

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

ROSA AREVALO, MICHELLE  
CORNEJO, ASIA FOWLER, THERESA  
PHUONG T MAI, and LILLIAN MENA,  
individually and as representatives of a  
Putative Class of Participants and  
Beneficiaries, on behalf of all similarly  
situated participants and beneficiaries on  
behalf of the CEDARS-SINAI HEALTH  
SYSTEM 403(B) RETIREMENT PLAN,

Plaintiffs,

v.

CEDARS-SINAI MEDICAL CENTER;  
THE CEDARS-SINAI BOARD OF  
DIRECTORS' PENSION INVESTMENT  
COMMITTEE, THE CEDARS-SINAI  
DEFINED CONTRIBUTION  
RETIREMENT PLANS' COMMITTEE,  
ANDY ORTIZ, DEBRA LEE, ERIC  
HOLOMAN, JOSHUA LOBEL, LESLIE  
VERMUT, RICHARD SINAICO,  
STEVEN ROMICK, MARK RAPAPORT,  
JAMES NATHAN, DAVID WRIGLEY,  
JEFF SMITH, DAVID MARSHALL,  
PASY WANG, BRYAN CROFT and  
DOES 1 through 10,

Defendants.

Case No.: 5:23-cv-01124-JLS-SP

Judge: Hon. Josephine L. Staton  
Magistrate Judge Sheri Pym  
Courtroom: 8A

**SETTLEMENT AGREEMENT**

Complaint Filed: June 13, 2023

## **CLASS ACTION SETTLEMENT AGREEMENT**

This Class Action Settlement Agreement (“Settlement Agreement”) is entered into between plaintiffs Rosa Arevalo, Michelle Cornejo, and Theresa Phuong T Mai (collectively, “Class Representatives”), individually and on behalf of the Settlement Class (as defined below) on the one hand and defendants Cedars-Sinai Medical Center; The Cedars-Sinai Board Of Directors’ Pension Investment Committee, The Cedars-Sinai Defined Contribution Retirement Plans Committee, Andy Ortiz, Debra Lee, Eric Holoman, Joshua Lobel, Leslie Vermut, Richard Sinaiko, Steven Romick, Mark Rapaport, James Nathan, David Wrigley, Jeff Smith, David Marshall, Pasy Wang, and Bryan Croft on the other hand (“Defendants”).

### **RECITALS**

WHEREAS, on June 13, 2023, Class Representatives instituted this Class Action, *Arevalo, et al., v. Cedars-Sinai, et al.*, Case No. 5:23-cv-01124-JLS-SP, by filing a class action complaint in the United States District Court for the Central District of California asserting claims for breach of fiduciary duty and co-fiduciary liability under the Employee Retirement Income Security Act of 1974 (“ERISA”), and thereafter filed a first amended class action complaint on September 26, 2023, a second amended class action complaint on April 30, 2024, and then a third amended class action complaint on January 8, 2025 (the “Complaint”);

WHEREAS, Defendants continue to deny all allegations in the Complaint, contend that they have no liability, and maintain that their actions at all times have complied with all applicable laws;

WHEREAS, Class Counsel have conducted a thorough investigation into the facts, circumstances, and legal issues associated with the Class Action, including: (a) researching the applicable law with respect to the claims asserted and the potential defenses thereto; (b) analyzing Plan documents and evaluating the administration of the Plan, including data pertaining to the administrative fees and expenses paid by the Plan and the investments in the Plan during the Class Period; (c) investigating comparable 403 (B) plans to assess steps that reasonable fiduciaries in similar circumstances take in order to protect and advance the interests of participants and beneficiaries; and (d) obtaining analyses from consulting experts on liability and damages issues;

WHEREAS, Defense Counsel have investigated Class Representatives’ claims, the underlying events and transactions alleged in the Complaint, and the operation and administration of the Plan, reviewed numerous documents, obtained analysis from consulting experts on liability and damages, and made a thorough study of the applicable

legal principles governing the Class Representatives' claims and Defendants' defenses in the Class Action;

WHEREAS, based on their investigation of the merits of this Class 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 represents a reasonable and fair resolution of the claims of the Settlement Class and that the Settlement will provide substantial benefits to the Settlement Class considering, 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, the ability of Defendants to withstand judgment, the existence of insurance coverage, and the benefits accruing to the Plan's participants under the Settlement;

WHEREAS, although Defendants have denied and continue to deny all liability with respect to the Complaint, Defendants nevertheless consider 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 will avoid the substantial expense, inconvenience, and risk of continued litigation;

WHEREAS, through counsel, the Settling Parties conducted extensive arm's-length negotiations concerning a possible compromise and settlement of the Class Action, engaged in an all-day, in-person mediation with Todd Jackson of Feinberg Jackson Worthman & Wasow LLP, on December 18, 2024, subsequently exchanged written and oral proposals, and have now reached agreement on all remaining terms of the Settlement, as set forth herein;

NOW, THEREFORE, it is agreed by the Settling Parties, without any admission or concession of liability or the validity of any allegation in the Complaint whatsoever, in consideration of the promises, covenants, and agreements herein described, and for other good and valuable consideration, that all claims in the Complaint shall be settled and dismissed on the merits and with prejudice in accordance with the following terms and conditions, all subject to the final approval by the Court:

## **1. ARTICLE 1 – DEFINITIONS**

As used in this Settlement Agreement and the exhibits hereto, unless otherwise defined, the following terms have the meanings specified below:

- 1.1. "Active Account" means an individual investment account with a positive account balance in the Plan as of the date the Recordkeeper provides data pursuant to Section 2.8.2.

- 1.2. “Administrative Expenses” means expenses incurred in the administration of this Settlement Agreement, including (a) all fees, expenses, and costs associated with providing the Settlement Notice to the Class Members, excluding any fees and expenses of the Plan’s Recordkeeper in connection with the same; (b) related tax expenses (including taxes and tax expenses as described in Section 4.4; (c) all expenses and costs associated with the distribution of funds under the Plan of Allocation, including any fees and expenses of the Plan’s Recordkeeper in connection with the same (not to exceed \$1,500); (d) all fees and expenses of the Settlement Administrator and Escrow Agent, which fees are currently estimated at \$97,550 but may be subject to adjustment based on the Settlement Administrator’s receipt of the Class Member list; and (e) all fees and expenses of the Independent Fiduciary, not to exceed \$25,000. Excluded from Administrative Expenses are Defendants’ internal expenses, and the Settling Parties’ respective legal fees and expenses. All Administrative Expenses shall be paid from the Gross Settlement Amount.
- 1.3. “Attorneys’ Fees and Costs” means the amount awarded by the Court as compensation for the services provided by Class Counsel. The amount of Attorneys’ Fees for Class Counsel shall not exceed 33.3% of the Gross Settlement Amount and shall be recovered and deducted from the Gross Settlement Amount. Class Counsel also will seek reimbursement for all litigation costs and expenses of Class Counsel, not to exceed \$140,000 which also shall be recovered and deducted from the Gross Settlement Amount.
- 1.4. “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, from a Current Participant, and has a designation on a form that was been filed with the Recordkeeper.
- 1.5. “CAFA” means the Class Action Fairness Act of 2005.
- 1.6. “CAFA Notice” means notice of this proposed Settlement to the appropriate federal and state officials pursuant to CAFA, to be issued by Defendants.
- 1.7. “Case Contribution Awards” means the monetary amount awarded by the Court to each Class Representative in recognition of the Class Representatives’ assistance in the prosecution of this Class Action, for which Class Counsel may seek an amount not exceeding \$7,500.00 per Class Representative (total \$22,500) payable from the Gross Settlement Amount. Any such Case Contribution Award shall be subject to the approval of the Court.
- 1.8. “Class Action” means *Arevalo, et al., v. Cedars-Sinai, et al.*, Case No. 5:23-cv-01124-JLS-SP, in the United States District Court for the Central District of California.

- 1.9. “Class Counsel” means Christina Humphrey Law, P.C. and Bradley Grombacher LLP.
- 1.10. “Class Members” means all individuals in the Settlement Class, including the Class Representatives.
- 1.11. “Class Member List” will consist of (i) for the purposes of sending the Settlement Notice, names, dates of birth, final four digits of social security numbers, and primary address, and, (ii) for purposes of effectuating the administration of the Plan of Allocation, the same information identified in (i) plus either plan year-end or end-of-quarter account balances, (depending upon which data is available, throughout the Class Period). The information provided pursuant to this paragraph is the information as last known to the Plan’s Recordkeeper at the time the data for the Class Member List was provided. The Released Parties are not responsible for the accuracy of the data provided.
- 1.12. “Class Period” means the period from June 13, 2017, through April 1, 2025.
- 1.13. “Class Representatives” means Rosa Arevalo, Michelle Cornejo, and Theresa Phuong T Mai.
- 1.14. “Committee” or “Plan Committee” means the The Cedars-Sinai Board Of Directors’ Pension Investment Committee, and The Cedars-Sinai Defined Contribution Retirement Plans Committee or any predecessor or successor Plan Committee that has or had any fiduciary or administrative responsibility for administering the Plan, selecting and monitoring recordkeepers, and selecting and monitoring the Plan’s investments and investment fees.
- 1.15. “Complaint” means the Third Amended Class Action Complaint filed on January 8, 2025 (ECF No. 104).
- 1.16. “Court” means the United States District Court for the Central District of California.
- 1.17. “Current Participant” means a member of the Settlement Class with an Active Account, or the Beneficiary of such member with an Active Account.
- 1.18. “Defendants” means Cedars-Sinai Medical Center; The Cedars-Sinai Board Of Directors’ Pension Investment Committee, The Cedars-Sinai Defined Contribution Retirement Plans Committee, Andy Ortiz, Debra Lee, Eric Holoman, Joshua Lobel, Leslie Vermut, Richard Sinaiko, Steven Romick, Mark Rapaport, James Nathan, David Wrigley, Jeff Smith, David Marshall, Pasy Wang, and Bryan Croft, and includes all persons and entities defined as Released Parties.

- 1.19. “Defense Counsel” means Davis Wright Tremaine, LLP.
- 1.20. “Escrow Agent” means the entity approved by the Settling Parties to act as escrow agent for any portion of the Gross Settlement Amount deposited in or accruing in the Qualified Settlement Fund pursuant to this Settlement Agreement.
- 1.21. “ERISA” means the Employee Retirement Income Security Act of 1974.
- 1.22. “Final Fairness Hearing” means the hearing scheduled by the Court to consider (a) any objections by Class Members to the Settlement; (b) Class Counsel’s petition for Attorneys’ Fees and Costs and Class Representatives’ Case Contribution Awards; and (c) whether to grant final approval of the Settlement under Fed. R. Civ. P. 23(e).
- 1.23. “Final” means, with respect to any judicial ruling, order, or judgment, that the period for any motions for reconsideration, motions for rehearing, appeals, petitions for certiorari, or the like (“Review Proceeding”) has expired without the initiation of a Review Proceeding, or, if a Review Proceeding has been initiated timely, that it has been fully and finally resolved, either by court action or by voluntary action of any party, without any possibility of a reversal, vacatur, or modification of any judicial ruling, order, or judgment, including the exhaustion of all proceedings in any remand or subsequent appeal and remand. The Settling Parties agree that absent an appeal or other attempted Review Proceeding, the Final Approval Order becomes Final thirty (30) calendar days after its entry by the Court. However, in the event there are no objections to the Settlement, the Settlement shall become “final” on the day the Final Approval Order and Judgement is ordered by the Court.
- 1.24. “Final Approval Order and Judgment” means the entry of the order and final judgment approving the Settlement Agreement, implementing the terms of this Settlement Agreement, and dismissing the Class Action with prejudice, to be proposed by the Settling Parties for approval by the Court.
- 1.25. “Former Participant” means a member of the Settlement Class who does not have an Active Account.
- 1.26. “Gross Settlement Amount” means the sum of TWO MILLION, NINE HUNDRED AND SEVENTY THOUSAND DOLLARS (\$2,970,000.00), contributed to the Qualified Settlement Fund in accordance with Article 5. The Gross Settlement Amount shall be paid by Defendants and/or their fiduciary liability insurer. The Gross Settlement Amount shall be the full and sole monetary payment to the Settlement Class, the Class Representatives, and Class Counsel, made by or on behalf of Defendants in connection with the Settlement, effectuated through this

Settlement Agreement. Neither Defendants nor their insurer will make any additional payment in connection with the Settlement of the Class Action.

- 1.27. “Independent Fiduciary” means the person or entity that has no relationship to any of the Settling Parties and 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 2.1.
- 1.28. “Mediator” means Todd Jackson.
- 1.29. “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) all Case Contribution Awards as authorized by the Court; and (c) all Administrative Expenses.
- 1.30. “Participant” means any Current or Former Participant.
- 1.31. “Person” means an individual, partnership, corporation, governmental entity or any other form of entity or organization.
- 1.32. “Plan” means the Cedars-Sinai Health System 403(B) Retirement Plan.
- 1.33. “Plan of Allocation” means the method of allocating settlement funds to Class Members. A proposed form of the Plan of Allocation is attached hereto as Exhibit B.
- 1.34. “Preliminary Approval Order” means the Court Order in substantially the form attached hereto as Exhibit C, whereby the Court preliminarily approves this Settlement.
- 1.35. “Qualified Settlement Fund” means the interest-bearing settlement fund account to be established and maintained by the Escrow Agent in accordance with Article 5 herein and referred to as the Qualified Settlement Fund (within the meaning of Treas. Reg. § 1.468B-1).
- 1.36. “Recordkeeper” means the entity that maintains electronic records of the Plan’s Participants and their individual accounts.
- 1.37. “Released Claims” means any and all past, present, and future actual or potential claims (including claims for any and all losses, damages, unjust enrichment, attorneys’ fees, disgorgement, litigation costs, injunction, declaration, contribution, indemnification or any other type or nature of legal or equitable relief), actions, demands, rights, obligations, liabilities, expenses, costs, and causes of action, accrued or not, whether arising under federal, state, or local law,



whether by statute, contract, or equity, whether brought in an individual or representative capacity, whether accrued or not, whether known or unknown, suspected or unsuspected, foreseen or unforeseen based in whole or in part on acts or failures to act during the Class Period:

- 1.37.1. That were asserted or could have been asserted in the Class Action or that arise out of, relate to, or are based on any of the allegations, acts, omissions, facts, matters, transactions, or occurrences that were, or could have been alleged, asserted, or set forth in the Complaint or in any complaint previously filed in the Class Action including those that arise out of, relate in any way to, are based on, or have any connection with: (a) the selection, oversight, retention, monitoring, compensation, fees, or performance of the Plan's investment options; (b) the selection, oversight, retention, or monitoring of plan service provider fees, expenses, or fee structures or arrangements; (c) disclosures or failures to disclose information regarding the Plan's investment options, service provider fees and expenses, or service provider fee structures or arrangements; (d) the management, oversight or administration of the Plan or its fiduciaries; or (e) alleged breach of the duties of loyalty, care, prudence, diversification, or any other fiduciary duties or prohibited transactions under ERISA with respect to the foregoing; or
- 1.37.2. That would be barred by *res judicata* based on entry of the Final Approval Order; or
- 1.37.3. That relate to the direction to calculate, the calculation of, and/or the method or manner of allocation of the Qualified Settlement Fund to the Plan or any Class Member in accordance with the Plan of Allocation; or
- 1.37.4. That relate to the approval by the Independent Fiduciary of the Settlement, unless brought against the Independent Fiduciary alone.
- 1.37.5. With respect solely to the "Released Claims" granted in this Settlement Agreement, the Class Representatives, Class Members and the Plan expressly waive and relinquish, to the fullest extent permitted by law, any and all provisions, rights, and benefits conferred by Section 1542 of the California Civil Code, which provides that 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," and any similar state, federal or other law, rule or regulation or principle of common law of any domestic governmental entity.



1.37.6. “Released Claims” does not include claims to enforce the covenants or obligations set forth in this Settlement Agreement.

- 1.38. “Released Parties” means (a) all Defendants; (b) Defendants’ insurers, co-insurers, and reinsurers; (c) Defendants’ direct and indirect past, present, and future affiliates, parents, subsidiaries, divisions, joint ventures, predecessors, successors, Successors-In-Interest, assigns, boards of trustees, boards of directors, officers, trustees, directors, partners, agents, managers, members, employees or heirs (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 Defendants’ past, present, and future affiliates), and each Person that controls, is controlled by, or is under common control with them; (d) the Plan and the Plan’s current and past fiduciaries, Committees, members of any Committee, subcommittees, administrators, plan administrators, recordkeepers, service providers, consultants, investment managers, advisors, attorneys, agents, insurers and parties-in-interest; and (e) Defendants’ independent contractors, representatives, attorneys, administrators, insurers, fiduciaries, accountants, auditors, advisors, consultants, 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.
- 1.39. “Representatives” shall mean representatives, attorneys, agents, directors, officers, or employees.
- 1.40. “Review Proceeding” shall have the meaning set forth in Section 1.23.
- 1.41. “Settlement” means the settlement to be consummated under this Settlement Agreement and its exhibits, including any modifications or amendments.
- 1.42. “Settlement Administrator” means the entity selected and retained by Class Counsel to administer the Settlement, Plan of Allocation, and Settlement Notice—who is the “administrator” within the meaning of Treas. Reg. § 1.468B-2(k)(3).
- 1.43. “Settlement Agreement” means this agreement embodying the terms of the Settlement, including any modifications or amendments hereto.
- 1.44. “Settlement Agreement Execution Date” is the date the final signature is applied to this Settlement Agreement.

“Settlement Class” means all Participants and Beneficiaries of the Current Participants of the Cedars-Sinai Health System 403(B) Retirement Plan from June 13, 2017, to April 1, 2025. who did not serve as members of Cedars-Sinai or Cedars-Sinai’s Board of Directors and/or Committees.

- 1.45. “Settlement Effective Date” means the date on which the Final Approval Order is Final, provided that by such date the Settlement has not been terminated in accordance with Article 12.
- 1.46. “Settlement Notice” means the Notice of Class Action Settlement and Final Fairness Hearing to be sent to Class Members identified by the Settlement Administrator following the Court’s issuance of the Preliminary Approval Order, in substantially the form attached hereto as Exhibit A. The Settlement Notice shall inform Class Members of a Final Fairness Hearing to be held by the Court, on a date to be determined by the Court, at which any Class Member satisfying the conditions set forth in the Preliminary Approval Order and the Settlement Notice may be heard regarding: (a) the terms of the Settlement Agreement; (b) the petition of Class Counsel for award of Attorneys’ Fees and Costs; (c) payment of and reserve for Administrative Expenses; and (d) Class Representatives’ Case Contribution Awards.
- 1.47. “Settlement Website” means the internet website established in accordance with Section 13.2.
- 1.48. “Settling Parties” means the Defendants, Released Parties, and the Class Representatives, on behalf of themselves, the Plan, and each of the Class Members.
- 1.49. “Successor-In-Interest” shall mean a Person or party’s estate, legal representatives, heirs, successors or assigns, including successors or assigns that result from corporate mergers or other structural changes.
- 1.50. “Cedars-Sinai” means Defendants Cedars-Sinai Medical Center; The Cedars-Sinai Board Of Directors’ Pension Investment Committee, The Cedars-Sinai Defined Contribution Retirement Plans Committee, Andy Ortiz, Debra Lee, Eric Holoman, Joshua Lobel, Leslie Vermut, Richard Sinaiko, Steven Romick, Mark Rapaport, James Nathan, David Wrigley, Jeff Smith, David Marshall, Pasy Wang, and Bryan Croft.

**2. ARTICLE 2 – REVIEW AND APPROVAL BY INDEPENDENT FIDUCIARY, PRELIMINARY SETTLEMENT APPROVAL, AND NOTICE TO THE CLASS**

2.1. Independent Fiduciary. Defendants shall retain on behalf of the Plan and at their discretion the 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:

2.1.1. If it deems it appropriate, the Independent Fiduciary shall (i) approve the Settlement in writing and agree to 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 Class Representatives and the Settlement Class Members; (ii) authorize the Settlement in accordance with Prohibited Transaction Class Exemption 2003-39; and (iii) find that the Settlement does not constitute a prohibited transaction under ERISA § 406(a) and notify Defendants directly of its determination, in writing (with copies to Class Counsel and Defense Counsel), which notification shall be delivered no later than thirty-five (35) calendar days before the Fairness Hearing.

2.1.2. The Independent Fiduciary shall comply with all relevant conditions set forth in Prohibited Transaction Exemption 2003-39, “Class Exemption for the Release of Claims and Extensions of Credit in Connection With Litigation,” issued December 31, 2003, by the United States Department of Labor, 68 Fed. Reg. 75,632, as amended (“PTE 2003-39”), in making its determination.

2.2. All fees and expenses associated with the Independent Fiduciary’s determination and performance of its other obligations in connection with the Settlement, up to \$25,000, will constitute Administrative Expenses to be deducted from the Gross Settlement Amount and will be paid by the Settlement Administrator.

2.3. Defendants, 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 Agreement, including requests for confidential information submitted by the parties to the Mediator.

2.4. If Defendants conclude that the Independent Fiduciary’s determination does not comply with PTE 2003-39 or is otherwise deficient, Defendants shall so inform the Independent Fiduciary within ten (10) calendar days of receipt of the determination.

2.5. A copy of the Independent Fiduciary's determination letter and report shall be provided to Class Counsel, who, with the consent of Defense Counsel, may file it with the Court in support of Final approval of the Settlement along with their motion for attorney's fees and costs.

2.6. Preliminary Approval. After the full execution of this Settlement Agreement by the Settling Parties, the Class Representatives, through Class Counsel, shall file with the Court motions seeking preliminary approval of this Settlement Agreement and for entry of the Preliminary Approval Order in substantially the form attached hereto as Exhibit C. The Class Representatives shall provide Defendants a draft of the motion for Preliminary Approval and for entry of the Preliminary Approval Order at least seven (7) calendar days before filing. The Preliminary Approval Order to be presented to the Court shall, among other things:

2.6.1. Approve the text of the Settlement Notice for mailing to Class Members;

2.6.2. Determine that under Fed. R. Civ. P. 23(c)(2), the Settlement Notices constitute the best notice practicable under the circumstances, provide due and sufficient notice of the Final Fairness Hearing and of the rights of all Class Members, and comply fully with the requirements of Fed. R. Civ. P. 23, the Constitution of the United States, and any other applicable law;

2.6.3. Cause the Settlement Administrator to send by first-class mail the Settlement Notice to each Class Member identified by the Settlement Administrator based upon the Class Member List provided by the Plan's Recordkeeper and the Settlement Administrator shall use commercially reasonable efforts to locate any Class Member whose Settlement Notice is returned and re-send such documents one additional time.

2.6.4. Provide 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 Defendants, the Released Parties, and/or the Plan;

2.6.5. Set the Final Fairness Hearing in order to determine whether: (a) the Court should approve the Settlement as fair, reasonable, and adequate; (b) the Court should enter the Final Approval Order; and (c) the Court should approve the application for Attorneys' Fees and Costs, Class Representatives' Case Contribution Awards, Administrative Expenses incurred to date, and a reserve for anticipated future Administrative Expenses;

- 2.6.6. Provide that any objections to any aspect of the Settlement Agreement shall be heard, and any papers submitted in support of said objections shall be considered, by the Court at the Final Fairness Hearing;
  - 2.6.7. Provide that no appearance is necessary at the Final Fairness Hearing if the objection is submitted in writing, is postmarked twenty-eight (28) calendar days before the Final Fairness Hearing, and includes the following information: (1) his/her/its full name, current address, and current telephone number, and, if represented by counsel, any of his/her/its counsel's name and contact information; (2) whether the objection applies only to the objecting Class Member, to a specific subset of the Class, or to the entire Class; (3) a statement of the position(s) the objector wishes to assert; (4) copies of any other documents that the objector wishes to submit in support of his/her/its position; and (5) a list of any other objections to any class action settlements submitted in any court, whether state, federal, or otherwise, in the United States in the previous five (5) years;
  - 2.6.8. Provide that any Class Member who files and serves a written comment or objection may also appear at the Fairness Hearing either in person or through qualified counsel retained at their own expense. Any comment or objection that is timely filed or postmarked will be considered by the Court even in the absence of a personal appearance by the Class Member or that Class Member's counsel.
  - 2.6.9. Provide that the Class Members may file written responses to any objections not later than five (5) business days before the Fairness Hearing or submit an oral response at the Fairness Hearing; and
  - 2.6.10. Provide that the Final Fairness Hearing will be held in person and/or be adjourned or continued by order of the Court and that notice of the date, time, and location of the Final Fairness Hearing will be provided on the Settlement Administration Website.
- 2.7. Settlement Administration. Defendants and Defense Counsel shall use reasonable efforts to respond timely to written requests, including by e-mail, from the Settlement Administrator for readily accessible data that is reasonably necessary to determine the feasibility of administering the Plan of Allocation or to implement the Plan of Allocation.
- 2.7.1. The Settlement Administrator must agree to be bound by any Stipulated Protective Order regarding confidentiality agreed to by the Settling Parties and any further non-disclosure or security protocol required by the Settling Parties.

- 2.7.2. The Settlement Administrator shall use the data provided by Defendants and the Plan's Recordkeeper solely for the purpose of meeting its obligations as Settlement Administrator, and for no other purpose.
- 2.7.3. At the request of the Settling Parties, the Settlement Administrator shall provide a written protocol addressing how the Settlement Administrator will maintain and store information provided to it in order to ensure that reasonable and necessary precautions are taken to safeguard the privacy and security of such information. Six years after the Qualified Settlement Fund is fully distributed, the Settlement Administrator shall destroy or delete the Class Member List, including all Participant and Beneficiary information, in accordance with its usual and customary record retention and destruction practices.
- 2.8. Class Data for Distribution of Notice and Plan of Allocation.
- 2.8.1. Twenty-one (21) calendar days after the entry of the Preliminary Approval Order, Defendants will provide the Class Member List to the Settlement Administrator.
- 2.8.2. Twenty-one (21) calendar days after the Settlement Effective Date, Defendants shall also use reasonable efforts to cause the current Plan Recordkeeper to provide an updated Class Member List.
- 2.9. Settlement Notice. No later than ten (10) calendar days after receipt of the Class Member List from Defendants, the Settlement Administrator shall cause to be sent via U.S. Mail to each Class Member identified on the Class Member List a Settlement Notice in the form and manner to be approved by the Court, which shall be in substantially the form attached hereto as Exhibit A or a form subsequently agreed to by the Settling Parties and approved by the Court. The Settlement Administrator shall use commercially reasonable efforts to locate any Class Member whose Settlement Notice is returned and re-send such documents one additional time.
- 2.10. CAFA Notice. No later than ten (10) calendar days after the filing of the motion for preliminary approval of the Settlement, Defendants will send the CAFA Notice to the Attorney General of the United States, the Secretary of the Department of Labor, and the Attorneys General of all States and Territories in which Class Members reside, as specified by 28 U.S.C. § 1715. If the recordkeeper does not have the information necessary and ready for filing when the Settlement Agreement is first filed with the court, Class Counsel, upon request, shall re-file the proposed settlement within a time period sufficient for the Defendants to fully comply with the timing and notice requirements of the CAFA and the final hearing must take place at least ninety (90) days after the CAFA notice is provided.



### **3. ARTICLE 3 – FINAL SETTLEMENT APPROVAL**

3.1. No later than forty-five (45) calendar days before the Final Fairness Hearing, Class Counsel shall submit to the Court a motion for entry of the Final Approval Order in the form approved by Class Counsel and Defense Counsel, which shall request approval by the Court of the terms of this Settlement Agreement and entry of the Final Approval Order in accordance with this Settlement Agreement. The Final Approval Order as proposed by the Settling Parties shall provide for the following, among other things, as is necessary to carry out the Settlement consistent with applicable law and governing Plan documents:

- 3.1.1. Approval of the Settlement of the Released Claims covered by this Settlement Agreement adjudging the terms of the Settlement Agreement to be fair, reasonable, and adequate to the Plan and the Class Members and directing the Settling Parties to take the necessary steps to effectuate the terms of the Settlement Agreement;
- 3.1.2. A determination under Fed. R. Civ. P. 23(c)(2) 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;
- 3.1.3. Dismissal with prejudice of the Class Action and all Released Claims asserted therein whether asserted by Class Representatives on their own behalf or on behalf of the Class Members, or on behalf of the Plan, without costs to any of the Settling Parties other than as provided for in this Settlement Agreement;
- 3.1.4. That the Plan and each Class Member (and the respective heirs, beneficiaries, executors, administrators, estates, past and present partners, officers, directors, agents, attorneys, predecessors, successors, and assigns) shall be: (a) conclusively deemed to have, and by operation of the Final Approval Order shall have, fully, finally, and forever settled, released, relinquished, waived, and discharged the Released Parties from all Released Claims; and (b) barred and enjoined from suing the Released Parties in any action or proceeding alleging any of the Released Claims.
- 3.1.5. That each Class Member shall release the Released Parties, Defendants, Defense Counsel, and Class Counsel for any claims, liabilities, and Attorneys' Fees 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 and expenses;



- 3.1.6. That the provisions of Sections 3.1.4 and 3.1.5 shall apply even if any Class Member may thereafter discover facts in addition to or different from those which the Class Members or Class Counsel now know or believe to be true with respect to the Class Action and the Released Claims, whether or not such Class Members receive a monetary benefit from the Settlement, whether or not such Class Members actually received the Settlement Notice, whether or not such Class Members have filed an objection to the Settlement or to any application by Class Counsel for an award of Attorneys' Fees and Costs, and whether or not the objections or claims for distribution of such Class Members have been approved or allowed;
- 3.1.7. That all applicable CAFA requirements have been satisfied;
- 3.1.8. That the Settlement Administrator shall have 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;
- 3.1.9. 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 the governing terms of the Plan; and
- 3.1.10. That within thirty-one (31) calendar days following the distribution of the Net Settlement Amount to Class Members as provided by the Plan of Allocation approved by the Court, the Settlement Administrator shall 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.
- 3.2. The Final Approval Order and judgment entered by the Court approving the Settlement Agreement shall provide that upon its entry, all Settling Parties, the Settlement Class and the Plan shall be bound by the Settlement Agreement and the Final Approval Order.
- 4. ARTICLE 4 – ESTABLISHMENT OF QUALIFIED SETTLEMENT FUND**
- 4.1. Ten (10) calendar days after the Preliminary Approval Order is issued, the Settlement Administrator shall establish the Qualified Settlement Fund with the Escrow Agent and furnish to Defense Counsel in writing the Qualified Settlement

Fund name, IRS W-9 Form, and all necessary instructions for furnishing payment by check.

- 4.1.1. The Settling Parties agree that the Qualified Settlement Fund is intended to be, and will be, an interest-bearing “qualified settlement fund” within the meaning of Section 468B of the Code and Treas. Reg. § 1.468B-1. In addition, the Settlement Administrator timely shall make such elections as necessary or advisable to carry out the provisions of this Section 4.1. If applicable, the Settlement Administrator (as the “administrator” pursuant to Section 4.3) and the transferor shall fully cooperate in filing the “relation-back election” (as defined in Treas. Reg. § 1.468B-1(j)(2)) 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 prepare and deliver, in a timely and proper manner, the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to be timely made. The Settlement Fund will be subject to the jurisdiction of the Court.
- 4.2. No later than five (5) calendar days after the Qualified Settlement Fund is established, the Settlement Administrator or Class Counsel shall furnish to Defendants and/or Defense Counsel in writing the Qualified Settlement Fund name, IRS W-9 Form, and all necessary instructions for furnishing payment by check.
- 4.3. The “administrator” within the meaning of Treas. Reg. § 1.468B-2(k)(3) 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 4.1 shall be consistent with this Article 4 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 4.4.
- 4.4. 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 Defendants 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 Article 4 (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 Article 4). 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; neither the Released Parties, Defense Counsel, nor Class Counsel are responsible nor shall they have any liability therefor. The Settling Parties agree to cooperate with the Settlement Administrator, Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this Article 4.

- 4.5. Within twenty-one (21) calendar days after receiving the information necessary to furnish payment by check as described in Section 4.2, then Defendants and/or Defendants’ insurer will deposit FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) into the Qualified Settlement Fund as the first installment of the Gross Settlement Amount.
- 4.6. Within fourteen (14) calendar days after the Settlement Effective Date, Defendants and/or Defendants’ insurer shall deposit the remainder of the Gross Settlement Amount into the Qualified Settlement Fund.
- 4.7. The Settlement Administrator shall, at the written direction of Class Counsel, cause the Escrow Agent to 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 shall cause the Escrow Agent to reinvest the proceeds of these investments as they mature in similar instruments at their then-current market rates.
- 4.8. The Settlement Administrator shall not disburse the Gross Settlement Amount or any portion thereof 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. 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.

- 4.9. The Settlement Administrator shall be responsible for making provisions for the payment from the Qualified Settlement Fund of all taxes and tax expenses, if any, owed with respect to the Qualified Settlement Fund, and for all tax reporting, remittance, and/or withholding obligations, if any, for amounts distributed from it. The Released Parties, Defense Counsel, and/or Class Counsel have no responsibility or any liability for any taxes or tax expenses owed by, or any tax reporting or withholding obligations, if any, of the Qualified Settlement Fund.

## **5. PAYMENTS FROM THE QUALIFIED SETTLEMENT FUND**

- 5.1. Disbursements from Qualified Settlement Fund prior to Settlement Effective Date. Class Counsel has retained the Settlement Administrator to assist with Class Notice and administration of the Settlement, subject to the agreement of Defendants, which agreement shall not unreasonably be withheld. Any costs, expenses, or fees incurred in connection with the administration of this Settlement shall be paid out of the Qualified Settlement Fund. Class Counsel, Defendants, the Released Parties, and Defense Counsel are not responsible for the Settlement Administrator's work, nor may they be held liable for any act or omission by the Settlement Administrator. Class Counsel, subject to the approval of Defendants, which approval shall not be unreasonably withheld, shall direct the Escrow Agent to disburse money from the Qualified Settlement Fund as follows:

- 5.1.1. For fees and expenses to the Plan's Recordkeeper for providing the Class List and Class Member quarterly reports to be used for Plan Allocation, in an amount not to exceed \$1,500.
- 5.1.2. For taxes and expenses of the Qualified Settlement Fund as provided in Section 4.4.
- 5.1.3. For fees and expenses of the Independent Fiduciary up to a cap of \$25,000. The Escrow Agent shall be directed to disburse money from the Qualified Settlement Fund to pay the reasonable fees and expenses of the Independent Fiduciary (which shall include any Attorneys' Fees of the Independent Fiduciary, subject to the cap of \$25,000) retained pursuant to Article 2.1. To the extent Defendants and/or their insurer pay any costs, fees or expenses to the Independent Fiduciary before proceeds from the Qualified Settlement Fund are available for distribution, the Escrow Agent shall be directed to reimburse Defendants and/or their insurer for such amounts.

- 5.2. Disbursements from Qualified Settlement Fund After Settlement Effective Date. No later than five (5) days following the payment of the second installment of the Gross Settlement Amount as set forth in Section 4.6, Class Counsel shall direct the Escrow Agent to disburse money from the Qualified Settlement Fund as follows:
- 5.2.1. For Attorneys' Fees and Costs, as approved by the Court.
  - 5.2.2. For Class Representatives' Case Contribution Awards, as approved by the Court.
  - 5.2.3. For costs and expenses of the Settlement Administrator in distributing the notice, implementing the Plan of Allocation and otherwise administering the Settlement, in an amount estimated at \$97,550.
- 5.3. Implementation of the Plan of Allocation. Not later than ten (10) days after the amounts payable pursuant to 5.2 have been disbursed, Class Counsel shall direct the Escrow Agent to disburse the Net Settlement Amount as provided by this Settlement Agreement and the Plan of Allocation. Class Counsel shall propose to the Court a Plan of Allocation, in substantial conformity to the one attached hereto as Exhibit B, which shall provide for the calculation, allocation, and distribution of the Net Settlement Amount. The Settlement Administrator shall be exclusively responsible and liable for calculating the amounts payable to the Class Members pursuant to the Plan of Allocation.
- 5.4. The Settlement Administrator shall promptly notify Class Counsel as to the date(s) and amounts(s) of said allocation(s) made to Class Members who are Current Participants. The Plan Administrator shall allocate to the Plan accounts of Class Members who are Current Participants any Net Settlement Amount as calculated by the Settlement Administrator according to the Plan of Allocation. For Former Participants, their distributions will be made by checks written to each Former Participant from the Settlement Administrator and reported on a 1099-miscellaneous form. No federal or state taxes will be withheld and the distribution will not be eligible for rollover. No Former Participant whose entitlement to payment pursuant to the Plan of Allocation would be otherwise less than five dollars (\$5) shall receive any payment. The Settlement Administrator shall be responsible for sending checks constituting their share of the Net Settlement Amount allocated to the Former Participants as provided by the Plan of Allocation, as well as complying with all tax laws, rules, and regulations with respect to Former Participants. Class Counsel, Defendants, the Released Parties, and Defense Counsel shall have no liability related to the structure or taxability of such payments or with respect to tax reporting or withholding. The Settlement Administrator hereby agrees to hold the Class Counsel, Defense Counsel and Defendants harmless from any such liability, including without limitation costs

and attorney fees. Nothing herein shall constitute approval or disapproval of the Plan of Allocation by Defendants, Defense Counsel or Class Counsel, and Defendants, Defense Counsel and Class Counsel shall have no responsibility or liability for the Plan of Allocation and shall take no position for or against the Plan of Allocation.

- 5.5. Final List of Class Members. Prior to the disbursement of the Net Settlement Amount to the Plan, and 10 calendar days after the deposit of the remainder of the Gross Settlement Amount pursuant to Section 4.6, the Settlement Administrator shall provide to Defense Counsel and Class Counsel a final list of Class Members, in electronic format, to whom the Net Settlement Amount will be distributed and the amounts to be distributed to each person in accordance with the Plan of Allocation. Such list shall be final.
- 5.6. After the distribution of the Net Settlement Amount, amounts allocable to Class Members who cannot be located or otherwise cannot receive their Settlement payment or did not cash their checks after 180 calendar days shall be transmitted by the Settlement Administrator to a cy pres, the Pension Rights Center. The voidance of checks shall have no effect on the Class Members' release of claims, obligations, representations, or warranties as provided herein, which shall remain in full effect.
- 5.7. No sooner than three hundred ninety-five (395) calendar days following the Settlement Effective Date, any Net Settlement Amount remaining in the Qualified Settlement Fund shall be paid to the designated cy pres, Pension Rights Center. No signatory to this agreement has any conflict of interest or affiliation with the Pension Rights Center.

## **6. ARTICLE 6 – ATTORNEYS' FEES AND EXPENSES**

- 6.1. Application for Attorneys' Fees and Expenses and Class Representatives' Case Contribution Awards. Class Counsel intends to seek to recover their Attorneys' Fees not to exceed 33.3% of the Gross Settlement Amount, and litigation costs and expenses advanced and carried by Class Counsel for the duration of the Class Action, which shall be recovered from the Gross Settlement Amount.
- 6.2. Class Counsel will file a motion for an award of Attorneys' Fees and Costs no later than forty-five (45) calendar days before the date of the Final Fairness Hearing specified in the Preliminary Approval Order.
- 6.3. 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 Representatives' Case Contribution Awards and/or modifies any of



the proposed orders relating to Attorneys' Fees and Costs and/or Class Representatives' Case Contribution Awards.

- 6.4. Defendants will take no position with respect to Class Counsel's Application for Attorney's Fees and Expenses and Case Contribution Awards so long as consistent with the terms of the Settlement Agreement.

**7. ARTICLE 7 – RELEASE AND COVENANT NOT TO SUE**

- 7.1. As of the Settlement Effective Date, Class Representatives, the Plan (subject to Independent Fiduciary approval as required by Section 2.1), and the Class Members (and their 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 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 to any application by Class Counsel for an award of Attorneys' Fees and Costs, and whether or not the objections or claims for distribution of such Class Members have been approved or allowed.
- 7.2. As of the Settlement Effective Date, the Class Representatives, the Class Members, and the Plan (subject to Independent Fiduciary approval as required by Section 2.1) expressly agree that they, acting individually or together, or in combination with others, 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, related to, or arising out of any of the Released Claims. Nothing herein shall preclude any action to enforce the terms of this Settlement Agreement in accordance with the procedures set forth in this Settlement Agreement.
- 7.3. Class Counsel, the Class Representatives, Class Members, 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, each Class Member and the Plan shall expressly, upon the entry of the Final Approval Order, be deemed to have, and, by operation of the Final Approval



Order, shall have fully, finally, and forever settled, released, relinquished, waived, and discharged any and all Released Claims. The Class Representatives, Class Members and the Plan acknowledge and shall be deemed by operation of the Final Approval Order to have acknowledged 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.

- 7.4. As to the claims released in this Settlement Agreement only, each Class Representative, each Class Member, and the Plan hereby stipulate and agree with respect to any and all Released Claims that, upon entry of the Final Approval Order, the Class Members and Plan shall be conclusively deemed to, and by operation of the Final Approval Order shall settle, release, relinquish, waive, and discharge any and all rights or benefits they may now have, or in the future may have, under any law relating to the releases of unknown claims pertaining specifically 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.

- 7.5. Also, the Class Representatives, 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, that the Class Members and the Plan shall be conclusively deemed to, and by operation of the Final Approval Order shall waive 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.
- 7.6. Dismissal With Prejudice. The Class Action and all Released Claims shall be dismissed with prejudice.
- 7.7. No Impact on Prior Releases. The Released Claims in the Class Action shall not invalidate or impair any prior release of claims by any Class Members against any of the Released Parties.

## **8. ARTICLE 8 – COVENANTS**

The Settling Parties covenant and agree as follows:

- 8.1. Taxation. The Class Representatives and Class Members acknowledge that the Released Parties have no responsibility for any taxes due on funds deposited in or

distributed from the Qualified Settlement Fund or that the Class Representatives or Class Counsel receive from the Gross Settlement Amount. The Class Representatives 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 Qualified Settlement Fund. Nothing herein shall constitute an admission or representation that any such taxes will or will not be due.

8.2. Cooperation. Defendants 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.

8.2.1. Defendants or Defense Counsel shall work with the Recordkeeper to provide to the Settlement Administrator and/or Class Counsel the Class Member List for purposes of effecting the administration of the Plan of Allocation.

8.2.2. Neither Class Representatives, Class Counsel, Defendants, or Defense Counsel will be responsible or liable in any way for ensuring the completeness or accuracy of the information provided by the Recordkeeper pursuant to this section.

8.2.3. The Settlement Administrator shall use the information provided by Defendants, Defense Counsel, and/or the Recordkeeper pursuant to Section 8.2.1 to compile a preliminary list of Class Members for purposes of sending the Class Notice and calculating payments pursuant to the Plan of Allocation.

8.2.4. Class Counsel and their agents will use any information provided by Defendants, Defense Counsel, and/or the Recordkeeper solely and for no other purpose than providing notice and administering this Settlement and will take all reasonable and necessary steps as required by law to maintain the security and confidentiality of this information.

8.3. The Settling Parties shall reasonably cooperate with each other to effectuate this Settlement, including with respect to the Plan of Allocation, and shall not do anything or take any position inconsistent with obtaining a prompt Final Approval Order approving the Settlement unless expressly permitted by this Settlement Agreement. The Settling Parties shall suspend any and all efforts to prosecute and to defend the Class Action pending entry of the Final Approval Order or, if earlier, termination of the Settlement Agreement.

## **9. ARTICLE 9 – REPRESENTATION AND WARRANTIES**

9.1. Settling Parties’ Representations and Warranties. The Settling Parties, and each of them, represent and warrant as follows, and each Settling Party acknowledges that each other Settling Party is relying on these representations and warranties in entering into this Settlement Agreement:

9.1.1. That they have diligently prepared the case pursuant to the Court’s orders; that they are voluntarily entering into this Settlement Agreement as a result of arm’s-length negotiations under the auspices of the Mediator; 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, concerning the nature, extent, and duration of their rights and claims hereunder and regarding all matters which relate in any way to the subject matter hereof; and that, except as provided herein, they have not been influenced to any extent whatsoever in executing this Settlement Agreement by any representations, statements, or omissions pertaining to any of the foregoing matters by any Settling Party or by any Person representing any Settling Party to this Settlement Agreement. Each Settling Party assumes the risk of mistake as to facts or law. Each Settling Party further recognizes that additional evidence may come to light, but that they nevertheless desire to avoid the expense and uncertainty of litigation by entering into the Settlement.

9.1.2. That they have carefully read the contents of this Settlement Agreement, and this Settlement Agreement is signed freely by each Person executing this Settlement Agreement on behalf of each of the Settling Parties. The Settling Parties, and each of them, further represent and warrant to each other that he, she, they, or it has made such investigation of the facts pertaining to the Settlement, this Settlement Agreement, and all of the matters pertaining thereto, as he, she, they, or it deems necessary.

9.2. Signatories’ Representations and Warranties. Each Person executing this Settlement Agreement on behalf of any other Person does hereby personally represent and warrant to the other Settling Parties that he, she, they, or it has the authority to execute this Settlement Agreement on behalf of, and fully bind, each principal whom such individual represents or purports to represent.

## **10. ARTICLE 10 – NO ADMISSION OF LIABILITY**

10.1. The Settling 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 any Defendants, or give rise to any inference of wrongdoing or admission of wrongdoing or liability in this or any other proceeding.

- 10.2. This Settlement Agreement and the payments made hereunder are made in compromise of disputed claims and are not admissions of any liability of any kind, whether legal or factual. Defendants specifically deny any such liability or wrongdoing and state that they are entering into this Settlement Agreement to eliminate the burden and expense of further litigation. Further, the Class Representatives, while believing that the claims brought in the Class Action have merit, have concluded that the terms of this Settlement Agreement are fair, reasonable, and adequate to the Plan, themselves, and members of the Settlement Class given, among other things, the inherent risks, difficulties, and delays in complex ERISA litigation such as this Class Action. Neither the fact nor the terms of this Settlement Agreement shall be used, offered, or received in evidence in any action or proceeding for any purpose, except in an action or proceeding to enforce this Settlement Agreement or arising out of or relating to the Final Approval Order.

## **11. ARTICLE 11 – CONDITIONS TO FINALITY OF SETTLEMENT**

This Settlement shall be contingent upon each of the following conditions in this Article 11 being satisfied. The Settling Parties agree that if any of these conditions is not satisfied, then this Settlement Agreement is terminated and the Class Action will, for all purposes with respect to the Settling Parties, revert to its status as of the Settlement Agreement Execution Date.

- 11.1. Court Approval and Class Certification for Settlement Purposes. The Settlement shall have been approved by the Court, the Court shall have entered the Final Approval Order and the Settlement Effective Date shall have occurred.
- 11.2. Finality of Settlement. The Settlement shall have become Final.
- 11.3. Resolution of CAFA Objections (If Any). In the event that any of the government officials who received a CAFA Notice objects to and requests modification(s) to the Settlement, Class Representatives and Class Counsel agree to cooperate and work with Defendants and Defense Counsel to overcome such objection(s) and requested modification(s). In the event such objection(s) or requested modification(s) are not overcome, Defendants shall have the right to terminate the Settlement Agreement pursuant to Article 12.
- 11.4. Before the Settlement becomes Final, the United States Department of Labor does not file an objection to the Agreement or Settlement in any court, nor does it bring

a claim against any Released Party relating to the Released Claims, nor does it notify any Releasee that it intends to file such a Claim.

- 11.5. Settlement Authorized by Independent Fiduciary. At least fourteen (14) calendar days before the Final Fairness Hearing, the Independent Fiduciary, if it determines that it is appropriate, shall have approved and authorized in writing the Settlement and given a release to all of the Released Parties in its capacity as fiduciary of the Plan for and on behalf of the Plan in accordance with PTE 2003-39. If the Independent Fiduciary disapproves or otherwise does not authorize the Settlement or refuses to execute the release on behalf of the Plan, then the Settling Parties may mutually agree to modify the terms of this Settlement Agreement as necessary to facilitate an approval by the Independent Fiduciary and/or the Independent Fiduciary's release on behalf of the Plan. Otherwise, Defendants shall have the option to waive this condition, in which case such option is to be exercised in writing within ten (10) calendar days after the Settling Parties' receipt of the Independent Fiduciary's written determination, unless otherwise agreed by the Settling Parties.

**12. ARTICLE 12 – TERMINATION, CONDITIONS OF SETTLEMENT, AND EFFECT OF DISAPPROVAL, CANCELLATION, OR TERMINATION**

- 12.1. The Settlement Agreement shall automatically terminate, and thereby become null and void with no further force or effect if:
- 12.1.1. Under Section 2.1, (a) either the Independent Fiduciary does not approve the Settlement Agreement or disapproves the Settlement Agreement for any reason whatsoever, or Defendants reasonably conclude that the Independent Fiduciary's approval does not include the determinations required by the PTE 2003-39; and (b) the Settling Parties do not mutually agree to modify the terms of this Settlement Agreement to facilitate an approval by the Independent Fiduciary or the Independent Fiduciary's determinations required by PTE 2003-39; and (c) Defendants do not exercise their option to waive this condition;
  - 12.1.2. The Preliminary Approval Order or the Final Approval Order is not entered by the Court in substantially the form submitted by the Settling Parties or in a form which is otherwise agreed to by the Settling Parties;
  - 12.1.3. This Settlement Agreement is disapproved by the Court or fails to become effective, and the Settling Parties do not mutually agree to modify the Settlement Agreement in order to obtain the Court's approval or otherwise effectuate the Settlement; or

12.1.4. The Preliminary Order or Final Approval Order is finally reversed on appeal, or is modified on appeal, and the Settling Parties do not mutually agree to any such modifications.

- 12.2. If the Settlement Agreement is terminated, deemed null and void, or has no further force or effect, the Class Action and the Released Claims asserted by the Class Representatives shall for all purposes with respect to the Settling Parties revert to their status as though the Settling Parties never executed the Settlement Agreement. All funds deposited in the Qualified Settlement Fund, and any interest earned thereon, shall be returned to Defendants and/or their insurer within seven (7) calendar days after the Settlement Agreement is finally terminated or deemed null and void.
- 12.3. 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 Representatives' Case Contribution Awards and/or modifies any of the proposed orders relating to Attorneys' Fees and Costs and/or Class Representatives' Case Contribution Awards.

**13. ARTICLE 13 – CONFIDENTIALITY OF THE SETTLEMENT  
NEGOTIATIONS AND PERMITTED SETTLEMENT-RELATED  
COMMUNICATIONS**

- 13.1. Except as set forth explicitly below, the Settling 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 Settling Parties' tax, legal, and regulatory advisors, provided in each case that they comply with this Article 13 in all other respects.
- 13.2. The Settlement Administrator, at the direction of Class Counsel, will establish a Settlement Website on which it will post the following documents or links to the following documents following the date of the Preliminary Approval Order: the Third Amended Complaint, Settlement Agreement and its Exhibits, Settlement Notice, Plaintiffs' Motion for Attorneys' Fees and Costs and Class Representative Case Contribution Awards, any Court orders related to the Settlement including the date and location of the Fairness Hearing, any amendments or revisions to these documents, and any other documents or information mutually agreed upon by the Settlement Parties. It shall also set up a toll free number. The website and toll-free number shall be active the date the notice is mailed.
- 13.3. Except as permitted herein, the Settling Parties agree that neither they nor their agents, representatives, or counsel will publicize, announce, post, or disseminate



the terms of the Settlement, settlement negotiations, or the fact of its occurrence. This includes, but is not limited to, an agreement not to issue a press release, post on social media, or provide information to the press regarding the settlement. Nothing herein shall be construed as limiting the Settling Parties' ability to take actions necessary to effectuate the settlement and facilitate payments to Class Members, including filing documents with the Court; drafting a mutually-agreeable, short, factual, and nonargumentative statement for the Settlement Administrator's website; and posting a mutually-agreeable, short, factual, and nonargumentative statement on Class Counsel's websites indicating that the case has settled, the amount of the Settlement, and a link to the Settlement Administrator's website.

- 13.4. Defendants, Class Representatives, 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.

#### **14. ARTICLE 14 – GENERAL PROVISIONS**

- 14.1. The Settling Parties agree to cooperate fully with each other in seeking Court approvals of the Preliminary Approval Order and the Final Approval Order, and to undertake all tasks as may reasonably be required to effectuate preliminary and final approval and the implementation of this Settlement Agreement according to its terms. The Settling Parties agree to provide each other with copies of any filings necessary to effectuate this Settlement reasonably in advance of filing.
- 14.2. Neither the Settling Parties, 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 Plan of Allocation as approved by the Court; (e) the determination, administration, calculation, or payment of any claims asserted against the Qualified Settlement Fund; (f) any losses suffered by, or fluctuations in the value of, the Qualified Settlement Fund; or (g) 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. Further, neither Defendants nor Defense Counsel shall have any responsibility for or liability whatsoever with respect to any act, omission, or determination of Class



Counsel in connection with the administration of the Gross Settlement Amount, or otherwise.

- 14.3. The Settling Parties acknowledge that any payments to Class Members or their attorneys may be subject to applicable tax laws. Defendants, Defense Counsel, Class Counsel, and Class Representatives 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. 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. 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.
- 14.4. Each Class Member who receives a payment under this Settlement Agreement shall be fully and ultimately responsible for payment of any and all federal, state, or local taxes resulting from or attributable to the payment received by such person, if any. Each such Class Member shall hold the Released Parties, Defense Counsel, Class 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 the Released Parties, Defense Counsel, Class 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.
- 14.5. Enforcement. Only Class Counsel may seek enforcement of this Settlement Agreement on behalf of Class Representatives and Class Members. Any individual concerned about Defendants' 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 to this Agreement, or to refrain from taking any action, in response to such request. 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.
- 14.6. Choice of Law.
  - 14.6.1. 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, California law.
  - 14.6.2. The Settling Parties agree that the Court has personal jurisdiction over the Settlement Class and Defendants and shall maintain personal and subject-

matter jurisdiction for purposes of resolving any disputes between the Settling Parties concerning compliance with this Settlement Agreement. Any motion or action to enforce this Settlement Agreement—including by way of injunction—shall be filed in the U.S. District Court for the Central District of California or asserted by way of an affirmative defense or counterclaim in response to any action asserting a violation of the Settlement Agreement.

- 14.7. Attorney Consultation. 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.
- 14.8. Modification. Before entry of the Preliminary Approval Order and approval of the Independent Fiduciary, this Settlement Agreement may be modified or amended only by written agreement signed by or on behalf of all Settling Parties. Following approval by the Independent Fiduciary, this Settlement Agreement may be modified or amended only if such modification or amendment is set forth in a written agreement signed by or on behalf of all Settling Parties and only if the Independent Fiduciary approves such modification or amendment in writing. Following entry of the Preliminary Approval Order, this Settlement Agreement may be modified or amended only by written agreement signed on behalf of all Settling Parties, and only if the modification or amendment is approved by the Independent Fiduciary in writing and approved by the Court.
- 14.9. Waiver. The provisions of this Settlement Agreement may be waived only by an instrument in 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.
- 14.10. Incorporation of Exhibits. All of 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 and Fairness Hearing; Exhibit B – Plan of Allocation; Exhibit C – Preliminary Approval Order.
- 14.11. Principles of Interpretation. The following principles of interpretation apply to this Settlement Agreement:
- 14.11.1. Headings. 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 Articles or Sections they caption.

- 14.11.2. Singular and Plural. Definitions apply to the singular and plural forms of each term defined.
- 14.11.3. Gender. Definitions apply to the masculine, feminine, non-binary, and neuter genders of each term defined.
- 14.11.4. References to a Person. References to a Person are also to the Person's permitted successors and assigns, except as otherwise provided herein.
- 14.11.5. Construction. No provision of the Settlement Agreement or of the exhibits attached hereto shall be construed against or interpreted to the advantage of or disadvantage of any party to the Settlement Agreement because that party is deemed to have prepared, structured, drafted, or requested the provision.
- 14.11.6. Terms of Inclusion. 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."
- 14.12. Severability. The provisions of this Settlement Agreement are not severable.
- 14.13. Successors and Assigns. This Settlement Agreement shall be binding upon, and insure to the benefit of, the successors and assigns of the Parties.
- 14.14. Survival. All of 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.
- 14.15. 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 e-mail:

**IF TO CLASS REPRESENTATIVES:**

Christina A. Humphrey (SBN 226326)  
**CHRISTINA HUMPHREY LAW, P.C.**

**IF TO DEFENDANTS:**

C. Beatrice Nunez-Bellamy (SBN 310776)  
Lindsay Samuel (SBN 320075)

1117 State Street  
Santa Barbara, CA 93101  
[christina@chumphreylaw.com](mailto:christina@chumphreylaw.com)  
Telephone: (805) 618-2924

Marcus J. Bradley (SBN 174156)  
Kiley L. Grombacher (SBN 245960)  
**BRADLEY/GROMBACHER, LLP**  
31365 Oak Crest Dr. Suite 240  
Westlake Village, CA 91361  
[mbradley@bradleygrombacher.com](mailto:mbradley@bradleygrombacher.com)  
[kgrombacher@bradleygrombacher.com](mailto:kgrombacher@bradleygrombacher.com)  
Telephone: (805) 270-7100

**DAVIS WRIGHT TREMAINE LLP**

865 South Figueroa Street, 24th Floor  
Los Angeles, CA 90017

[beatricenunezbellamy@dwt.com](mailto:beatricenunezbellamy@dwt.com)

[lindsaysamuel@dwt.com](mailto:lindsaysamuel@dwt.com)

Telephone: (213) 633-6800

Richard J. Birmingham (WA 08685)(*pro hac vice*)

**DAVIS WRIGHT TREMAINE LLP**

920 Fifth Avenue, Suite 3300

Seattle, WA 98104

[richbirmingham@dwt.com](mailto:richbirmingham@dwt.com)

Telephone: (206) 622-3150

Christine Hawkins (WA 44972) (*pro hac vice*)

**DAVIS WRIGHT TREMAINE LLP**

929 108th Avenue NE, Suite 1500

Bellevue, WA 98004

[christinehawkins@dwt.com](mailto:christinehawkins@dwt.com)

Telephone: (425) 646-6100

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

14.16. Entire Agreement. This Settlement Agreement and the exhibits attached hereto constitute the entire agreement among the Settling 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. It specifically supersedes any settlement terms or settlement agreements relating to the Defendants that were previously agreed upon orally or in writing by any of the Settling Parties.

14.17. Counterparts. The Settlement Agreement may be executed by exchange of executed signature pages, and any signature transmitted by facsimile, DocuSign or similar electronic signature service, or e-mail attachment of scanned signature pages for the purpose of executing this Settlement Agreement shall be deemed an original signature for purposes of this Settlement Agreement. The Settlement Agreement may be executed in any number of counterparts, and each of such

counterparts shall for all purposes be deemed an original, and all such counterparts shall together constitute the same instrument.


- 14.18. Destruction/Return of Confidential Information. The Settling Parties agree that the preliminary and final lists of Class Members are deemed Confidential, and that the Settling Parties shall have the right to continue to designate documents provided to any party in connection with this Settlement Agreement as Confidential. The Settling Parties agree to delete, destroy, or return all copies of documents produced in discovery or otherwise exchanged among the Settling Parties in the court of this Class Action that were designated Confidential under the Settling Parties' confidentiality agreement.

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

[SIGNATURES FOLLOW ON FOLLOWING PAGES]

## CLASS REPRESENTATIVES

DATED: 03/31, 2025

DocuSigned by:  
  
55E69022E130457...  
Rosa Arevalo,  
Class Representative

DATED: 03/28/\_\_\_\_\_, 2025

Signed by:



2B776C0210AA4B3...

Michelle Cornejo,  
Class Representative



DATED: March 31, 2025

Signed by:



Theresa Phuong T Mai,  
Class Representative

**CEDARS-SINAI MEDICAL  
CENTER, on behalf of itself; The  
Board of Directors Pension Investment  
Committee; The Defined Contribution  
Retirement Plan Committee; Andy  
Ortiz; Debra Lee; Eric Holoman;  
Joshua Lobel; Leslie Vermut; Richard  
Sinaiko; Steven Romick; Mark  
Rapaport, James Nathan, David  
Wrigley, Jeff Smith, David Marshall,  
Pasy Wang, and Bryan Croft:**

DATED: 3/31/2025, 2025

DocuSigned by:  
  
A584E83B7167436...

**AS TO FORM ONLY:**

**DEFENDANTS' COUNSEL:**

DATED: 3/31/2025, 2025

Signed by:

\_\_\_\_\_

C. Beatrice Nunez-Bellamy

Lindsay Samuel

Richard J. Birmingham

Christine Hawkins

**DAVIS WRIGHT TREMAINE LLP**

865 South Figueroa Street, 24th Floor

Los Angeles, CA 90017

[beatricenunezbellamy@dwt.com](mailto:beatricenunezbellamy@dwt.com)

[lindsaysamuel@dwt.com](mailto:lindsaysamuel@dwt.com)

**DEFENDANTS' COUNSEL:**

DATED: 3/31/2025, 2025

DocuSigned by:

Birmingham, Rich J.

Richard J. Birmingham

**DAVIS WRIGHT TREMAINE LLP**

920 Fifth Avenue, Suite 3300

Seattle, WA 98104

[richbirmingham@dwt.com](mailto:richbirmingham@dwt.com)

**DEFENDANTS' COUNSEL:**

DATED: 4/1/2025, 2025

Signed by:

*Christine Hawkins*

1588780997A8449...

Christine Hawkins

**DAVIS WRIGHT TREMAINE LLP**

929 108th Avenue NE, Suite 1500

Bellevue, WA 98004

[christinehawkins@dwt.com](mailto:christinehawkins@dwt.com)