause to be sent the CAFA Notice in accordance with 28 U.S.C. § 1715.

a. The Settlement Administrator will provide Class Counsel a copy of the CAFA Notice if requested.

b. Defendant will be responsible for the costs associated with service and preparation of the CAFA Notice.

7. <u>Motion for Attorneys' Fees and Costs and Class Representatives' Case Contribution Awards</u>.

a. Class Counsel will seek to recover their Attorneys' Fees and Costs. Attorneys' fees shall not exceed 33.33% of the Gross Settlement Amount, and costs shall be requested separately from and in addition to attorneys' fees.

b. Class Counsel's request for Attorneys' Fees and Costs shall be subject to approval of the Court. If awarded, Class Counsel's Attorneys' Fees and Costs shall be recovered solely from the Gross Settlement Amount from the Qualified Settlement Fund.

c. Class Counsel will seek Case Contribution Awards for the Class Representatives in an amount not to exceed $7,500, subject to court approval.

d. The Class Representative Case Contribution Awards shall be subject to the approval of the Court and if awarded shall be paid out of the Gross Settlement Amount from the Qualified Settlement Fund.

e. This Settlement is not contingent upon the Court granting Class Counsel's request for Attorneys' Fees and Costs or the Court granting the request for Class Representative Case Contribution Awards. It shall not be deemed a failure to approve the Settlement Agreement if the Court denies, in whole or in part, Class Counsel's request for Attorneys' Fees and Costs and/or Class Counsel's request for Class Representative Case Contribution Awards and/or modifies any of the proposed orders relating to Attorneys' Fees and Costs and/or Class Representative Case Contribution Awards.

f. Class Counsel will file a Motion for Attorneys' Fees and Costs no later than forty-five (45) calendar days before the date of the Final Approval Hearing specified in the Preliminary Approval Order.

8. <u>Establishment of Qualified Settlement Fund.</u>

a. No later than twenty-one (21) calendar days after entry of the Preliminary Approval Order, the Settlement Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund. The Qualified Settlement Fund shall be established pursuant to, and subject to, the jurisdiction and continuing supervision of the Court. The assets of the Qualified Settlement Fund shall be segregated from the assets of all Parties and shall be held, administered, and distributed solely in accordance with this Settlement Agreement, the orders of the Court, and applicable law. Without limiting the Court's jurisdiction over the Action, the Court shall retain continuing jurisdiction over the Qualified Settlement Fund for purposes of Treasury Regulation § 1.468B-1(c)(1), including jurisdiction over its establishment, administration, investment, taxation, and distribution.

b. The Settlement Administrator is responsible for the timely payment of all Taxes, if any, owed with respect to the Qualified Settlement Fund, for all tax reporting, remittance, and/or withholding obligations, if any, for amounts distributed from it, and is otherwise responsible for all reporting obligations associated with the Qualified Settlement Fund. If appliable, the Settlement Administrator shall timely make such elections as necessary or advisable to carry out the provisions of this Subsection, including the "relation back election" (as defined in Treas. Reg. § 1.468B-1(j)(2)) to the earliest permitted date, and the Transferor shall fully cooperate in filing the "relation-back election" to treat the Qualified Settlement Fund as coming into existence as a "qualified settlement fund" within the meaning of Section 468B of the Code and Treas. Reg. § 1.468B-1 as of the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Settlement Administrator to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filings to occur.

c. For purposes of Treasury Regulation § 1.468B and the Code, as amended, the "administrator" shall be the Settlement Administrator. The Settlement Administrator shall timely and properly cause to be filed on behalf of the Qualified Settlement Fund all informational and other tax returns required to be filed in accordance with Treas. Reg. §§ 1.468B-2(k) and -2(l) with respect to the Gross Settlement Amount (including, without limitation, applying for a taxpayer identification number for the Qualified Settlement Fund pursuant to Internal Revenue Service Form SS-4 and in accordance with Treas. Reg. § 1.468B-2(k)(4)). Such returns as well as any election described in Section II(8)(B) shall be consistent with this Section II(8) and, in all events, shall reflect that all taxes (including any estimated taxes, interest, or penalties) on the income earned by the Qualified Settlement Fund shall be deducted and paid from the Gross Settlement Amount as provided in Section II(8)(d).

d. The Released Parties, Defense Counsel, and Class Counsel have no responsibility or any liability for any Taxes, or any tax reporting or withholding obligations, if any, of the Qualified Settlement Fund. Taxes and tax expenses are Administrative Expenses to be deducted and paid from the Gross Settlement Amount, including but not limited to: (a) all taxes (including any estimated taxes, interest, or penalties) arising with respect to the income earned by the Qualified Settlement Fund, including any taxes or tax detriments that may be imposed upon Defendant with respect to any income earned by the Qualified Settlement Fund for any period during which the Qualified Settlement

Fund does not qualify as a "qualified settlement fund" within the meaning of Section 468B of the Code and Treas. Reg. § 1.468B-1; and (b) all tax expenses and costs incurred in connection with the operation and implementation of this Section II(8) (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing (or failing to file) the returns described in this Section II(8)). Such taxes and tax expenses shall be Administrative Expenses and shall be paid timely by the Settlement Administrator out of the Gross Settlement Amount without prior order from the Court. The Settlement Administrator shall ensure compliance with withholding and reporting requirements in accordance with Treas. Reg. § 1.468B-2(l) and shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to any Class Member any funds necessary to pay such amounts, including the establishment of adequate reserves for any taxes and tax expenses. The Parties agree to cooperate with the Settlement Administrator, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this Section II(8). Nothing herein shall be construed as qualifying as tax advice. To the extent that any portion of any Settlement payment is subject to income or other tax, the recipient of the payment shall be responsible for payment of such tax.

e. No later than five (5) calendar days after the Settlement Administrator establishes the Qualified Settlement Fund, the Settlement Administrator or Class Counsel shall furnish to Defendant and/or Defense Counsel in writing:

(i) the Qualified Settlement Fund name,

(ii) the Qualified Settlement Fund IRS W-9 Form, and

(iii) all necessary instructions for furnishing payment by check or wire transfer.

f. Within thirty (30) calendar days after the date the Settlement Administrator establishes the Qualified Settlement Fund and furnishes to Defendant and/or Defense Counsel the information in Section II.8(d)(i)–(iii), then Transferor will deposit One Hundred Thousand Dollars ($100,000.00) into the Qualified Settlement Fund. The Settlement Administrator shall, at the written direction of Class Counsel, invest the Qualified Settlement Fund in short-term United States Agency or Treasury Securities or other instruments backed by the full faith and credit of the United States Government or an agency thereof, or fully insured by the United States Government or an agency thereof, and reinvest the proceeds of these investments as they mature in similar instruments at their then-current market rates.

g. The Settlement Administrator shall not disburse any amount from the Qualified Settlement Fund except as provided in this Settlement Agreement, in an order of the Court, or in a subsequent written stipulation between Class Counsel and Defense

Counsel. All interest or other economic benefits derived from the Qualified Settlement Fund shall be included in the definition of the Qualified Settlement Fund and shall not be used to provide benefits or income to any third parties.

h. No later than February 15 of the year following the calendar year in which the Transferor makes any transfer of the Gross Settlement Amount, or any other amount, to the Qualified Settlement Fund on behalf of the Transferor pursuant to the terms of this Section II(8), the Transferor shall timely furnish a statement to the Settlement Administrator that complies with Treas. Reg. § 1.468B-3(e)(2), which may be a combined statement under Treas. Reg. § 1.468B-3(e)(2)(ii), and shall attach a copy of the statement to its federal income tax return filed for the taxable year in which the Transferor makes a transfer to the Qualified Settlement Fund.

i. Subject to the orders of the Court, the Settlement Administrator is authorized to execute such transactions as are consistent with the terms of this Settlement Agreement.

9. <u>Plan of Allocation.</u>

a. Class Counsel is solely responsible for the Plan of Allocation and shall submit the proposed Plan of Allocation for Court approval in connection with the Motion for Preliminary Approval of the Settlement, substantially in the form attached hereto as Exhibit B, and for Final Approval in connection with Final Approval of the Settlement.

b. The Court's approval of the Plan of Allocation is not a material or integral part of or condition to the Settlement, and the Court's rejection or modification of the Plan of Allocation shall neither entitle Plaintiffs nor Defendant to withdraw from or terminate the Settlement, nor affect the finality of the Settlement or Final Approval of the Settlement.

c. The Settlement Administrator shall be exclusively responsible for calculating the amounts payable to Class Members pursuant to the Plan of Allocation.

d. Nothing herein shall constitute approval or disapproval of the Plan of Allocation by Defendant, Defense Counsel, or any of the Released Parties, and they shall have no responsibility or liability for the Plan of Allocation and shall take no position for or against the Plan of Allocation, including as noted under Section II(8)(c), above.

10. <u>Disbursements from Qualified Settlement Fund prior to Settlement Effective Date</u>. Class Counsel, subject to the approval of Defendant, which shall not be unreasonably withheld, shall direct the Settlement Administrator to disburse money from the Qualified Settlement Fund as follows before the Settlement Effective Date:

a. After entry of the Preliminary Approval Order, the Settlement Administrator shall be directed to disburse from the Qualified Settlement Fund an amount sufficient for the payment of costs of the Settlement Notice, implementing the Plan of Allocation, and any other Settlement Administration costs otherwise necessary for administering the Settlement.

b. For Taxes, if any, of the Qualified Settlement Fund.

c. All Independent Fiduciary Fees.

III. FINAL APPROVAL

1. If the Settlement and Settlement Agreement (including any modification thereto made with the consent of the Parties as provided for herein) is preliminarily approved by the Court, at least forty five (45) days before the Final Approval Hearing, Class Counsel, in the form approved by Defense Counsel, shall file a motion for entry of the Final Approval Order and Judgment substantially in the form attached hereto as Exhibit D. The Final Approval Order and Judgment shall provide for the following, among other things:

   a. approval of the Settlement of Released Claims covered by this Settlement Agreement, adjudging the terms thereof to be fair, reasonable, adequate and in the best interests of the Plan and Class Members, and directing the Parties to take the appropriate steps to effectuate the Settlement and this Settlement Agreement in accordance with the terms and conditions thereof;

   b. certification of the Settlement Class as a non-opt-out class meeting the applicable requirements for a settlement class imposed by Fed. R. Civ. P. 23(b)(1);

   c. determination that the requirements of Fed. R. Civ. P. 23(c)(2) and (3), including that the Settlement Notice constitutes the best notice practicable under the circumstances and that due and sufficient notice of the Final Fairness Hearing and the rights of all Class Members has been provided, and that due process have been satisfied in connection with the distribution of the Settlement Notice to the Class;

   d. determination of the legal fees and expenses, if any, that should be awarded or reserved for award to Class Counsel out of the Gross Settlement Amount as contemplated by the Settlement Agreement;

   e. approval of a Plan of Allocation consistent with the Settlement Agreement, and determination that the Settlement Administrator has final authority to determine the share of the Net Settlement Amount to be allocated to each Class Member in accordance with the Plan of Allocation, as approved by the Court, and as administered by the Settlement Administrator.

   f. determination of the amount, if any, that should be awarded as Class Representative Case Contribution Awards;

g. dismissal of the Action and all Released Claims with prejudice and without costs other than as provided for in this Settlement Agreement, which shall operate to fully and finally extinguish, discharge, and release any and all Released Claims against the Released Parties and Defense Counsel;

h. an order barring and enjoining Class Members and the Plan from the institution and prosecution, either directly or indirectly and in their individual or representative capacity, of any other actions in any forum asserting any Released Claim against any Released Parties, consistent with Section V(2), below;

i. a permanent injunction against Plaintiffs, the Settlement Class, and the Plan from asserting, commencing, prosecuting, or continuing, either directly, individually, representatively, derivatively or in any other capacity, any other actions in any court asserting such Released Claims or from receiving any additional recovery or relief from any Released Parties with respect thereto, consistent with Section V(2), below;

j. the permanent release of the Released Parties, Defense Counsel, and Class Counsel for any claims, liabilities, and attorneys' fees, costs, and expenses arising from the allocation of the Gross Settlement Amount or Net Settlement Amount and for all tax liability and associated penalties and interest as well as related attorneys' fees, costs, and expenses;

k. determination that all applicable CAFA requirements have been satisfied;

l. an orders that within thirty (30) calendar days following the issuance of all settlement payments to Class Members as provided by the Plan of Allocation approved by the Court, the Settlement Administrator shall prepare and provide to Class Counsel and Defense Counsel a list of each Person who received a settlement payment or contribution from the Qualified Settlement Fund and the amount of such payment or contribution;

m. determination that, with respect to any matters that arise concerning the implementation of distributions to Class Members who are current participants in the Plan (after allocation decisions have been made by the Settlement Administrator in its sole discretion), all questions not resolved by the Settlement Agreement shall be resolved by the Plan Administrator or other fiduciaries of the Plan, in accordance with applicable law and governing terms of the Plan; and

n. an order that upon entry of the Final Approval Order and Judgment, the Parties, the Class, and the Plan shall be bound by the Settlement Agreement and the Final Approval Order and Judgment.

2. Final Settlement Funding and Disbursement from the Qualified Settlement Fund after the Settlement Effective Date. Within thirty (30) calendar days after the Settlement Effective

Date, Transferor shall deposit the remainder of the Gross Settlement Amount, Three Hundred and Fifty Thousand Dollars ($350,000) into the Qualified Settlement Fund. Class Counsel shall then direct the Settlement Administrator to disburse money from the Qualified Settlement Fund as follows:

a. If and only as approved by the Court, for Attorneys' Fees and Costs, no earlier than forty-five (45) calendar days following the Settlement Effective Date.

b. If and only as approved by the Court, for Class Representative Case Contribution Awards no earlier than forty-five (45) calendar days following the Settlement Effective Date.

c. For costs and expenses of the Settlement Administrator in distributing the Settlement Notice, implementing the Plan of Allocation and otherwise administering the Settlement that were not previously paid.

d. The Net Settlement Amount, which will be distributed in accordance with the Plan of Allocation.

The Settlement Administrator shall be responsible for sending checks constituting each Class Member's share of the Net Settlement Amount as provided by the Plan of Allocation, as well as complying with all tax laws, rules, and regulations. The Settlement Administrator shall promptly notify Class Counsel as to the date(s) and amount(s) of said allocation(s) made to Class Members. Pending final distribution of the Net Settlement Amount in accordance with the Plan of Allocation, the Settlement Administrator will maintain the Qualified Settlement Fund. Defendant, Released Parties, and Defense Counsel shall not have any responsibility for the Settlement Administrator's work, nor may they be held liable for any act or omission by the Settlement Administrator.

3. Final List of Class Members. Prior to the disbursement of the Net Settlement Amount, and thirty (30) calendar days after the Settlement Effective Date, the Settlement Administrator shall provide to Defense Counsel a final list of Class Members, in electronic format, to whom the Net Settlement Amount will be distributed in accordance with the Plan of Allocation. Such list shall be final, and only persons on the list or their Beneficiaries shall be eligible to receive any recovery from this Settlement.

4. The Parties acknowledge that any payments to Class Members or their attorneys may be subject to applicable tax laws. Defendant, Defense Counsel, and the Released Parties will provide no tax advice to the Class Members and make no representation regarding the tax consequences of any of the settlement payments described in the Settlement Agreement. Deductions will be made, and reporting will be performed by the Settlement Administrator, as required by law in respect of all payments made under the Settlement Agreement. Payments from the Qualified Settlement Fund shall not be treated as wages by the Parties.

5. Each Class Member who receives a payment under this Settlement Agreement shall be responsible for payment of any and all federal, state, or local taxes resulting from or attributable to the payment received by such person. Each Class Member shall hold the Defendant, Released Parties, Defense Counsel, and the Settlement Administrator harmless from any tax liability, including penalties and interest, related in any way to payments under the Settlement Agreement, and shall hold Defendant, Released Parties, Defense Counsel, and the Settlement Administrator harmless from the costs (including, for example, attorneys' fees and disbursements) of any proceedings (including, for example, investigation and suit), related to such tax liability.

6. Plaintiffs and Class Members acknowledge that Defendant, Defense Counsel, and Released Parties have no responsibility for any taxes due on funds deposited in or distributed from the Qualified Settlement Fund or that the Plaintiffs or Class Counsel receive from the Gross Settlement Amount. Plaintiffs further acknowledge that any such tax payments, and any professional, administrative, or other expenses associated with such tax payments, shall be paid out of the Gross Settlement Amount from the Qualified Settlement Fund.

7. Checks and Uncashed Checks. After the distribution of the Net Settlement Amount and allocation of the Net Settlement Amount pursuant to the Plan of Allocation, amounts allocable to Class Members who cannot be located, who otherwise cannot receive their Settlement payment, or who did not cash their checks after 200 calendar days shall be distributed cy pres to United Way Worldwide (the "Cy Pres Recipient"), a non-profit organization. The Settlement Administrator shall be responsible for distributing such funds to the Cy Pres Recipient within thirty (30) calendar days after the expiration of the 200-day check void period and for informing Class Counsel and Defense Counsel of the amount of money, if any, distributed to the Cy Pres Recipient.

IV. NO ADMISSION OF LIABILITY

1. Defendant and the Released Parties deny and continue to deny each and every claim alleged in the Action and Complaint. Defendant and the Released Parties deny all allegations of wrongdoing and deny that certification of a class would be appropriate for any purpose other than for effectuating this Settlement. Defendant contends the Plan has been managed, operated, and administered at all relevant times reasonably and prudently, in the best interest of the Plan's participants, and in accordance with all laws and regulations.

2. The Parties understand and agree that this Settlement Agreement embodies a compromise settlement of disputed claims, and that nothing in this Settlement Agreement, including the furnishing of consideration for this Settlement Agreement, shall be deemed to constitute any finding, admission, or suggestion of any wrongdoing or liability by Defendant and/or

the Released Parties, or give rise to any inference of wrongdoing or admission of wrongdoing or liability in this or any other proceeding.

3. The provisions contained in this Settlement and Settlement Agreement and all negotiations, statements, documents executed, and proceedings in connection with the Settlement shall not be deemed a presumption, a concession, or an admission by Defendant or any Released Parties of any fault, liability, or wrongdoing as to any fact or claim alleged or asserted in the Action or any other actions or proceedings and shall not be interpreted, construed, deemed, invoked, offered, or received in evidence or otherwise used by any person in these or any other actions or proceedings, whether civil, criminal or administrative, except in a proceeding to enforce this Settlement or Settlement Agreement.

4. The Released Parties may file the Settlement Agreement and/or the Final Approval Order and Judgment in any action that may be brought against them to support a defense or counterclaim based on principles of res judicata, collateral estoppel, claim or issue preclusion, release, good-faith settlement, judgment bar, or reduction or any other similar defense or counterclaim. The Parties and their counsel, and each of them, agree, to the extent permitted by law, that all agreements made relating to the confidentiality of information shall survive and be unaffected by this Settlement Agreement.

V. RELEASE AND COVENANT NOT TO SUE

1. Release. As of the Settlement Effective Date, the Plan (subject to Independent Fiduciary approval as provided under the terms of this Settlement Agreement and all appliable laws and regulations), Plaintiffs, and Class Members, including Class Members' respective heirs, beneficiaries, executors, administrators, estates, past and present partners, officers, directors, agents, attorneys, predecessors, successors, and assigns, on their own behalf and on behalf of the Plan, shall fully, finally, and forever settle, release, relinquish, waive, and discharge all Released Parties from the Released Claims, whether or not such Class Members have actually received or will receive a monetary benefit from the Settlement, whether or not such Class Members have actually received the Settlement Notice, whether or not such Class Members have filed an objection to the Settlement or Class Counsel's Motion for Attorneys' Fees and Costs, and whether or not the objections or claims for distribution of such Class Members have been approved or allowed.

2. Covenant to Not Sue. As of the Settlement Effective Date, the Plaintiffs, Class Members, including Class Members' respective heirs, beneficiaries, executors, administrators, estates, past and present partners, officers, directors, agents, predecessors, successors, and assigns, and the Plan (subject to Independent Fiduciary approval) expressly agree that they, acting individually or together, or in combination with others in their personal or representative capacity, shall not sue or seek to institute, maintain, prosecute, argue, or

assert in any action or proceeding (including but not limited to an IRS determination letter proceeding, a Department of Labor proceeding, an arbitration or a proceeding before any state insurance agency or other department or commission), any cause of action, demand, or claim on the basis of, connected with, or arising out of any of the Released Claims. Nothing precludes an action to enforce the terms of this Settlement Agreement in accordance with the procedures set forth in this Settlement Agreement.

3. Acknowledgment of Release of Unknown Claims. Class Counsel, Plaintiffs, Class Members, and the Plan hereby stipulate and agree with respect to any and all Released Claims that, upon entry of the Final Approval Order and Judgment, the Class Members and the Plan shall be conclusively deemed to, and by operation of the Final Approval Order and Judgment, have waived any and all provisions, rights, and benefits conferred by any law or of any State or territory within the United States or any foreign country, or any principle of common law, which is similar, comparable, or equivalent in substance to Section 1542 of the California Civil Code, which provides:

> A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Specifically, Class Counsel, Plaintiffs, Class Members, and/or the Plan may hereafter discover facts in addition to or different from those that they know or believe to be true with respect to the Released Claims. Such facts, had they been known, might have affected the decision to settle with the Released Parties, or the decision to release, relinquish, waive, and discharge the Released Claims, or the decision of a Class Member not to object to the Settlement. Notwithstanding the foregoing, Plaintiffs, each Class Member, and the Plan shall, upon the entry of the Final Approval Order and Judgment, be deemed to have fully, finally, and forever settled, released, relinquished, waived, and discharged any and all Released Claims, including any and all rights or benefits they may now have, or in the future may have, under any law related to the releases of unknown claims.

a. Plaintiffs, Class Members, and the Plan acknowledge that the foregoing waiver was bargained for separately and is a key element of the Settlement embodied in this Settlement Agreement of which this release is a part.

4. Plaintiffs, Class Members, and the Plan (subject to Independent Fiduciary approval) expressly acknowledge certain principles of law applicable in some states provide that a release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or

released party. Plaintiffs and Class Members hereby knowingly and voluntarily waive and relinquish the protections of any such principles of law or provisions.

5. No Impact on Prior Releases. The Released Claims in the Class Action shall not invalidate or impair any prior release of claims by Plaintiffs, any Class Members, or the Plan against any of the Released Parties.

6. Dismissal With Prejudice. The Action and all Released Claims shall be dismissed with prejudice as against all Released Parties.

VI. RIGHTS OF THE PARTIES TO WITHDRAW FROM SETTLEMENT

1. The Settlement is contingent upon the Independent Fiduciary:

   a. approving the Settlement and giving a release in its capacity as a fiduciary of the Plan and for and on behalf of the Plan coextensive with the release from the Plaintiffs and the Settlement Class; and

   b. authorizing the Settlement in accordance with PTE 2003-39 or finding that the Settlement does not constitute a prohibited transaction under ERISA § 406 (29 U.S.C. § 1106).

2. Each Party shall have the option to withdraw unilaterally from and terminate the Settlement if:

   a. the Preliminary Approval Order is not entered substantially in the form specified herein, including such modifications thereto as may be ordered by the Court with the consent of the Parties;

   b. the Final Approval Order and Judgment is not entered substantially in the form specified herein, including such modifications thereto as may be ordered by the Court with the consent of the Parties; or

   c. the Settlement is not approved by the Court or is disapproved or materially modified by the Ninth Circuit Court of Appeals or U.S. Supreme Court;

      (i) It shall not be deemed a failure to approve the Settlement Agreement if the Court, the Ninth Circuit Court of Appeals, or the U.S. Supreme Court denies, in whole or in part, Class Counsel's Motion for Attorneys' Fees and Costs and/or Class Representative Case Contribution Awards and/or modifies any of the proposed orders relating to Attorneys' Fees and Costs and/or Class Representative Case Contribution Awards.

   d. the Court declines to enter the Judgment in any material respect; or

e. the Judgment is modified or reversed in any material respect by the Ninth Circuit Court of Appeals or the U.S. Supreme Court.

3. Defendant shall have the right to withdraw from the Settlement and terminate the Agreement if:

a. The Court does not certify the Settlement Class under Fed. R. Civ. P. 23(b)(1) as a non-opt out class for settlement purposes in the Preliminary Approval Order or the Final Approval Order and Judgment;

b. Before the Court's Final Approval Hearing, any governmental agency files any objection to the Agreement or Settlement in any court, brings a claim against any Released Parties relating to the Released Claims, or notifies any Released Parties that it intends to file such a claim; or

c. On or before fourteen (14) calendar days prior to the Court's Final Approval Hearing, the Independent Fiduciary fails to approve the Settlement or the Release in accordance with PTE 2003-39 or find that the Settlement or Release does not constitute a prohibited transaction under ERISA § 406 (29 U.S.C. § 1106).

4. If the Settlement is terminated pursuant to Section VI of the Settlement, then:

a. the Settlement proposed herein shall be of no further force and effect; and

b. the agreements and stipulations in this Settlement Agreement concerning the class definition or class certification will not be used as evidence or argument to support class certification or a class definition, and Defendant will retain all rights and defenses, including the right to oppose class certification in this Action on any basis; and

c. this Settlement Agreement and all negotiations, proceedings, and statements relating thereto, and any amendment thereof, shall be null and void, shall not be submitted or admitted in the Action or any other proceeding, and shall be without prejudice to the Parties; and

d. The Parties shall be restored to their respective positions as they existed prior to the execution of this Settlement Agreement as though the Parties never executed this Settlement Agreement; and

e. The Settlement Administrator shall return all funds deposited into the Qualified Settlement Fund, including interest, to Defendant within fourteen (14) calendar days after the Settlement Agreement is finally terminated or deemed null and void.

VII. MISCELLANEOUS

1. Cooperation. Defendant and Defense Counsel shall cooperate with Class Counsel by using reasonable efforts to provide, to the extent reasonably accessible, information to identify

Class Members and to implement the Plan of Allocation. Defendant and Defense Counsel make no representations or warranties concerning the completeness or accuracy of this data. The Parties shall reasonably cooperate with each other to effectuate this Settlement, including with respect to the Plan of Allocation. Each of the Parties further agrees, without further consideration, and as part of finalizing the Settlement hereunder, that it will in good faith execute and deliver such other documents and take such other actions as may be necessary to consummate and effectuate the subject matter of this Settlement Agreement.

2. Arm's-Length Negotiations. The Parties agree that they have negotiated all terms and conditions of this Settlement Agreement at arm's-length. The Parties represent and warrant that they are voluntarily entering into this Settlement Agreement because of arm's-length negotiations among Class Counsel and Defense Counsel, that in executing this Settlement Agreement they are relying solely upon their own judgment, belief, and knowledge, and the advice and recommendations of their own independently selected counsel. The Parties assume the risk of mistake as to facts or law.

3. Authority of Persons Signing the Settlement Agreement. The individuals executing this Settlement Agreement represent and warrant they have full authority to bind each Party to this Settlement Agreement.

4. Inquiries from Class Members. Defendant, Defense Counsel, and Class Counsel may, in their discretion, respond to questions from any Class Member concerning that Class Member's benefit under this Settlement Agreement. The responses provided will not create or establish any liability on the part of the Plan, Defendant, Defense Counsel, or any of the Released Parties.

5. This Agreement Governs. To the extent there is an inconsistency between this Settlement Agreement and any notice, document, or other communication, this Settlement Agreement shall govern.

6. Confidentiality and Non-Disparagement. Except as set forth explicitly below, the Parties, Class Counsel, and Defense Counsel agree to keep confidential all positions, assertions, and offers made during settlement negotiations relating to the Class Action and the Settlement Agreement, except that they may discuss the negotiations and statements made to and shared with the Mediator, with Class Members, the Independent Fiduciary, and the Parties' tax, legal, and regulatory advisors, provided that in each such case they comply with the provisions of this Section VII(6).

   a. Defendant, Plaintiffs, Class Counsel, and Defense Counsel agree that they will not at any time make (or encourage or induce others to make) any public statement regarding the Action or the Settlement that disparages any Released Party. However, Defendant is free to make non-disparaging statements to its employees about the conclusion of this matter. This prohibition does not prohibit any Party from making any statements pursuant to a valid legal process, a request by a regulatory agency, or as required by law.

b. Defendant, Plaintiffs, Class Counsel, and Defense Counsel agree that they will not issue any press release regarding the Settlement, affirmatively contact any media sources regarding the Settlement, respond to any request for comment on the Settlement by the media, or publish, post, or otherwise display any reference regarding this Settlement on any website owned, operated, or controlled by Defendant, Plaintiffs, Class Counsel, or Defense Counsel.

c. Defendant, Plaintiffs, Class Counsel, and Defense Counsel agree that they will not publicly disclose the terms of the Settlement until after the Motion for Preliminary Approval of the Settlement has been filed with the Court, other than as necessary to administer the Settlement, or unless such disclosure is pursuant to a valid legal process, a request by a regulatory agency, or as otherwise required by law, government regulations, or order of the Court.

7. Interpretation. This Settlement Agreement shall be interpreted, construed, and enforced in accordance with applicable federal law and, to the extent that federal law does not govern, Washington law, without regard to conflicts of laws rules.

a. None of the Parties hereto shall be considered the drafter of this Settlement Agreement or any provision hereof for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter hereof.

b. Any headings included in this Settlement Agreement are for convenience only and do not in any way limit, alter, or affect the matters contained in this Settlement Agreement or the Sections they caption.

c. Definitions apply to the singular and plural forms of each term defined.

d. References to a Person are also to the Person's permitted successors and assigns, except as otherwise provided herein.

e. Whenever the words "include," "includes," or "including" are used in this Settlement Agreement, they shall not be limiting but rather shall be deemed to be followed by the words "without limitation."

8. Entire Agreement. This Settlement Agreement and the exhibits attached hereto constitute the entire agreement among the Parties. No representations, warranties, or inducements have been made to any party concerning the Settlement other than those contained in this Settlement Agreement and the exhibits thereto. The Settlement Agreement supersedes any settlement terms or settlement agreements relating to the Defendant that were previously agreed upon orally or in writing by any of the Parties.

9. Waiver. Any provision of this Settlement Agreement may be waived only by a writing executed by the waiving party and specifically waiving such provisions. The waiver of any breach of this Settlement Agreement by any Party shall not be deemed to be or construed as a waiver of any other breach or waiver by any other party, whether prior, subsequent, or contemporaneous, of this Settlement Agreement.

10. Amendment to Settlement Agreement.

    a. Before entry of the Preliminary Approval Order and approval of the Independent Fiduciary, the Settlement Agreement may be modified or amended only by written agreement signed by or on behalf of all Parties.

    b. After approval by the Independent Fiduciary, but before entry of the Preliminary Approval Order, this Settlement Agreement may be modified or amended only if set forth in a written agreement signed by or on behalf of all Parties and only if the Independent Fiduciary approves such modification or amendment in writing.

    c. After approval by the Independent Fiduciary and entry of the Preliminary Approval Order, this Settlement Agreement may be modified or amended only by written agreement signed on behalf of all Parties, and only if the modification or amendment is approved by the Independent Fiduciary in writing and approved by the Court.

11. Continuing Jurisdiction: The Parties agree that the Court has personal jurisdiction over the Class and Defendant. The Court will retain continuing and exclusive jurisdiction over the Parties and the Class and over the administration, effectuation, and enforcement of the terms of the Settlement Agreement, and for such other matters that may properly come before the Court, including any dispute or controversy arising with respect to the interpretation, enforcement, or implementation of the Settlement or any of its terms.

12. Enforcement of Settlement. Only Class Counsel may seek enforcement of this Settlement Agreement on behalf of Plaintiff, the Plan, and Class Members, including Class Members' respective heirs, beneficiaries, executors, administrators, estates, past and present partners, officers, directors, agents, predecessors, successors, and assigns. Any individual concerned about Defendant's compliance with this Settlement Agreement must first notify Class Counsel and direct any requests for enforcement to them. Class Counsel shall have the full and sole discretion to take whatever action they deem appropriate that is not in contravention of this Agreement, or to refrain from taking any action, in response to such request.

    a. Any action by Class Counsel to monitor or enforce the Settlement Agreement shall be done without additional fee or reimbursement of expenses from the Qualified Settlement Fund beyond the Attorneys' Fees and Costs determined by the Court.

b. Any motion or action to enforce this Settlement Agreement—including by way of injunction—and any dispute or controversy related to this Settlement Agreement must be filed in the U.S. District Court for the Western District of Washington, with notice that the motion or action is related to the Action.

13. Counterparts. This Settlement Agreement may be executed in any number of actual or telecopied (including without limitation, by email transmission of one or more PDF files), DocuSign or similar electronic signature counterparts and by each of the different parties thereto on several counterparts, each of which when so executed and delivered shall be an original. The executed signature page(s) from each actual or telecopied counterpart may be joined together and attached to one such original and shall constitute one and the same instrument.

14. Binding Effect. This Settlement Agreement binds and inures to the benefit of the Parties hereto, their assigns, heirs, administrators, executors, and successors.

15. No Admission of Wrongdoing. Defendant denies all allegations of wrongdoing. Defendant believes that the Plan has been managed, operated, and administered at all relevant times reasonably and prudently, in the best interest of the Plan's participants, and in accordance with ERISA, the PHSA, and all other applicable and relevant laws, regulations and guidance. This Settlement Agreement, whether or not consummated, and any negotiations or proceedings hereunder are not, and shall not be construed as, deemed to be, or offered or received as evidence of an admission by or on the part of any of the Released Parties of any wrongdoing, fault, or liability whatsoever by any Released Parties, or give rise to any inference of any wrongdoing, fault, or liability or admission of any wrongdoing, fault, or liability in the Action or any other proceeding. Subject to Federal Rule of Evidence 408, the Settlement and the negotiations related to it are not admissible as substantive evidence, for purposes of impeachment, or for any other purpose.

16. Consultation with Counsel. Each party to this Settlement Agreement hereby acknowledges that he, she, they, or it has consulted with and obtained the advice of counsel prior to executing this Settlement Agreement and that this Settlement Agreement has been explained to that Party by his, her, their, or its counsel.

17. Exhibits. All the exhibits attached hereto are incorporated by reference as though fully set forth herein. The exhibits shall be: **Exhibit A** – Notice of Class Action Settlement, Settlement Approval Hearing and Motion for Attorneys' Fees and Costs; **Exhibit B** – Plan of Allocation for Class Settlement; **Exhibit C** – [Proposed] Order Preliminarily Approving Settlement; **Exhibit D** – [Proposed] Final Approval Order and Final Judgment; and **Exhibit E** – Form of CAFA Notice.

18. Survival. All the covenants, representations, and warranties, express or implied, oral or written, concerning the subject matter of this Settlement Agreement are contained in this Settlement Agreement. No Party is relying on any oral representations or oral agreements. All such covenants, representations, and warranties set forth in this Settlement Agreement shall be deemed continuing and shall survive the Settlement Effective Date.

19. Notices. Any notice, demand, or other communication under this Settlement Agreement (other than the Settlement Notice, or other notices given at the direction of the Court) shall be in writing and shall be deemed duly given upon receipt if it is addressed to each of the intended recipients as set forth below and personally delivered, sent by registered or certified mail postage prepaid, or delivered by reputable express overnight courier or via email:

IF TO CLASS REPRESENTATIVES:

Oren Faircloth
Siri & Glimstad LLP
745 Fifth Avenue, Suite 500
New York, New York 10151
Ofaircloth@sirillp.com

IF TO DEFENDANT:

Deborah S. Davidson
Morgan, Lewis & Bockius, LLP
110 North Wacker Drive, Suite 2800
Chicago, IL 60606-1511
deborah.davidson@morganlewis.com

Dylan D. Rudolph
Morgan, Lewis & Bockius, LLP
1400 Page Mill Road
Palo Alto, CA 94304-1124
dylan.rudolph@morganlewis.com

Any Party may change the address at which it is to receive notice by written notice delivered to the other Parties in the manner described above.

20. Destruction/Return of Confidential Information. Within sixty (60) days after entry of the Final Approval Order and Judgment, Class Representatives and Class Counsel shall make

reasonable efforts to either return or destroy all documents or other materials produced as or designated as Confidential. All originals, copies, and summaries of documents, presentations, and data provided to Class Counsel by Defendant in connection with the mediation or any other settlement negotiations in this Action, including email attachments containing such materials, may be used only with respect to this Settlement and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule. The Parties agree that the preliminary and final lists of Class Members are deemed Confidential, and may be used only with respect to this Settlement, and no other purpose. Further, the Parties shall have the right to continue to designate documents provided to any party in connection with this Settlement Agreement as Confidential pursuant to this Section.

21. Neither the Parties, the Released Parties, Class Counsel, nor Defense Counsel shall have any responsibility for or liability whatsoever with respect to:

    a. any act, omission, or determination of the Settlement Administrator, or any of their respective designees or agents, in connection with the administration of the Gross Settlement Amount or otherwise;

    b. the determination of the Independent Fiduciary;

    c. the management, investment, or distribution of the Qualified Settlement Fund;

    d. the determination, administration, calculation, or payment of any claims asserted against the Qualified Settlement Fund;

    e. any losses suffered by, or fluctuations in the value of, the Qualified Settlement Fund; or

    f. the payment or withholding of any taxes, expenses, and/or costs incurred in connection with the taxation of the Qualified Settlement Fund or tax reporting, or the filing of any returns.

22. Defendant, Defense Counsel, and the Released Parties shall have no responsibility for or liability with respect to any act, omission, or determination of Class Counsel in connection with the administration of the Gross Settlement Amount, or otherwise, including but not limited to the Plan of Allocation.

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement on the dates set forth below.

[SIGNATURES FOLLOW ON FOLLOWING PAGES]

CLASS REPRESENTATIVES

DATED: 9/22/2026

Signed by:
86F8AE4F9DCA4C2...
Amy Takala, Class Representative

DATED: 9/22/2026

Signed by:
8907429F1499439...
Jennifer Wescott, Class Representative

BY PLAINTIFFS' COUNSEL: On behalf of Amy Takala and Jennifer Wescott, Individually and as Representatives of the Class, the Plan, and the Class Members:

DATED: September 21, 2026

W H payne

Oren Faircloth
William H. Payne, IV
SIRI & GLIMSTAD LLP
745 Fifth Avenue, Suite 500
New York, New York 10151
Tel: (929) 677-5181
E: ofaircloth@sirillp.com
E: wpayne@sirillp.com

DEFENDANT NORDSTROM, INC.

DATED: September 17, 2026

DocuSigned by:
Sarah Johnson
A8C03B35B1164E1...
Name: Sarah Johnson

Title: Vice President & Associate General Counsel

BY DEFENDANT'S COUNSEL: On behalf of Nordstrom, Inc.:

DATED: September 18, 2026

Deborah S. Davidson
MORGAN, LEWIS & BOCKIUS LLP
110 North Wacker Drive, Suite 2800
Chicago, IL 60606-1511
Tel: (312) 324-1000
deborah.davidson@morganlewis.com

Dylan D. Rudolph
MORGAN, LEWIS & BOCKIUS LLP
1400 Page Mill Road
Palo Alto, CA 94304-1124
Tel: (650) 843-4000
dylan.rudolph@morganlewis.com

Marisa L. Berlinger, WSBA #58991
MORGAN, LEWIS & BOCKIUS LLP
1301 Second Avenue, Suite 3000
Seattle, WA 98101
Tel: (206) 274-6400
marisa.berlinger@morganlewis.com