

Exhibit 1

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HARVEY MILLER and TODD
K. LAMUNYON, individually,
and as Representatives of a Class
of Participants and Beneficiaries
of the Packaging Corporation of
America Retirement Savings
Plan For Salaried Employees,

Plaintiffs,

Case No: 1:22-cv-00271

v.

Judge Hala Y. Jarbou

PACKAGING CORPORATION OF
AMERCIA, INC.,

Magistrate Judge Ray Kent

and

THE BOARD OF DIRECTORS OF
PACKAGING CORPORATION OF
AMERCIA, INC., MARK W.
KOWLZAN, CHERYL K. BEEBE,
DUANE FARRINGTON, DONNA A.
HARMAN, ROBERT C. LYONS,
THOMAS P. MAURER, SAMUEL M.
MENCOFF, ROGER B. PORTER,
THOMAS A. SOULELES, AND
PAUL T. STECKO

and

INVESTMENT COMMITTEE OF THE
PACKAGING CORPORATION OF
AMERCIA, INC., MICHELLE WOJDYLA,
ROBERT P. MUNDY, AND PAMELA A.
BARNES

Defendants.

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the “Agreement”) is entered into as of September 13, 2023, by and among Plaintiffs Harvey Miller and Todd K. Lamunyon (“Plaintiffs”), on their own behalf and, subject to court approval, on behalf of the proposed Class (defined below) and the Defendants, Packaging Corporation of America (“PCA”), the Board of Directors of the Packaging Corporation of America (“Board Defendants”), including individual Directors, Mark W. Kowlzan, Cheryl K. Beebe, Duane Farrington, Donna A. Harman, Robert C. Lyons, Thomas P. Maurer, Samuel M. Mencoff, Roger B. Porter, Thomas A. Souleles, and Paul T. Stecko, and the Investment Committee of the Packaging Corporation of America, including individual members Michelle Wojdyla, Robert P. Mundy, and Pamela A. Barnes (“Committee Defendants”) (collectively, “Defendants” and together with Plaintiff, the “Parties”), on the other, in consideration of the promises, covenants, and agreements herein described, and for other good and valuable consideration acknowledged by each of them to be satisfactory and adequate.

The capitalized terms used in this Agreement are defined in Part I, below.

RECITALS

WHEREAS, on March 23, 2022, Plaintiff Miller filed the Action against Defendants in the United States District Court for the Western District of Michigan, asserting certain claims for breach of fiduciary duty and other alleged violations under the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. § 1001 *et. seq.*, on behalf of the Plan and a proposed class of similarly situated participants and beneficiaries of the Plan;

WHEREAS, on June 17, 2022, Plaintiff Miller filed an Amended Complaint;

WHEREAS, on August 19, 2022, Defendants moved to dismiss Plaintiff’s Amended Complaint;

WHEREAS, on March 30, 2023, the Court entered an order granting in part and denying in part Defendants' motion to dismiss Plaintiffs Amended Complaint;

WHEREAS, on May 17, 2023, Plaintiffs filed a Second Amended Complaint;

WHEREAS, on June 14, 2023, Defendants filed a motion to dismiss Plaintiffs' Second Amended Complaint;

WHEREAS, on June 28, 2023, Plaintiffs filed a motion to certify the class;

WHEREAS, on July 7, 2023, the Parties participated in a videoconference facilitative mediation session with Bob Meyer of JAMS, a highly qualified, neutral mediator;

WHEREAS, the mediation session enabled the Parties to candidly exchange positions and supporting information concerning the claims and defenses in the Action and alleged losses to the Plan;

WHEREAS, the Parties, with the assistance of the Mediator, reached agreement in principle to resolve the Action on the afternoon of July 7, 2023;

WHEREAS, the Parties signed an Agreed Terms of Settlement on August 24, 2023;

WHEREAS, Defendants have vigorously denied, and continue to vigorously deny, any wrongdoing and any liability arising from the factual allegations and Claims set forth in Plaintiffs' Second Amended Complaint;

WHEREAS, the Parties have decided to enter into this Agreement because it provides substantial and meaningful benefits to the members of the Class and the Plan, and to avoid the substantial costs, uncertainties, and risks of continued litigation;

WHEREAS, entry into this Agreement is not an admission of liability by any of the Defendants, which Defendants continue to deny;

NOW, THEREFORE, it is agreed by, between, and among the undersigned that the Action shall be settled and dismissed with prejudice on the terms and conditions set forth herein, subject to judicial approval.

I. DEFINITIONS

1.1. “Action” shall mean this action, *Harvey Miller et al. v. Packaging Corporation of America, Inc., et al.*, Case No. 1:22-cv-00271 (W.D. Mich.).

1.2. “Active Accounts” means Class Members’ accounts in the Plan that have a positive balance as of the date of the Preliminary Approval Order.

1.3. “Administration Costs” means: (a) the costs and expenses associated with the production, dissemination, and publication of the Notice and Summary Notice; (b) all reasonable costs incurred by the Settlement Administrator in administering and effectuating this Settlement, including the costs of obtaining the Class Members’ contact and account information and distributing the Settlement Amount, which costs are necessitated by performance and implementation of this Agreement and any court orders relating thereto; (c) all reasonable fees charged by the Settlement Administrator; and (d) all fees, expenses, and costs associated with providing notices required by the Class Action Fairness Act of 2005, 28 U.S.C. §§ 1711-1715 (“CAFA”), except for Defendants’ attorneys’ fees.

1.4. “Alternate Payee” means a person, other than a Participant, Former Participant, or Beneficiary, who is entitled to a benefit under the Plan as a result of a valid QDRO, as determined by the Plan Administrator on or before the date of the Preliminary Approval Order, where the QDRO relates to a Participant’s balance in the Plan or a Former Participant’s balance in the Plan.

1.5. “Attorneys’ Fees and Expenses” means any and all attorneys’ fees, costs (including fees and costs charged or incurred by retained experts or consultants), and expenses of Class Counsel

for their past, present, and future work, efforts, and expenditures in connection with the Action and Settlement.

1.6. “Authorized Former Participant” means a Former Participant who has submitted a Former Participant Claim Form by the Claims Deadline set by the Court in the Preliminary Approval Order, and whose Former Participant Claim Form is accepted by the Settlement Administrator and determined by the Settlement Administrator to be complete and satisfactory.

1.7. “Beneficiary” means a person who is entitled to receive a benefit under the Plan, as determined by the Plan Administrator on or before the date of the Preliminary Approval Order, that is derivative of a deceased Participant’s or Former Participant’s interest in the Plan, other than an Alternate Payee. A Beneficiary includes, but is not limited to, a spouse, surviving spouse, domestic partner, child, or other individual or trust designated by the Participant or Former Participant or determined under the terms of the Plan to be entitled to a benefit.

1.8. “Case Contribution Award” has the meaning ascribed to it in Section 7.1.

1.9. “Claims” means the claims asserted in the Action.

1.10. “Class” or “Settlement Class” means all participants and beneficiaries of the Plan, at any time during the Class Period, including any beneficiary of a deceased person who was a participant in the Plan at any time during the Class Period, and any Alternate Payees, in the case of a person subject to a QDRO who was a participant in the Plan at any time during the Class Period. The Defendants are excluded from the Class.

1.11. “Class Period” means at any time on or after March 23, 2016, through the date of judgment.

1.12. “Class Counsel” means Walcheske & Luzi, LLC, and Haney Law Office, P.C.

1.13. “Class Members” means all individuals in the Settlement Class.

1.14. “Court” means the United States District Court for the Western District of Michigan.

1.15. “Class Representatives” means Harvey Miller and Todd K. Lamunyon.

1.16. “Current Participant” means a Class Member who has an Active Account.

1.17. “Defendants” is defined as set forth above.

1.18. “Defendants’ Counsel” means Mayer Brown LLP.

1.19. “Defendant Released Parties” means: (a) each Defendant; (b) each Defendant’s insurers, co-insurers, and reinsurers; (c) each Defendant’s past, present, and future parent corporation(s); (d) each Defendant’s past, present, and future affiliates, subsidiaries, divisions, joint ventures, predecessors, successors, successors-in-interest, and assigns; (e) with respect to (a) through (d) above, the past, present and future members of their respective boards of trustees or boards of directors, agents, directors, trustees, partners, officers, managers, members, employees, independent contractors, representatives, attorneys, administrators, fiduciaries, accountants, auditors, advisors, consultants, personal representatives, spouses, heirs, executors, associates, employee benefit plan fiduciaries (with the exception of the Independent Fiduciary), employee benefit plan administrators, service providers to the Plan, including Plan Recordkeeper (including its owners, officers, and employees), members of their immediate families, consultants, subcontractors, and all persons acting under, by, through, or in concert with any of them; (f) the current and former members of the Investment Committee of the Packaging Corporation of America, Inc.; and (g) the Plan and all of the Plan’s current and former fiduciaries, administrators, plan administrators, trustees, recordkeepers, service providers, consultants, and parties-in-interest.

1.20. “Effective Date” means: (a) if an appeal is taken from such Final Approval Order and Judgment, the date upon which all appeals, including further petitions for review, rehearing, or *certiorari*, and any proceedings resulting therefrom (“Review Proceedings”), have been finally disposed of, or the date upon which the applicable period to initiate all such further petitions or proceedings has expired; or (b) if no appeal or other attempted Review Proceeding is taken from such Final

Approval Order and Judgment, thirty-five (35) days after entry of the Final Approval Order and Judgment. It is expressly agreed by the Parties and their counsel that no Party intends this section or any other part of this Agreement to establish or acknowledge that anyone is entitled to or has the right to appeal from the Final Approval Order and Judgment.

1.21. “ERISA” means the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 *et seq.*, as amended.

1.22. “Escrow Agent” means the entity chosen and approved by the Parties to act as escrow agent for any portion of the Settlement Amount deposited in or accruing in the Settlement Fund pursuant to this Agreement.

1.23. “Fee and Expense Application” means the petition to be filed by Class Counsel seeking approval of an award of Attorneys’ Fees and Expenses.

1.24. “Final Approval Hearing” or “Fairness Hearing” means the hearing to be held before the Court, in person or remotely, pursuant to Federal Rule of Civil Procedure 23(e), to determine whether the Agreement should receive final approval by the Court. The Parties will request that the Final Approval Hearing be scheduled for a date no earlier than one hundred and twenty (120) calendar days after the entry of the Preliminary Approval Order.

1.25. “Final Approval Order and Judgment” means a final order entered by the Court after the Final Approval Hearing, substantially the same in all material respects to that attached hereto as **Exhibit A** (subject to the Court’s discretion on awarding Attorneys’ Fees and Expenses and Case Contribution Awards, as stated in Sections 7.1 and 7.2), granting approval of the Settlement and dismissing the Action with prejudice. The Parties may agree to additions or modifications to the form of the Final Approval Order and Judgment as they agree are appropriate at the time that it is submitted to the Court for final approval of the Settlement.

1.26. “Financial Institution” means an institution at which an account is established to hold any portion of the Settlement Fund.

1.27. “Former Participant” means any Class Member who maintained a positive balance in the Plan at any time during the Class Period, but who does not have an Active Account.

1.28. “Independent Fiduciary” means Stephen Caflich of Fiduciary Counselors Inc., who has been selected by the Parties to serve as an independent fiduciary to the Plan with respect to the Agreement as defined in Section 2.6.

1.29. “Independent Fiduciary Fees and Costs” means all fees, costs, and expenses of the Independent Fiduciary. Independent Fiduciary Fees and Costs, which shall be paid by the Settlement Administrator upon the Settlement Administrator’s receipt of an invoice from the Independent Fiduciary, shall be deducted from the Settlement Amount.

1.30. “Net Settlement Amount” means the Settlement Amount minus: (a) all Attorneys’ Fees and Expenses paid to Class Counsel; (b) the Case Contribution Award; (c) all Administration Costs (and any contingency reserve for Administration Costs); and (d) Independent Fiduciary fees.

1.31. “Notice” means the notice, identical in all material respects to that attached hereto as **Exhibit B-1 and Exhibit B-2**, to be provided directly to Class Members pursuant to Section 2.5 and made available on the Settlement Website.

1.32. “Parties” means Plaintiffs and Defendants.

1.33. “Plaintiffs” means Harvey Miller and Todd K. Lamunyon, individually and as a representative of the Class and the Plan.

1.34. “Plan” shall mean the Packaging Corporation of America Retirement Savings Plan for Salaried Employees, and each of its predecessor plans and successor plans, individually and collectively, and any trust created under such plans.

1.35. “Plan Administrator” means the Investment Committee of the Packaging Corporation of America, Inc. (“Committee”) and its designee(s).

1.36. “Plan of Allocation” means the framework for allocating the Settlement Fund that is approved by the Court, which shall be substantially the same in all material respects to the form attached to the Motion for Final Approval of the Settlement.

1.37. “Plan Recordkeeper” means Alight Financial Solutions, LLC, the entity that maintains electronic records of the Plan’s participants and their individual accounts.

1.38. “Preliminary Approval Order” means an order entered by the Court preliminarily approving the Settlement, pursuant to Section 2.2, which order is substantially the same in all material respects to that attached hereto as **Exhibit C**.

1.39. “QDRO” means, for the purposes of this Agreement, a valid Qualified Domestic Relations Order as defined in 29 U.S.C. § 1056(d)(3)(K), and as determined by the Plan Administrator on or before the date of the Preliminary Approval Order.

1.40. “Released Claims” means any and all actual or potential claims (including any Unknown Claims), actions, causes of action, demands, rights, obligations, damages, and liabilities (including claims for attorneys’ fees, expenses, or costs), whether arising under federal, state, or local law, whether by statute, contract, tort, equity, or otherwise, whether brought in an individual or representative capacity, whether known or unknown, suspected or unsuspected, for monetary, injunctive, equitable, and any other relief against the Defendant Released Parties and Defendants’ Counsel through the date the Court enters the Final Approval Order and Judgment:

- a. That were asserted in the Action, or that arise out of, relate to, are based on, or have any connection with any of the allegations, acts, omissions, purported conflicts, representations, misrepresentations, facts, events, matters, transactions, occurrences or the

conduct alleged or asserted in the Action or could have been alleged or asserted in the Action, whether or not pleaded in the Amended Complaint; or

b. That arise out of, relate to, are based on, or have any connection with: (1) the selection, monitoring, oversight, retention, fees, expenses, or performance of the Plan's investments, investment options, or service providers, including without limitation, its administrative and/or recordkeeping service providers; (2) the selection, nomination, appointment, retention, monitoring, and removal of the Plan's fiduciaries; (3) fees, costs, or expenses charged to, paid, or reimbursed by the Plan or Plan participants; (4) the services provided to the Plan or the cost of those services; (5) any alleged breach of the duty of loyalty, care, prudence, diversification, or any other fiduciary duties relating to the Plan's investments, investment options, or service providers; and/or (6) any assertions with respect to any fiduciaries or service providers of the Plan (or the selection or monitoring of those fiduciaries) in connection with the foregoing; or

c. That would be barred by *res judicata* based on entry of the Final Approval Order and Judgment; or

d. That relate to the direction to calculate, the calculation of, or the method or manner of allocation of the Settlement Fund in accordance with the Plan of Allocation or to any action taken or not taken by the Settlement Administrator in the course of administering the Settlement; or

e. That relate to the approval by the Independent Fiduciary of the Settlement, except for claims brought against the Independent Fiduciary alone; and

f. "Released Claims" does not include any claims that the Class Representative or the Settlement Class have to the value of their respective vested account balances under the terms of the Plan and according to the Plan's records as of the date the Settlement becomes

Final. The Released Claims shall not include claims to enforce the covenants or obligations set forth in this Agreement.

1.41. "Settlement" means the compromise and resolution embodied in this Agreement.

1.42. "Settlement Administrator" means Analytics Consulting LLC ("Analytics").

1.43. "Settlement Amount" means one million, three hundred-thousand dollars (\$1,300,000.00). The Settlement Amount shall be the full monetary payment made on behalf of Defendants in connection with the Settlement effectuated through this Agreement.

1.44. "Settlement Fund" has the meaning set forth in Section 3.1(b).

1.45. "Settlement Website" has the meaning set forth in Section 2.5.

1.46. "Taxes" has the meaning set forth in Section 3.1(i).

1.47. "Tax-Related Costs" has the meaning ascribed to the term in Section 3.1(i).

1.48. "Unknown Claims" means any Released Claims that Plaintiff or any Class Members do not know or suspect to exist in their favor at the time of the release of the Defendant Released Parties, including claims which, if known by them, might have affected their settlement with the Defendants and release of the Defendant Released Parties, or might have affected their decision not to object to this Settlement. Plaintiff or any Class Member may later discover facts in addition to or different from those which they now know or believe to be true with respect to the subject matter of the Released Claims, but Plaintiff and all Class Members, upon the date of the Court's entry of the Final Approval Order and Judgment, shall be deemed to have, and by operation of the Final Approval Order and Judgment shall have, fully, finally, and forever settled and released all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law, or rule, without regard to

the subsequent discovery or existence of such different or additional facts. Plaintiff and all Class Members shall be deemed by operation of the Final Approval Order and Judgment to have acknowledged that the foregoing waiver was bargained for and is a key element of the Settlement, of which their release and waiver of Unknown Claims is a part.

II. SETTLEMENT APPROVAL

2.1. *Motion for Class Certification.* In conjunction with their Motion for Preliminary Approval, Plaintiffs shall move the Court for certification of the Class for settlement purposes only. Defendants will not object to Plaintiffs' motion for class certification for settlement purposes only, pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(1). If the Court does not issue the Final Approval Order and Judgment, then no Class shall be deemed to have been certified by, or as a result of, this Agreement, Defendants shall not be deemed to have admitted the propriety of certification of the Class under any provision of Federal Rule of Civil Procedure 23, and the Action shall for all purposes revert to its status on July 11, 2023.

2.2. *Motion for Preliminary Approval.* Plaintiffs shall move the Court for preliminary approval of the Settlement, including entry of an order identical in all material respects to the form of the Preliminary Approval Order. Defendants will not object to Plaintiffs' motion for preliminary approval of the Settlement but reserve the right to make a submission related to the motion. 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 or released party," and any similar state, federal or other law, rule or regulation or principle of common law of any domestic governmental entity. The Preliminary Approval order will contain a

clause that preliminarily enjoins the Plan and each Class Member (and their respective heirs, beneficiaries, executors, administrators, estates, past and present partners, officers, directors, agents, attorneys, predecessors, successors, and assigns) from suing the Released Parties in any action or proceeding alleging any of the Released Claims.

2.3. ***Rights of Exclusion.*** Because the Class is being certified under Rule 23(b)(1), Class Members shall not be permitted to exclude themselves from the Class.

2.4. ***Right to Object.*** Class Members shall be permitted to object to the Settlement. Requirements for filing an objection shall be set forth in the Preliminary Approval Order and in the Notice.

2.5. ***Class Notice.***

a. Within forty-five (45) calendar days of the entry of the Preliminary Approval Order or as may be modified by the Court, the Settlement Administrator shall send the Notice by electronic mail (if available) or first-class mail to the Class Members. The Notice shall be sent to the last known electronic mail address or last known mailing address of the Class Members that is reasonably obtainable from the Plan Recordkeeper. The Settlement Administrator shall update mailing addresses through the National Change of Address database before mailing (with all returned mail skip-traced and promptly re-mailed). The Settlement Administrator shall use commercially reasonable efforts to locate any Class Member whose Notice is returned and re-mail such Notice one additional time if an updated location is identified.

b. Eligible Former Participants members in the Class will automatically receive their portion of the Settlement Fund by check.

c. Within forty-five (45) calendar days of the entry of the Preliminary Approval Order and no later than the first date that the e-mailing or the mailing of the Notice occurs,

or as may be extended by the Court on application of the Parties, the Settlement Administrator shall establish a website containing the Notice and this Agreement and its exhibits, the Second Amended Complaint, the motions for preliminary approval and final approval (when filed); the motion for Attorneys' Fees and Expenses and Case Contribution Award (when filed); any approval order or other Court orders related to the Settlement, any amendments or revisions to these documents, and any other documents or information mutually agreed upon by the Parties. The Settlement Website URL web address shall be mutually agreed upon by the Parties. No other information or documents (other than the date, time, and location of the Fairness Hearing and the toll-free number for the call center described in Paragraph 2.5(d) below) will be posted on the Settlement Website unless agreed to in advance by the Parties in writing. The Notice will identify the web address of the Settlement Website. The Settlement Administrator will take down the Settlement Website ninety (90) days after the Effective Date.

d. Within forty-five (45) calendar days of the entry of the Preliminary Approval Order and no later than the first date that the e-mailing or the mailing of the Notice occurs, or as may be extended by the Court on application of the Parties, the Settlement Administrator shall establish a toll-free telephone number to which Class Members can direct questions about the Settlement. The Settlement Administrator shall develop a question-and-answer type script for the use of persons who answer calls to this line.

2.6. *Approval of Settlement by Independent Fiduciary.* The Independent Fiduciary retained by Defendants on behalf of the Plan shall have the following responsibilities on behalf of the Plan:

a. The Independent Fiduciary shall determine whether to approve and authorize the settlement of Released Claims on behalf of the Plan.

b. The Independent Fiduciary shall comply with all relevant conditions set forth in Prohibited Transaction Class Exemption 2003-39, “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, for the purpose of Defendants’ reliance on PTE 2003-39.

c. The Independent Fiduciary shall notify Class Counsel and Defendants’ Counsel of its determination in writing and in accordance with PTE 2003-39, which notification shall be delivered no later than thirty (30) calendar days before the Fairness Hearing.

d. Defendants, Defendants’ Counsel, Plaintiffs, and Class Counsel shall cooperate with the Independent Fiduciary and provide the Independent Fiduciary with sufficient information so that the Independent Fiduciary can review and evaluate the Settlement.

e. Should the Independent Fiduciary fail to approve and authorize the Settlement or fail to give a release on behalf of the Plan, the Agreement shall be terminable, pursuant to Section 8.3.

2.7. No later than ten (10) calendar days after the filing of Plaintiffs’ motion for preliminary approval of the Settlement, the Settlement Administrator will prepare and serve the notice required under the Class Action Fairness Act of 2005, 28 U.S.C. §§ 1711-1715 (“CAFA”) in substantially the form attached as **Exhibit D** hereto (“CAFA Notice”) on the Attorney General of the United States, the Secretary of the Department of Labor, and the attorneys general of all states in which Class Members reside, as specified by 28 U.S.C. § 1715. In the event that the Preliminary Approval Order provides for any modifications to the CAFA Notice, then the Settlement Administrator will prepare and serve supplemental or amended CAFA Notice(s) as appropriate. Pursuant to the Preliminary

Approval Order, the Parties shall file a notice with the Court confirming compliance at least thirty (30) calendar days prior to the Final Approval Hearing.

2.8. *Motion for Final Approval.* Plaintiff shall move the Court for final approval of the Settlement no later than the deadline set by the Court in the Preliminary Approval Order, or as may be extended by the Court. On or after the date set by the Court for the Final Approval Hearing pursuant to Federal Rule of Civil Procedure 23(e)(2), the Court shall determine, among other things: (a) whether to enter the Final Order and Judgment finally approving the Settlement; and (b) what, if any, Case Contribution Award and Attorneys' Fees and Expenses should be awarded to Plaintiffs and Class Counsel, respectively, pursuant to Sections 7.1 and 7.2 of this Agreement.

III. PAYMENT TO THE CLASS

3.1. *The Settlement Amount*

a. In consideration of all of the promises and agreements set forth in this Agreement, Defendants will pay, or cause to be paid, the Settlement Amount as specified in Section 1.44. It is understood and agreed by the Parties that, by paying the Settlement Amount, Defendants do not agree with or in any way admit, and shall not be deemed to agree with or in any way admit, any of Plaintiffs' or Class Counsel's theories regarding Defendants' liability in the Action or any wrongdoing or liability with respect to any of the allegations or claims in the Action, including that any of Defendants' prior or existing actions or practices are in violation of any federal or state laws, statutes, or regulations. Within seven (7) days of the execution of this Agreement, Class Counsel will provide a completed W-9 and wire instructions and an address for the Financial Institution where the Settlement Amount will be paid.

b. Defendants shall pay, or cause to be paid, the Settlement Amount as set forth in Section 1.44 in two segments, and the total funding, in the aggregate, together with any

interest and investment earnings thereon, shall constitute the “Settlement Fund.” First, Defendants shall pay, or cause to be paid, \$100,000 of the Settlement Amount, with that amount to be deposited by wire transfer or check into the account established by the Escrow Agent within thirty (30) calendar days of the entry of the Preliminary Approval Order to fund any Administration Costs that arise before the Court’s entry of the Final Approval Order and Judgment. Second, Defendants shall pay, or cause to be paid, the remaining portion of the Settlement Amount, \$1,200,000, to be deposited by wire transfer or check into the account established by the Escrow Agent within twenty-one (21) calendar days following the Effective Date of the Court’s Final Approval Order and Judgment, subject to the provisions of Section 8.5.

c. The Settlement Amount shall be used solely for the purposes set forth in Section 3.1(j).

d. Subject to Court approval and oversight, the account established by the Escrow Agent will be controlled by the Settlement Administrator. Neither Defendants, Defendants’ Counsel, the Defendant Released Parties, Plaintiffs, or Class Counsel shall have any liability whatsoever for the acts or omissions of the Settlement Administrator. The Settlement Administrator shall not disburse the Settlement Amount or any portion of the Settlement Fund except as provided for in this Agreement, by an order of the Court, or with prior written agreement of Class Counsel and Defendants’ Counsel.

e. The Settlement Administrator is authorized to execute transactions on behalf of Class Members that are consistent with the terms of this Agreement and with orders of the Court.

f. All funds held in the account established by the Escrow Agent shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until the funds are distributed in accordance with this Agreement.

g. The Settlement Administrator shall, to the extent practicable and prudent, invest the Settlement Fund in discrete and identifiable instruments backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof, and shall reinvest the proceeds of these instruments as they mature in similar instruments at their then-current market rates. The Settlement Administrator shall maintain records identifying in detail each instrument in which the Settlement Fund or any portion thereof has been invested and the precise location (including any safe deposit box number) and form of holding of each such instrument. Neither the Settlement Fund nor any portion thereof shall be commingled with any other monies in any instruments. Any cash portion of the Settlement Fund not invested in instruments of the type described in the first sentence of this Section 3.1(g) shall be maintained, and not commingled with any other monies, by the Settlement Administrator in a bank account, which shall promptly be identified to the Parties at any Party's request by bank and account number and any other identifying information. The Settlement Administrator and Class Members shall bear all risks related to investment of the Settlement Fund. All income, gain, or loss earned by the investment of the Settlement Amount shall be credited to the account established by the Escrow Agent.

h. The account established by the Escrow Agent is intended to be a "Qualified Settlement Fund" within the meaning of Treasury Regulation § 1.468B-1. The Settlement Administrator, as administrator of the Qualified Settlement Fund within the meaning of Treasury Regulation §1.468B-2(k)(3), shall be solely responsible for filing tax returns for such account and paying from such account any Taxes owed with respect to the account.

i. All taxes on the income of the account established by the Escrow Agent (“Taxes”) and expenses and costs incurred in connection with the taxation of such account (including expenses of tax attorneys and accountants) (“Tax-Related Costs”) shall be timely paid by the Settlement Administrator out of the account.

j. The Settlement Fund will be used to pay the following amounts associated with the Settlement:

1. Compensation to Class Members determined in accordance with Section 3.2;
2. Any Case Contribution Award approved by the Court;
3. All Attorneys’ Fees and Expenses approved by the Court;
4. Administration Costs;
5. Independent Fiduciary Costs; and
6. Taxes and Tax-Related Costs.

3.2. *Distribution to Class Members.*

a. The Settlement Fund will be distributed to Class Members in accordance with the Plan of Allocation approved by the Court.

b. Notwithstanding anything else in this Agreement, any revisions to the Plan of Allocation may not increase the Settlement Amount or require Defendants or their affiliates to incur additional expenses or costs or to provide data not reasonably available. In no event, and notwithstanding anything else in this Agreement, shall Defendants be required to pay any amounts other than the Settlement Amount. It is understood and agreed that Defendants’ monetary obligations under this Agreement will be fully discharged by paying the amount specified in Section 1.44 above and that Defendants shall have no other monetary obligations,

or obligations to make any other payments under this Agreement or otherwise, unless otherwise required under Section 1.3.

3.2.1 Distributions to Current Participants

a. Current Participants will automatically receive a settlement payment to their accounts in the Plan.

b. Within five (5) Business Days after the Settlement Administrator has completed all payment calculations for all Current Participants, the Settlement Administrator will provide Defendants (or their designee) and the Plan's recordkeeper, in a format and via a delivery method mutually agreed upon by the Settlement Administrator and Defendants (or their designee), with an Excel spreadsheet (or other format acceptable to the Plan's recordkeeper) containing the name, the amount of the settlement payment for each of the Current Participants, and any other information requested by Defendants or the Plan's recordkeeper as necessary to effectuate this provision.

c. Thereafter, upon giving five (5) Business Days' written notice to Defendants (or their designee, *i.e.*, the Plan's recordkeeper), the Settlement Administrator shall effect a transfer from the Settlement Fund to the Plan of the aggregate amount of all settlement payments payable to Current Participants, as reflected in a spreadsheet provided by the Settlement Administrator. The Plan's recordkeeper shall thereafter credit the individual Active Account(s) of each Current Participant in an amount equal to that stated on the spreadsheet provided by the Settlement Administrator in relation to such Current Participant.

d. The settlement payment for each Current Participant will be invested in accordance with and proportionate to such Current Participant's investment elections then on file for new contributions. If the Current Participant does not have an investment election on file, then such Current Participant shall be deemed to have directed such payment to be

invested in the Plans' "Qualified Default Investment Alternative," as defined in 29 C.F.R. § 2550.404c-5.

e. The Plan's recordkeeper shall process all Current Participant transactions within forty-five (45) calendar days of receiving direction, including the completed settlement calculations for Current Participants and the transfer from the Settlement Fund to the Plan of the aggregate amount of all settlement payments payable to Current Participants, from the Settlement Administrator for any Current Participant.

f. The Plan may be amended, to the extent necessary, to reflect the settlement allocation to Current Participants' Active Account(s).

g. If, as of the date when distributions pursuant to this Settlement Agreement are made, a Class Member has an account balance of zero, he or she will be treated as a Former Participant for purposes of the settlement distribution only and will receive his or her payment from the Settlement Administrator in the form of a check as described in Paragraph 3.2.2.

3.2.2 Distributions to Authorized Former Participants

a. Upon completing the calculation of each Class Member's pro-rata share of the Net Settlement Amount and no later than sixty (60) calendar days following the Settlement Effective Date, the Settlement Administrator shall issue a check from the Settlement Fund to each Authorized Former Participant in the amount equaling his or her pro-rata share of the Net Settlement Amount.

b. For each check issued, the Settlement Administrator shall (1) calculate and withhold any applicable taxes associated with the payments allocable to the Authorized Former Participant; (2) report such payments and remit such tax withholdings to the Internal Revenue Service and applicable state and local revenue agents; and (3) issue appropriate tax forms to the Former Participant.

c. Neither Defendants, Defendants' Counsel, Class Counsel, Class Representatives, nor the Released Parties shall have any responsibility for or liability whatsoever with respect to any tax advice given to Current Participants or Authorized Former Participants.

d. Class Members who receive a check from the Settlement Administrator must deposit or cash their checks within one-hundred-and-eighty (180) calendar days of issuance. If they do not do so, the checks will be void, and the Settlement Administrator shall be instructed to return any such funds to the Settlement Fund pursuant to Section 3.4. This limitation shall be printed on the face of each check. Notwithstanding these requirements, the Settlement Administrator shall have the authority to reissue checks to Class Members where it determines there is good cause to do so, provided that doing so will not compromise the Settlement Administrator's ability to implement the Plan of Allocation. 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.

3.3. ***Responsibility for Taxes on Distribution.*** Each Class Member who receives a payment under this 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. Each Class Member shall hold Defendants, Defendants' Counsel, the Defendant Released Parties, Class Counsel, and the Settlement Administrator harmless from (a) any tax liability, including, without limitation, penalties and interest, related in any way to payments or credits under the Agreement, and (b) the costs (including, without limitation, fees, costs and expenses of attorneys, tax advisors, and experts) of any proceedings (including, without limitation, any investigation, response, and/or suit), related to such tax liability.

3.4. ***Treatment of Undistributed Funds and Uncashed Checks.*** Any funds associated with checks that are not cashed within one-hundred-and-eighty (180) calendar days of issuance and any funds that cannot be distributed to Class Members for any other reason, together with any interest earned on them, and any funds remaining after the payment of any applicable Taxes by the Escrow Agent, shall be returned to the Settlement Fund by the Settlement Administrator for payment of Plan expenses. No Settlement Funds shall revert to Defendants if there are undistributed funds and uncashed checks.

3.5. ***Administration Costs.*** The Administration Costs shall be paid from the Settlement Fund. The Settlement Administrator will reserve from the Settlement Fund its estimated Administration Costs. Beginning thirty (30) calendar days after the entry of the Preliminary Approval Order, and thereafter on every thirtieth (30th) calendar day of a month during which Administration Costs are expended, the Settlement Administrator shall provide the Parties with a detailed accounting of any Administration Costs expended to date and an invoice to the Settlement Fund for the amount of such Administration Costs. Any disputes as to whether amounts billed by the Settlement Administrator to the Settlement Fund are reasonable and necessary under this Agreement shall be resolved by the Court.

3.6. ***Independent Fiduciary Costs.*** The Independent Fiduciary Costs shall be paid from the Settlement Fund. The Settlement Administrator will reserve from the Settlement Fund estimated Independent Fiduciary Costs of \$15,000. Within thirty (30) calendar days after the Settlement Administrator receives a final invoice from the Independent Fiduciary, the Settlement Administrator shall provide the Parties with a copy of the invoice. Any disputes as to whether amounts billed by the Independent Fiduciary are reasonable and necessary under this Agreement shall be resolved by the Court.

3.7. *Entire Monetary Obligation.* Notwithstanding anything else in this Agreement, in no event shall Defendants be required to pay any amounts under this Agreement or otherwise, other than the Settlement Amount as specified in Section 1.44.

IV. SETTLEMENT ADMINISTRATION

4.1 Defendants shall use reasonable efforts to cause the Plan Recordkeeper to provide to the Settlement Administrator, within thirty (30) calendar days of the entry of the Preliminary Approval Order, the participant data sufficient to effectuate the Notice. Subject to at least thirty (30) calendar days' written notice from the Settlement Administrator, Defendants shall also use reasonable efforts to cause the current Plan Recordkeeper to provide an updated list of Participants prior to the distribution to identify any such participants who have taken a full distribution from their Plan account and no longer have a Plan account with a positive balance. Defendants shall not otherwise be obligated to assist with effecting Notice, implementation of the Plan of Allocation, or distribution of the Settlement Fund.

4.2 The Settlement Administrator shall administer the Settlement subject to the supervision of Class Counsel, Defendants' Counsel, and the Court, as circumstances may require.

4.3 Neither the Defendants, the Defendant Released Parties, nor Defendants' Counsel shall have any responsibility for or liability whatsoever with respect to (1) any act, omission, or determination of the Settlement Administrator, or any of its respective designees or agents, in connection with the administration of the Settlement Fund or otherwise; (2) the determination of the Independent Fiduciary; (3) the management, investment, or distribution of the Settlement Fund; (4) the Plan of Allocation as approved by the Court; (5) the determination, administration, calculation, or payment of any claims asserted against the Settlement Fund; (6) any losses suffered by, or fluctuations in the value of, the Settlement Fund; or (7) the payment or withholding of any taxes, expenses, and/or costs incurred in connection with the taxation of the Settlement Fund or tax

reporting, or the filing of any returns. Further, neither Defendants nor Defendants' 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 Settlement Amount or otherwise.

4.4 The Settlement Administrator shall provide to Class Counsel and Defendants' Counsel, no less frequently than monthly, a full accounting of all expenditures made in connection with the Settlement, including Administration Costs (as noted in Section 3.5), and any distributions from the Settlement Fund.

4.5 The Settlement Administrator shall provide such information as may be reasonably requested by Plaintiffs or Defendants or their counsel relating to administration of this Agreement.

V. **RELEASES, COVENANTS, AND JUDICIAL FINDINGS**

5.1. *Release of Defendants and the Defendant Released Parties.* Subject to Part VIII of this Agreement, upon and through the date of the Court's entry of the Final Approval Order and Judgment, Plaintiffs and each Class Member (on behalf of themselves and their current and former beneficiaries, heirs, descendants, dependents, marital community, administrators, executors, representatives, predecessors, successors, and assigns), and the Plan (by and through the Independent Fiduciary pursuant to Section 2.6) absolutely and unconditionally release and forever discharge all Defendant Released Parties from any and all Released Claims.

5.2. *Covenant Not to Sue.* Plaintiffs, Class Members (and their respective heirs, beneficiaries, executors, administrators, estates, past and present partners, officers, directors, agents, attorneys, predecessors, successors and assigns), and Class Counsel (on behalf of themselves and any successors-in-interest) shall be deemed to have, and by operation of the Final Approval Order and Judgment shall have, fully, finally, and forever settled, released, relinquished, waived, and discharged, and shall forever be enjoined from prosecution of the Defendant Released Parties from any and all Released Claims, whether or not such Class Members have actually received or read the Notice,

whether or not such Class Members have filed an objection to the Settlement or to any application by Class Counsel for Attorneys' Fees and Expenses, and whether or not the objections or claims for distribution of such Class Members have been approved or allowed. Plaintiffs, all Class Members and the Plan (subject to Independent Fiduciary approval), acting individually or together or in combination with others, shall not sue or seek to institute, maintain, prosecute, argue, or assert in any claim, 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 or other department or commission), any cause of action, demand, or claim adverse to the Defendant Released Parties on the basis of, connected with, or arising out of any of the Released Claims. Nothing herein shall preclude any action to enforce the terms of this Agreement pursuant to the procedures set forth in this Agreement. Should Plaintiff or any Class Member breach the terms of this Section 5.2, Defendants and the Defendant Released Parties may recover any attorney's fees and costs that they may incur to enforce the provisions of this Section 5.2 after Defendants provide notice and a reasonable opportunity to cure to any alleged breaching Plaintiffs or Class Members.

5.3. ***Taxation of Settlement Fund.*** Plaintiffs and Class Members acknowledge that the Defendant Released Parties and Defendants' Counsel have no responsibility for any taxes due on funds deposited in or distributed from the Settlement Fund, or on any funds that Plaintiffs, Class Members, or Class Counsel receive from the Settlement Fund, including through any Case Contribution Award or Attorneys' Fees and Expenses award, as applicable.

5.4. ***Use of Settlement Administrator Information.*** Class Counsel, Defendants' Counsel, and Defendants shall have equal access to information held by the Settlement Administrator given that such information is necessary to administer this Settlement.

5.5. ***Use of Defendants' and Plan Information.*** Class Counsel and their agents, as well as the Settlement Administrator, shall use any information provided by Defendants or the Plan

Recordkeepers pursuant to this Agreement solely for the purpose of providing the Notice and administering this Settlement and for no other purpose, and may be shared only with the foregoing persons. Such information shall be deemed “Confidential” and treated as such as if governed by a stipulated protective order establishing the limitations set forth in this Section 5.5.

VI. REPRESENTATIONS AND WARRANTIES

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

a. Plaintiffs and Class Counsel have diligently investigated the claims in the Action; that they are voluntarily and knowingly entering into this Agreement as a result of arm’s-length negotiations; that in executing this 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 that relate in any way to the subject matter hereof; and that, except as provided in the Agreement, they have not been influenced to any extent whatsoever in executing the Agreement by any representations, statements, or omissions pertaining to any of the foregoing matters by Defendants or Defendants’ Counsel;

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

c. That Plaintiffs have not assigned or otherwise transferred any interest in any Released Claim against any Defendant Released Parties, and they shall not assign or otherwise transfer any interest in any Released Claims; and

d. Plaintiffs, on behalf of themselves, the Plan, the Class and the Class Members, will have no surviving claims or causes of action against any of the Defendant Released Parties for any of the Released Claims, from and after the Effective Date.

e. Each Party assumes the risk of mistake as to facts or law.

6.2. *Signatories' Representations and Warranties.* Each counsel or other person executing this Agreement on behalf of any Party represents and warrants that such person has the authority to do so.

VII. MONETARY PAYMENTS

7.1. *Case Contribution Award.*

a. Plaintiffs intend to seek a Case Contribution Award not to exceed the amount of fifteen thousand dollars (\$15,000), or \$7500 for each Class Representative, subject to Court approval ("Case Contribution Award"). Any Case Contribution Award approved by the Court shall be paid within ten (10) calendar days of the transfer of the remaining portion of the Settlement Amount into the account established by the Escrow Agent. The Case Contribution Award shall be paid by the Settlement Administrator solely out of the Settlement Fund and shall be deducted (to the extent approved by the Court) from the Settlement Fund on or after

the Effective Date and prior to the distribution of any of the Settlement Fund to the Class Members. Class Representatives shall also be entitled to distribution under this Settlement pursuant to Section 3.2 as a Class Member.

b. Notwithstanding any other provision of this Agreement to the contrary, the procedure for and the allowance or disallowance (in whole or in part) by the Court of any application for the Case Contribution Award shall be considered by the Court separately from its consideration of the fairness, reasonableness, and adequacy of the Settlement. Any order or proceedings relating to the Case Contribution Award, or any appeal of any order relating thereto, shall not operate to terminate or cancel this Agreement or be deemed material thereto.

c. Other than the Settlement Amount, Defendants shall have no obligations or liability whatsoever with respect to any Case Contribution Award to Class Representative, which shall be payable solely out of the Settlement Fund.

7.2. *Attorney's Fees and Expenses.*

a. Class Counsel intends to submit a Motion for Attorneys' Fees and Expenses seeking an award of Attorneys' Fees not to exceed one-third of the Settlement Amount, plus reasonable litigation expenses advanced and carried by Class Counsel for the duration of the Action, not to exceed \$50,000. Class Counsel will file such motion no later than the deadline set in the Preliminary Approval Order. Any amount awarded by the Court in response to such motion shall be paid by the Settlement Administrator solely out of the Settlement Fund and shall be deducted (to the extent approved by the Court) from the Settlement Fund and paid to Class Counsel within ten (10) calendar days of the transfer of the remaining portion of the Settlement Amount into the account established by the Escrow Agent.

b. Notwithstanding any other provision of this Agreement to the contrary, the procedure for and the allowance or disallowance (in whole or in part) by the Court of the

Motion for Attorneys' Fees and Expenses to be paid out of the Settlement Fund shall be considered by the Court separately from its consideration of the fairness, reasonableness, and adequacy of the Settlement. Any order or proceedings relating to the award of Attorneys' Fees and Expenses, or any appeal of any order relating thereto, shall not operate to terminate or cancel this Agreement or be deemed material thereto.

c. Other than the Settlement Amount, Defendants shall have no obligations or liability whatsoever with respect to any Attorneys' Fees and Expenses incurred by Class Counsel, which shall be payable solely out of the Settlement Fund.

VIII. CONTINGENCIES, EFFECT OF DISAPPROVAL, OR TERMINATION OF SETTLEMENT

8.1. This Agreement and the Settlement shall terminate and be cancelled if, within ten (10) calendar days after any of the following events, one of the Parties provides all other Parties with written notification of an election to terminate the Settlement, provided that the Parties shall negotiate in good faith to cure any deficiency identified by the Court:

a. The Court declines to maintain certification of the Class as described under Section 2.1;

b. The Court declines to provide preliminary approval of this Agreement, or declines to enter, or materially modifies, the contents of the Preliminary Approval Order, or the Preliminary Approval Order is vacated, reversed, or modified in any material respect on any appeal or other review or in a collateral proceeding occurring prior to the Effective Date;

c. The Court declines to provide final approval of this Agreement, or declines to enter, or materially modifies, the contents of the Final Approval Order and Judgment;

d. The Court's Final Approval Order and Judgment is vacated, reversed, or modified in any material respect on any appeal or other review or in a collateral proceeding occurring prior to the Effective Date; or

e. The Effective Date is not triggered for some other reason for more than one year after entry of the Preliminary Approval Order, unless the Parties agree in writing to an extension or modification of this Section 8.1(e).

8.2. For purposes of this Agreement, no order of the Court, or modification or reversal on appeal of any order of the Court, solely concerning the administration of the Settlement or the persons performing such administrative functions, or the amount or award of any Attorneys' Fees and Expenses or Case Contribution Award shall constitute grounds for cancellation or termination of the Agreement, provided that such order, modification, or reversal does not increase any Defendants' total financial obligations under this Settlement, including the Settlement Amount, or impose injunctive relief against any Defendant.

8.3. This Agreement and the Settlement shall terminate and be cancelled at the sole election of Defendants if the Independent Fiduciary disapproves or otherwise does not authorize the Settlement or refuses to approve the release on behalf of the Plan of the Released Claims. Alternatively, Defendants shall have the option to waive this condition. Unless otherwise agreed by the Parties, either option is to be exercised in writing within ten (10) business days after the Parties' receipt of the Independent Fiduciary's written determination under Section 2.6.

8.4. In the event that any of the government officials who received a CAFA Notice object to and/or request modifications to the Settlement, Plaintiffs agree to cooperate and work with Defendants to overcome such objection(s) and requested modifications. In the event such objection(s) or requested modifications are not overcome, Defendants shall have the right to terminate the Settlement and this Agreement.

8.5. If for any reason the Agreement is terminated or fails to become effective, then:

a. Plaintiffs and Defendants shall be deemed to have reverted to their respective status in the Action as of July 11, 2023. The Action shall then resume proceedings in the

Court, and, except as otherwise expressly provided in the Agreement, the Parties shall proceed in all respects as if the Agreement and any related orders had not been entered.

b. Class Counsel and Defendants' Counsel shall, within ten (10) business days after the date of termination of the Agreement, jointly notify the Financial Institution in writing to return to Defendants, or their designee(s), the full amount contained in the Settlement Fund, with all interest and income earned thereon, and direct the Financial Institution to effect such return within fourteen (14) calendar days after such notification. Administration Costs incurred prior to the termination shall be paid first from the interest earned, if any, on the Settlement Fund. Administration Costs in excess of the interest earned on the Settlement Fund shall be split evenly and paid by Class Counsel, on the one hand, and Defendants, on the other hand. Prior to the return of amounts contemplated by this Section 8.5(b), the Financial Institution shall fully and finally fulfill and set aside for any and all tax obligations of the Settlement Fund as set forth in Section 3.1(i). Defendants shall have no past, present, or future liability whatsoever for any such tax obligations.

c. Part VIII of the Agreement, and its provisions, shall survive any termination of the Agreement and the Settlement, as will Sections 3.3, 4.3, 5.3, and 5.5.

IX. NO ADMISSION OF WRONGDOING

9.1. *No Admission of Wrongdoing.* The Parties understand and agree that this Agreement embodies a compromise settlement of disputed claims, and that nothing in this Agreement, including the furnishing of consideration for this Agreement, shall be deemed to constitute any finding or admission of any wrongdoing or liability by any of the Defendants or Defendant Released Parties, or give rise to any inference of wrongdoing or liability in the Action or any other proceeding. This Agreement and the consideration provided hereunder are made in compromise of disputed claims and are not admissions of any liability of any kind, whether legal, equitable or factual. Defendants

specifically deny any such liability or wrongdoing, and state that they are entering into the Agreement solely to eliminate the burden and expense of protracted litigation. Further, Plaintiffs have concluded that the terms of this Agreement are fair, reasonable, and adequate to the Plan, Plaintiffs, and the Class given, among other things, the inherent risks, difficulties, and delays in complex ERISA lawsuits, like the Action. Neither the fact of this Settlement nor the terms of this 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 Agreement, whether affirmatively or defensively.

X. MISCELLANEOUS

10.1. *Enforcement.* Only Class Counsel shall have standing to seek enforcement of this Agreement on behalf of Class Representatives, Class Members, or the Plan. Any individual concerned about Defendants' compliance with this Agreement may so 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, or to refrain from taking any action, in response to such request. Any action by Class Counsel to monitor or enforce the Agreement shall be done without additional fee or reimbursement of expenses beyond the Attorneys' Fees and Costs determined by the Court.

10.2. *Waiver.* The provisions of this Agreement may be waived only by an instrument in writing executed by the waiving Party and specifically waiving such provisions. The waiver by any Party of any breach of this Agreement shall not be deemed to be or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Agreement.

10.3. *Dispute Resolution.* If a dispute arises regarding compliance with any of the provisions of this Agreement, it shall first be mediated in non-binding mediation by a mutually agreed upon mediator. The cost of any mediation shall be split equally between Plaintiff and Defendants. If

mediation is unsuccessful, then any remaining disputes regarding compliance with this Agreement shall be heard only by this Court.

10.4. **Entire Agreement.** The Agreement is the entire agreement among the Parties, and it supersedes any prior agreements, written or oral, between the Parties. The Agreement cannot be altered, modified, or amended except through a writing executed by either (a) Plaintiffs and Defendants, or (b) Class Counsel and Defendants' Counsel. After preliminary approval of the Agreement, any revisions to the Agreement must be approved by the Court.

10.5. **Construction of Agreement.** The Agreement shall be construed to effectuate the intent of the Parties to resolve all disputes encompassed by the Agreement. All Parties have participated in the drafting of this Agreement, and any ambiguity shall not be resolved by virtue of a presumption in favor of any Party. The Agreement was reached at arm's-length by the Parties represented by counsel. None of the Parties shall be considered to be the drafter of the Agreement or any provision hereof for the purposes of any statute, case law, or rule of interpretation or construction.

10.6. **Principles of Interpretation.** The following principles of interpretation apply to this Agreement:

- a. The headings of the Agreement are for reference only and do not affect in any way the meaning or interpretation of the Agreement.
- b. Definitions apply to the singular and plural forms of each term defined.
- c. Definitions apply to the masculine, feminine, and neutral genders of each term defined.
- d. References to a person are also to the person's permitted successors and assignees.

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

10.7. *Executed in Counterparts.* The Agreement may be executed in counterparts, each of which shall be considered the same as if a single document had been executed. The Agreement shall be deemed executed by all Parties when such counterparts have been signed by each of the Parties’ counsel and delivered to the other Parties or their counsel. Counterpart copies of signature pages, whether delivered in original, by electronic mail in .pdf format or by facsimile, taken together, shall all be treated as originals and binding signatures.

10.8. *Notices.* Unless otherwise provided herein, any notice, request, instruction, application for Court approval, or application for Court order sought in connection with the Agreement, shall be in writing and delivered via e-mail to the attention of Class Counsel or Defendants’ Counsel, as applicable (as well as to any other recipients that a court may specify). Parties may change the person(s) to whom such notices should be directed by giving notice pursuant to this section. As of the date hereof, the respective representatives are as follows:

For Defendants:

Alex Lakatos
MAYER BROWN LLP
1999 K Street, NW
Washington, DC 20037
Telephone: (202) 263-3000
E-mail: alakatos@mayerbrown.com

and

Kent Pflederer
Senior Vice President, General Counsel and Secretary
Packaging Corporation of America
1 North Field Court
Lake Forest, IL 60045
Telephone: (847) 482-2418

Email: KPflederer@packagingcorp.com

For Plaintiff:

Paul M. Secunda
WALCHESKE & LUZI, LLC
235 N. Executive Drive, Suite 240
Brookfield, Wisconsin 53005
Telephone: (414) 828-2372
E-mail: psecunda@walcheskeluzi.com

10.9. *Extensions of Time.* The Parties may agree, subject to the approval of the Court where required, to reasonable extensions of time to carry out the provisions of the Agreement.

10.10. *Governing Law.* Except to the extent required by federal law, the Agreement shall be governed by and construed in accordance with the laws of the State of Illinois without giving effect to any conflict of law provisions that would cause the application of the laws of any jurisdiction other than the State of Illinois.

10.11. *Fees and Expenses.* Except as otherwise expressly set forth herein, each Party shall pay all fees, costs, and expenses incurred in connection with the Action, including fees, costs, and expenses incident to his, her, or its negotiation, preparation, or compliance with this Agreement, and including any fees, expenses, and disbursements of its counsel, accountants, experts and other advisors. Nothing in the Agreement shall require Defendants to pay any monies other than as expressly provided herein.

10.12. *Communication with Plan Participants.* Nothing in the Agreement or Settlement shall prevent or inhibit Defendants' ability to communicate with former, active, or inactive participants of the Plan or Former Participants.

10.13. *Retention of Jurisdiction.* The Parties shall request that the Court retain jurisdiction of this matter after the Effective Date and enter such orders as necessary or appropriate to effectuate the terms of the Agreement.

10.14. *Non-Disparagement.* Plaintiffs and Class Counsel agree that they will not at any time publicly disparage or induce others to publicly disparage any of the Defendants or the Defendant Released Parties. Plaintiffs and Class Counsel further agree that they will not make any press releases or press statements regarding Defendants, the Defendant Released Parties, or this Agreement.

[Signatures Appear on the Following Page]

Dated: September 13, 2023

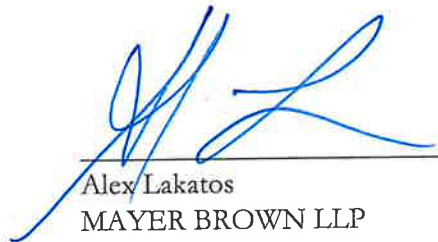
On Behalf of Plaintiffs, Individually and as
Representative of the Settlement Class and the Plan

Paul M. Secunda

Paul M. Secunda
WALCHESKE & LUZI, LLC
235 N. Executive Drive, Suite 240
Brookfield, Wisconsin 53005
Phone: (414) 828-2372
Email: psecunda@walcheskeluzi.com

Dated: September 13, 2023

ON BEHALF OF DEFENDANTS, Packaging Corporation of America, Inc., the Board of Directors of Packaging Corporation of America, Inc., Mark W. Kowlzan, Cheryl K. Beebe, Duane Farrington, Donna A. Harman, Robert C. Lyons, Thomas P. Maurer, Samuel M. Menco, Roger B. Porter, Thomas A. Souleles, Paul T. Stecko, Investment Committee of the Packaging Corporation of America, Inc., Michelle Wojdyla, Robert P. Mundy, and Pamela A. Barnes.



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