

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

DAVID DAGGETT, individually, and as a representative of a Class of Participants and Beneficiaries of the Waters Employee Investment Plan,

Plaintiff,

v.

WATERS CORPORATION, et al.,

Defendants.

Case No. 1:23-cv-11527

**DECLARATION OF PAUL M. SECUNDA IN SUPPORT OF PLAINTIFF’S MOTION FOR
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

I, Paul M. Secunda, declare and state as follows:

1. I am a partner at Walcheske Luzi, LLC (“Walcheske Luzi”), and am one of the attorneys of record for Plaintiff in the above captioned action. I submit this declaration in support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement.

Settlement Terms

2. Attached hereto as **Exhibit 1** is a true and correct copy of the proposed Class Action Settlement Agreement. The Settlement resolves Plaintiff’s class action claims against Defendants, Waters Corporation, Waters Technologies Corporation, the Board of Directors of Waters Technologies Corporation, and the Employee Benefits Administrative Committee of Waters

Technologies Corporation (collectively, “Defendants”), relating to the management of the Waters Employee Investment Plan (“Waters Plan”).

3. The Settlement Agreement applies to the following Settlement Class:

All participants and beneficiaries of the Waters Employee Investment Plan (excluding the Defendants or any participant/beneficiary who served on the Fiduciary Committees) beginning July 7, 2017, and running through the date of the Preliminary Approval Order.

Settlement § 1.9. In turn, the Class Period means the period from July 7, 2017 through the date of the Preliminary Approval Order, inclusive. (*Id.* § 1.12). There are approximately 12,000 Settlement Class Members, about 4000 current members and 8000 former members.

4. Under the terms of the proposed Settlement, a Gross Settlement Amount of \$800,000 thousand dollars will be paid to resolve the claims that were asserted in the Action.

Settlement § 1.29. Based on Plaintiff’s estimates, the Gross Settlement Amount represents 13.6% of the total amount demanded (\$5.9 million) for imprudent investments and excessive recordkeeping and administrative (RKA) fees.

5. After accounting for any Attorneys’ Fees and Costs, Settlement Administrative Expenses, and Class Representative Compensation approved by the Court, the Net Settlement Amount will be distributed to eligible Class Members in accordance with the Plan of Allocation in the Settlement. Settlement, § 1.38.

6. The Plan of Allocation is Article V of the Settlement Agreement, and sets out the methodology for allocating and distributing the Net Settlement Amount. It is submitted to the Court for approval in connection with the Preliminary Approval of the Settlement.

7. Class Counsel will retain the Settlement Administrator to calculate the amounts payable to Settlement Class Members. *Id.* § 1.57.

8. In the absence of a settlement, Plaintiff would have faced uncertainty and risk in

connection with his claims. Given these risks (which are outlined in the accompanying Memorandum of Law), and the costs and potential delays associated with further litigation, I believe that the Settlement is fair, reasonable, and adequate.

Case Proceedings

9. Prior to filing the Complaint in this action, my colleagues and I conducted a thorough investigation of the claims that were asserted and the factual basis for those claims. As a result of our investigatory efforts, we were able to file a detailed, 40-page Complaint on July 7, 2023 (Dkt. 1), and a 48-page Amended Complaint on October 12, 2023 (Dkt. 19).

10. After Defendants' motion to dismiss was denied by the Court, the parties recognized that an early settlement of Plaintiffs' claims was possible through private mediation, the Court stayed the litigation pending mediation and the parties negotiated the present Settlement.

11. Following submission of written mediation statements, the parties engaged in a mediation session with JAMS mediator, Robert A. Meyer, on August 21, 2024. Mr. Meyer is an experienced and well-respected mediator, who has successfully resolved numerous complex class action cases, including ERISA class actions. A copy of Mr. Meyer's biography is attached as **Exhibit B**.

12. The parties reached a settlement-in-principle at the mediation. The Parties then negotiated the details of the comprehensive Settlement Agreement that is the subject of the present motion. For the reasons explained above, I believe the Settlement is fair, reasonable, and adequate.

Professional Overview

13. I am a currently a Partner at the law of firm of Walcheske & Luzi, LLC in Brookfield, Wisconsin, where I concentrate my practice on labor and employment law, with an emphasis on all aspects of employee benefits (ERISA) litigation. As part of this employment, I litigate cases involving employer-sponsored retirement benefit plans and welfare benefit plans under ERISA. I

am licensed to practice law in the State of Wisconsin, and also have been admitted to practice in several federal district courts and appellate courts across the country. A list of jurisdictions in which I have been admitted is set forth below:

Supreme Court of the United States
3rd Circuit Court of Appeals
7th Circuit Court of Appeals
U.S.D.C. for Western District of Michigan
U.S.D.C. for the Eastern District of Wisconsin
U.S.D.C. for the Western District of Wisconsin
U.S.D.C. for the Northern District of Illinois
U.S.D.C. for the Eastern District of Michigan
U.S.D.C. for the Southern District of Indiana
U.S.D.C. for the Eastern District of Pennsylvania
Wisconsin Supreme Court
New Jersey Supreme Court
Pennsylvania Supreme Court

14. I have been actively engaged in the practice of law since 1998 and have substantial class action experience and other complex litigation experience. I was a full professor of law over an 18-year academic career at two separate law schools, focusing on workplace and employee benefits law under ERISA. Since joining Walcheske & Luzi LLC in May 2020, my practice has focused primarily on ERISA class action litigation on behalf of plan participants and beneficiaries.

15. As the head of our firm's ERISA Team, I have led ERISA class action litigation against several major companies, including Baystate Health, Bronson Healthcare, Costco, Clean Harbors, Froedtert Health, John Muir Health, Kimberly-Clark, Munson Healthcare, Pactiv Evergreen Services, Prevea, ThedaCare, U.S. Bank, Quad/Graphics, General Dynamics, Kerry Foods, and RR Donnelley & Sons.

16. In addition to the present case, the firm's lawyers (including myself) have brought litigation in over thirty other cases involving retirement plans, including:

- Reichert v. Juniper Network, Inc., No. 4:21-cv-06213 (N.D. Cal.)

- Gleason et al. v. Bronson Healthcare, No. 1:21-cv-00379 (W.D. Mich.)
- Case v. Generac, Inc., No. 2:21-cv-00752-RSM (W.D. Wash.)
- Seidner et al. v. Kimberly Clark Corp, No. 3:21-cv-00867-L (N.D. Tex.)
- Walter v. Kerry Inc., No. 2:21-cv-00539-BHL (E.D. Wis.)
- Bangalore v. Froedtert Health, Inc., No. 2:20-cv-893-PP (E.D. Wis.)
- Shaw v. Quad/Graphics, Inc., No. 2:20-cv-01645-PP (E.D. Wis.)
- Tolomeo v. RR Donnelley Inc., No. 1:20-cv-07158 (N.D. Ill.)
- Soulek v. Costco Corp., No. 1:20-cv-937-WCG (E.D. Wis.)
- Nohara v. Prevea Clinic, Inc., No. 2:20-cv-1079-WCG (E.D. Wis.)
- Glick v. ThedaCare, Inc., 1:20-cv-1236-WCG (E.D. Wis.)
- Hughes v. Mercy Health Corp., No. 3:20-cv-50286 (N.D. Ill.)
- Hanson et al. v. General Dynamics, No. 0:21-cv-00988-PAM-ECW (D. Minn.)

17. Walcheske & Luzi is viewed as a leader in ERISA 401(k) cases. I have been interviewed by the Washington Post, Financial Times, BenefitsPro, Law360, Bloomberg, Investment News, Pensions & Investments, Plan Advisor, and several trade publications in connection with my ERISA work. As a law professor, I have published sixteen law review articles, two book chapters, and three books on employee benefit plan-related topics. Overall, I have published over seventy law review articles and shorter pieces on workplace law, benefits law, and related fields.

18. I also have been a lecturer, moderator, and panelist at dozens of conferences, symposia, and conferences throughout the country and the world, presenting on ERISA and employee benefit plan topics sponsored by a myriad of organizations, including: the Association of American Law Schools, American Bar Association, the Southeastern Association of Law Schools, Law and Society Association, New York University Annual Conference on Labor, and the Center

for the Interdisciplinary Study of Work and Social Capital at the Washington University School of Law.

19. I have served as testifying expert in the following ERISA and employee benefits law cases around the country: *Pierson et al. v. Millennium Trust Co.*, Case No. 1340017140 (JAMS) (Ill. 2019), *Physical Therapy, U.S.A. Inc., et al. v. United Healthcare of Arizona, Inc., et al.*, Case No. CV-08-457-PHX-ROS (D. Az.), *Moyle v. Liberty Mutual Retirement Benefit Plan*, 3:10-CV-02179 (S.D. Cal.); *Gillis v. Burns & Levinson*, File No. 337.08466 (Middlesex Superior Ct. Mass.); and *Sayles v. Driskell* (settled) (state court, Kansas City, Mo.).

20. I served as a non-testifying consultant in the following ERISA and employee benefit law cases: *Diversified Services of Wisconsin, Inc. v. AJ Restaurant Accounting, LLC*, Case No. 09CV-005985 (Dane County Cir. Ct. Wis.); *Nauman v. Abbott Labs*, No. 04 C 7199 (N.D. Ill.); *Smith v. Medical Benefit Administrators Service Group, Inc.*, Case No. 2:09-cv-00538-RTR (E.D. Wis.); and *In re Rothschild Merchant Banking* (2018).

21. I served as Court Amicus in the following U.S. Supreme Court and Seventh Circuit cases: U.S. Supreme Court *Brief for Law Professors as Amici Curiae in Support of the Petitioners in Tibble v. Edison International*, No. 13-550; U.S. Supreme Court *Brief of Law Professors in Support of the Respondents in Fifth Third Bancorp v. Dudenhoeffer*, No. 12-751; U.S. Supreme Court *Brief of Law Professors in Support of Respondents, Conkright v. Frommert*, No. 08-810; and Seventh Circuit *Brief of Law Professors in Support of Rehearing En Banc, Hecker v. Deere*, Nos. 07-3605 & 08-1224.

22. Prior to this position with Walcheske & Luzi, I was a full Professor of Law, with tenure at the Marquette University Law School in Milwaukee, Wisconsin. I joined the Marquette University Law School faculty in 2008, after having been an Assistant Professor of Law at the University of Mississippi School of Law from 2002 through 2008. I have been a visiting professor

of law at several other universities, including Melbourne University Law School (Australia), Justus Liebig Universitat School of Law (Germany), Hong Kong Polytech University (China), the University of Wisconsin-Madison School of Law, Université de Paris at Nanterre Law Faculty (France), Western Ontario School of Law (Canada), and the Osgoode Hall School of Law at York University (Canada).

23. I received my law degree, *magna cum laude*, from the Georgetown University Law Center in 1997, and my B.A., *cum laude*, from Harvard College in 1993. Following law school, I was a federal law clerk for Judge Murray M. Schwartz of the United State District Court for the District of Delaware from 1997-1998. I then practiced law as an associate labor and employment law attorney, focusing on ERISA and workplace litigation, with the Philadelphia law firms of Montgomery, McCracken, Walker & Rhoads, and Morgan, Lewis & Bockius from 1998 to 2002. I am a member of the Bars of Pennsylvania (1998), New Jersey (1998), and Wisconsin (2009), and the U.S. Supreme Court (2009).

24. I am an elected Fellow of the American College of Employee Benefit Counsel (ACEBC); a Senior Fulbright Scholar (in employee benefits law); an elected Fellow of the American Bar Foundation (ABF); and an elected member of the American Law Institute (ALI), serving as a member of the Consultative Group on the Restatement of Employment Law.

25. In December of 2012, I was appointed by the United States Secretary of Labor, Hilda L. Solis, to the 2013 ERISA Advisory Council. The ERISA Advisory Council is established pursuant to ERISA Section 512. The duties of the council are to advise the Secretary and submit recommendations regarding the Secretary's functions under ERISA. The council consists of 15 members appointed by the Secretary of Labor. I was appointed Chairman of the Council in 2015 by then-Secretary of Labor Thomas Perez. Over my three years on the Council, I helped draft nine expert reports on all aspects of employee benefit law, including a number of issues concerning

excessive fees associated with employer-sponsored retirement plans.

Law Firm Overview

26. Walcheske & Luzi has been engaged in the practice of law for over 13 years, and is devoted to representing the interests of employees. The firm has offices in Brookfield and Appleton, Wisconsin, and Chicago, Illinois, and currently employs five attorneys.

27. Walcheske & Luzi has extensive class action and collective action experience. The firm has been appointed lead counsel or co-counsel in hundreds of class and collective actions and has recovered over \$40 million for its clients.

28. Based on my personal experience and Walcheske & Luzi's firm-wide experience litigating ERISA cases, I believe that we were well-equipped to negotiate the Settlement that was reached in this case.

Settlement Administrator

29. Analytics Consulting, LLC ("Analytics") has been selected to serve as the settlement administrator in this matter. Analytics has extensive experience administering ERISA class action settlements and has previously served as the settlement administrator in connection with settlements in this District and other settlements within this Circuit. Analytics' profile is attached as **Exhibit C**.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: September 30, 2024

s/Paul M. Secunda
Paul M. Secunda

CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2024, I caused a copy of the foregoing to be electronically filed with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

s/Paul M. Secunda
Paul M. Secunda

Exhibit A

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

David Daggett, et al.,

Plaintiff,

v.

Waters Corporation, et al.,

Defendants.

Case No. 1:23-cv-11527

**CLASS ACTION
SETTLEMENT AGREEMENT**

CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement, dated September 27, 2024 (the “Settlement Agreement”), is made and entered into by and among: (i) Plaintiff David Daggett (on behalf of himself and each Class Member and the Waters Employee Investment Plan), by and through his counsel of record in the litigation; and (ii) Waters Corporation, Waters Technologies Corporation, the Board of Directors of Waters Technologies Corporation, and the Employee Benefits Administrative Committee of Waters Technologies Corporation¹, by and through their counsel of record in the litigation. The Settlement Agreement is intended to fully, finally, and forever resolve, discharge, and settle Plaintiffs’ Released Claims, subject to the approval of the Court and the terms and conditions set forth in this Settlement Agreement.

ARTICLE 1 – DEFINITIONS

1.1 “Action” means the civil action captioned *Daggett, et al. v. Waters Corporation, et al.*, Civil Action No. 1:23-cv-11527 (D. Mass.), pending in the United States District Court for the

¹ The Complaints name the “Employee Benefits *Administration* Committee of Waters Technologies Corporation” as a defendant. (emphasis added). The correct name of this entity is the Employee Benefits Administrative Committee of Waters Technologies Corporation, and that name used throughout this Agreement. Except as otherwise specified, all capitalized terms shall have the meanings set forth in Article I of this Settlement Agreement.

District of Massachusetts.

1.2 “Alternate Payee” means a person, other than a Participant Class Member, Former Participant Class Member, or Beneficiary, who is entitled to a benefit under the Plan as a result of a Qualified Domestic Relations Order (“QDRO”), where the QDRO relates to a Participant Class Member or Former Participant Class Member’s balance during the Class Period.

1.3 “Attorneys’ Fees and Costs” means the amount awarded by the Court as compensation for the services provided by Class Counsel and the costs and expenses incurred by Class Counsel in connection with the Action, including the investigation leading to it, which shall be recovered from the Gross Settlement Amount.

1.4 “Average Qualifying Account Balance” has the meaning ascribed to it in Section 5.3(b)(i) herein.

1.5 “Beneficiary” means a person who currently is entitled to receive a benefit under the Plan that is derivative of the interest of a Participant Class Member or Former Participant Class Member, other than an Alternate Payee. A Beneficiary includes, but is not limited to, a spouse, surviving spouse, domestic partner, or child who currently is entitled to a benefit.

1.6 “Board” means the Board of Directors of Waters Technologies Corporation.

1.7 “Business Days” refers to the days between Monday and Friday of each week and excludes the “Legal Holidays” specified in Federal Rule of Civil Procedure 6(a)(6).

1.8 “CAFA Notice” means the notice required to be provided pursuant to the Class Action Fairness Act, 28 U.S.C. § 1715.

1.9 “Class” or “Settlement Class” means the following class to be certified by the Court for settlement purposes:

All participants and beneficiaries of the Waters Employee Investment Plan (excluding the Defendants or any participant/beneficiary who served on the

Fiduciary Committees) beginning July 7, 2017, and running through the date of the Preliminary Approval Order.

1.10 “Class Counsel” means Walcheski & Luzi, LLC and Jonathan Feigenbaum, Esq..

1.11 “Class Member” means a member of the Class.

1.12 “Class Period” means July 7, 2017 through the date of the Preliminary Approval Order, inclusive.

1.13 “Company” means Waters Technologies Corporation.

1.14 “Complaints” means the original Complaint filed in this Action at ECF No. 1 on July 7, 2023 and the Amended Complaint filed at ECF No. 19 on October 12, 2023.

1.15 “Court” means the United States District Court for the District of Massachusetts.

1.16 “Defendants” means Waters Corporation, Waters Technologies Corporation, the Board of Directors of Waters Technologies Corporation, and the Employee Benefits Administrative Committee of Waters Technologies Corporation, each individually a Defendant.

1.17 “Defendants’ Counsel” means Goodwin Procter LLP.

1.18 “Defendants’ Released Claims” means all claims, whether arising under federal, state, or any other law, which have been, or could have been, asserted in the Action or in any court or forum, by Defendants against the Named Plaintiff or any Class Members or their attorneys (including Class Counsel), which arise out of the institution, prosecution or settlement of the Action, except for claims to enforce the Settlement Agreement.

1.19 “ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

1.20 “Escrow Account” means an account at an established financial institution that is established for the deposit of the Gross Settlement Amount and amounts relating to it, such as income earned on the investment of the Gross Settlement Amount.

1.21 “Escrow Agent” means Analytics Consulting LLC, an independent contractor to be retained by Class Counsel and the Settlement Administrator, which will serve as escrow agent for any portion of the Gross Settlement Amount deposited in or accruing in the Escrow Account pursuant to this Settlement.

1.22 “Fairness Hearing” means the hearing to be held before the Court pursuant to Federal Rule of Civil Procedure 23(e) to determine whether the Settlement Agreement should receive final approval by the Court.

1.23 “Final Approval” means the entry of the Final Approval Order.

1.24 “Final Approval Order” means the order of the Court granting final approval of the Settlement, in substantially the form submitted in connection with the Named Plaintiff’s Motion for Final Approval of the Settlement.

1.25 “Final Entitlement Amount” means the total portion of the Net Settlement Amount payable to an individual Class Member, as determined according to the procedures described in Article V herein.

1.26 “Former Participant Class Member” means any Class Member who had a Plan account with a balance greater than \$0.00 at any point during the Class Period but who does not have a Plan account with a balance greater than \$0.00 as of the date of the Preliminary Approval Order.

1.27 “Former Participant Rollover Form” means the form described generally in Section 5.5 herein, substantially in the form attached as Exhibit 3 hereto.

1.28 “Former Participant Rollover Form Deadline” means a date fourteen (14) calendar days prior to the Fairness Hearing, unless otherwise specified by the Court.

1.29 “Gross Settlement Amount” means the sum of eight-hundred thousand U.S. dollars (USD \$800,000.00), contributed to the Qualified Settlement Fund as described in Article IV herein. The Gross Settlement Amount shall be the full and sole monetary payment to the Named Plaintiff, Class Members, and Class Counsel made on behalf of Defendants in connection with this Settlement Agreement.

1.30 “Independent Fiduciary” means the person or entity selected by the Company to serve as an independent fiduciary with respect to the Settlement Agreement for the purpose of rendering the determination described in Section 2.2 herein.

1.31 “Individual Fiduciary Committee Members” means members of the Fiduciary Committees during the Class Period.

1.32 “Individual Board Members” means members of the Board during the Class Period.

1.33 “Investment Claim” means the Named Plaintiff’s claim, as asserted in the Complaints, with respect to the Fidelity Freedom Funds.

1.34 “Investment Claim Entitlement Amount” means the portion of the Net Settlement Amount payable to a Class Member with respect to the Investment Claim, as determined according to the procedures described in Article V herein.

1.35 “Fiduciary Committees” means both the Employee Benefits Administrative Committee of Waters Technologies Corporation and the Employee Benefits Investment Committee of Waters Technologies Corporation.

1.36 “Fidelity Freedom Funds” means Fidelity Freedom Fund Class K suite of thirteen (13) target date funds offered as investment options in the Plan from the start of the Class Period to February 4, 2022.

1.37 “Named Plaintiff” means David Daggett.

1.38 “Net Settlement Amount” means the Gross Settlement Amount, plus any interest or income earned on the Qualified Settlement Fund, minus: (a) taxes and tax-related expenses as contemplated in Section 4.6; (b) all Attorneys’ Fees and Costs approved by the Court; (c) any Service Award approved by the Court; (d) all Settlement Administrative Expenses approved by the Court; and (e) any contingency reserve not to exceed an amount to be mutually agreed upon by the Parties and approved by the Court that is set aside by the Settlement Administrator for: (1) Settlement Administrative Expenses incurred before the Settlement Effective Date but not yet paid, and (2) Settlement Administrative Expenses estimated to be incurred after the Settlement Effective Date but before the end of the Settlement Period.

1.39 “Notices” means the Court-approved notices of this Settlement Agreement that are disseminated to Class Members. The Parties shall propose that the Court approve the forms of notice attached as Exhibits 1 and 2 hereto. The Notice to Former Participant Class Members will include the Former Participant Rollover Form (Exhibit 3).

1.40 “Non-Rollover-Electing Former Participant” means a Former Participant Class Member who has not submitted a completed, satisfactory Former Participant Rollover Form by the Former Participant Rollover Form Deadline set by the Court, or whose Former Participant Rollover Form is rejected by the Settlement Administrator.

1.41 “Participant Class Member” means any Class Member who had a Plan account with a balance greater than \$0.00 at any point during the Class Period, and, as of the date of the Preliminary Approval Order, had a Plan account with a balance greater than \$0.00.

1.42 “Parties” means the Named Plaintiff and Defendants.

1.43 “Plaintiffs’ Released Claims” means, subject to the exclusions set forth below, any and all claims, actions, demands, rights, obligations, liabilities, damages, attorneys’ fees, expenses,

costs, and causes of action, including both known and Unknown Claims, whether class, derivative, or individual in nature against any of the Released Parties and Defense Counsel with respect to the Plan arising on or before the Settlement Effective Date:

(a) that were asserted in the Action or could have been asserted in the Action based on any of the allegations, acts, omissions, purported conflicts, representations, misrepresentations, facts, events, matters, transactions, or occurrences asserted in the Action, whether or not pleaded in the Complaints, including but not limited to those that arise out of, relate to, are based on, or in connection with: (1) the structure, management, or monitoring of the Plan's investment options, including without limitation the Waters Stock Fund and any self-directed brokerage option; (2) the selection, monitoring, oversight, retention, fees, expenses, or performance of the investments available under the Plan; (3) the selection, monitoring, oversight, retention, fees, expenses, or performance of the Plan's service providers, including without limitation administrative and/or recordkeeping service providers; (4) fees, costs, or expenses charged to, paid, or reimbursed by, or authorized to be paid or reimbursed by the Plan, including any assertions regarding revenue sharing paid, received, or not recaptured in connection with the Plan; and/or (5) any assertions with respect to any fiduciaries of the Plan (or the selection or monitoring of those fiduciaries) in connection with the foregoing; (6) disclosures, filings or failures to disclose information regarding the Plan's investment options or service providers; (7) disclosures or failures to disclose relationships among fiduciaries, service providers, and investment managers for the Plan; (8) engaging in self-dealing or prohibited transactions in relation to the Plan's investments or service providers; (9) compliance with the Plan's governing documents with respect to the selection and monitoring of the Plan's investments or service providers; (10) any assertions with respect to any

fiduciaries of the Plan (or the selection or monitoring of those fiduciaries) in connection with the foregoing; and/or (11) the approval by the Independent Fiduciary of the Settlement Agreement;

(b) that would be barred by res judicata based on the Court's entry of the Final Approval Order;

(c) that arise from the direction to calculate, the calculation of, and/or the method or manner of the allocation of the Net Settlement Fund pursuant to the Plan of Allocation; or

(d) that arise from the approval by the Independent Fiduciary of the Settlement Agreement.

Notwithstanding anything herein, the following shall not be included in the definition of Plaintiffs' Released Claims: (i) claims to enforce the Settlement Agreement, and (ii) individual claims for denial of benefits from the Plan.

1.44 "Plan" means the Waters Employee Investment Plan.

1.45 "Plan of Allocation" means the methodology for allocating and distributing the Net Settlement Amount as described in Article V herein.

1.46 "Preliminary Approval Order" means the order of the Court preliminarily approving the Settlement Agreement, in substantially the form submitted in connection with the Named Plaintiff's motion for entry of Preliminary Approval Order.

1.47 "PTE 2003-39" means U.S. Department of Labor Prohibited Transaction Exemption 2003-39, 68 Fed. Reg. 75,632 (Dec. 31, 2003), as amended.

1.48 "Qualified Domestic Relation Order" means a judgment, decree, or order (including the approval of a property settlement) that is made pursuant to state domestic relations law (including community property law) and that relates to the provision of child support, alimony payments, or marital property rights for the benefit of a spouse, former spouse, child, or other

dependent of a Class Member and which has been determined qualified pursuant to the Plan's procedures.

1.49 "Qualified Settlement Fund" means the interest-bearing settlement fund account to be established and maintained by the Escrow Agent as described in Article IV herein.

1.50 "Released Parties" means (a) each Defendant, Individual Fiduciary Committee Member, and Individual Board Member; (b) each Defendant's past, present, and future parent corporation(s), affiliates, subsidiaries, divisions, joint ventures, predecessors, successors, successors-in-interest, and assigns, and any individual, partnership, corporation, or any other form of entity or organization that controls, is controlled by, or is under common control with any of the foregoing; (c) with respect to (a) and (b) above, all of their past, present, and future parent corporation(s), affiliates, subsidiaries, divisions, joint ventures, predecessors, successors, successors-in-interest, assigns, employee benefit plan fiduciaries (with the exception of the Independent Fiduciary), shareholders, officers, directors, partners, agents, managers, members, employees, representatives, attorneys, administrators, heirs, executors, and all persons acting under, by, through, or in concert with any of them; and (d) the Plan and any and all administrators, fiduciaries, parties in interest, and trustees of the Plan.

1.51 "Recordkeeping Claim" means the Named Plaintiff's claim, as asserted in the Complaints, with respect to the Plan's recordkeeping and administrative expenses.

1.52 "Recordkeeping Claim Entitlement Amount" means the portion of the Net Settlement Amount payable to an individual Class Member with respect to the Recordkeeping Claim, as determined according to the procedures described in Article V herein.

1.53 "Rollover-Electing Former Participant Class Member" means a Former Participant Class Member who has submitted a completed, satisfactory Former Participant Rollover Form by

the Former Participant Rollover Form Deadline set by the Court and whose Former Participant Rollover Form is accepted by the Settlement Administrator.

1.54 “Service Award” means any incentive or service award approved by the Court to the Named Plaintiff for his service as class representative.

1.55 “Settlement” means the settlement of the Action contemplated by this Settlement Agreement.

1.56 “Settlement Administrative Expenses” means all expenses incurred in the implementation and administration of this Settlement Agreement and the Plan of Allocation, including but not limited to (a) all fees, expenses, and costs associated with the production and dissemination of the Notices to Class Members; (b) all fees, expenses, and costs associated with the production and dissemination of the CAFA Notices described in Sections 1.8 and 3.1; (c) all fees, expenses, and costs associated with the collection of Settlement Class member data from the Plan’s recordkeeper, the delivery of such data to the Settlement Administrator, and any functions performed the by Plan’s recordkeeper and/or trustee in connection with the implementation and administration of this Settlement Agreement and the Plan of Allocation; (d) tax expenses related to the settlement (including taxes and tax expenses described in Section 4.6); (e) all expenses incurred by the Settlement Administrator in administering and effectuating this settlement, including all costs associated with the calculations pursuant to the Plan Of Allocation; and (f) all fees and expenses charged by the Independent Fiduciary and Escrow Agent. All Settlement Administrative Expenses approved by the Court and taxes and tax-related Settlement Administrative Expenses pursuant to Section 4.6 shall be paid from the Gross Settlement Amount. The Parties agree that the recordkeeper, trustee, and Defendants will not be exercising any

discretion when performing functions pertaining to the implementation and administration of the Settlement Agreement and Plan of Allocation.

1.57 “Settlement Administrator” means Analytics Consulting LLC, an independent contractor to be retained by Class Counsel and approved by the Court.

1.58 “Settlement Agreement” means the compromise and resolution embodied in this agreement and its exhibits.

1.59 “Settlement Effective Date” means one business day following the later of (a) the date upon which the time expires for filing or noticing any appeal of the Final Approval Order; or (b) if there are any appeals, the date of dismissal or completion of any appeal, in a manner that finally affirms and leaves in place the Final Approval Order without any material modifications, and all proceedings arising out of the appeal(s) (including, but not limited to, the expiration of all deadlines for motions for reconsideration or rehearing or petitions for review and/or certiorari, all proceedings ordered on remand, and all proceedings arising out of any subsequent appeal(s) following decisions on remand).

1.60 “Settlement Period” shall be the period from the Settlement Effective Date and continuing for a period of nine months thereafter.

1.61 “Settlement Website” means the internet website established by the Settlement Administrator as described in Section 3.3 herein.

1.62 “Unknown Claims” means any and all Plaintiffs’ Released Claims which the Named Plaintiff or the Class Members do not know or suspect to exist as of the Settlement Effective Date, which if known might have affected their decision(s) with respect to the Settlement.

ARTICLE 2 – SETTLEMENT APPROVAL

2.1 Preliminary approval by Court. On or before September 30, 2024, the Named Plaintiff, through Class Counsel, shall apply to the Court for entry of the Preliminary Approval Order, in substantially the form attached hereto as Exhibit 4, which shall include, among other provisions, a request that the Court:

a. Certify the Settlement Class for settlement purposes under Rule 23(b)(1) of the Federal Rules of Civil Procedure;

b. Approve the text of the Settlement Notices for transmission to Class Members and the Former Participant Rollover Form for mailing to Former Participant Class Members;

c. Order the Settlement Administrator to (i) transmit a Settlement Notice to each Participant Class Member by email or, if no email address is available, by first class mail and (ii) email or mail by first class mail a Settlement Notice and a Former Participant Rollover Form to each Former Participant Class Member, all as identified by the Settlement Administrator based upon the data provided by the Plan's recordkeeper;

d. Find that emailing or mailing the Settlement Notices constitutes the best notice practicable under the circumstances, provides due and sufficient notice of the Fairness Hearing and of the rights of all Class Members, and complies fully with the requirements of Fed. R. Civ. P. 23 and applicable law;

e. Preliminarily enjoin each Class Member and their respective heirs, beneficiaries, executors, administrators, estates, past and present partners, agents, attorneys, predecessors, successors, and assigns, from suing Defendants, the Plan, or the Released Parties in any action or proceeding alleging any of the Released Claims, 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 Action and the Released Claims;

f. 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 the Defendants, the Released Parties, or the Plan;

g. Set the Fairness Hearing for no sooner than one hundred twenty (120) calendar days after the date of the Preliminary Approval Order, in order to determine whether (i) the Court should approve the Settlement as fair, reasonable, and adequate, (ii) the Court should enter the Final Approval Order, and (iii) the Court should approve the requested Attorneys' Fees and Costs, Settlement Administrative Expenses, and the Service Award;

h. 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 Fairness Hearing if they have been timely sent to Class Counsel and Defense Counsel. To be timely sent, the objection and any supporting documents must be sent to Class Counsel and Defense Counsel at least twenty-eight (28) calendar days prior to the scheduled Fairness Hearing;

i. Provide that any party may file a response to an objection by a Class Member at least fourteen (14) calendar days before the Fairness Hearing;

j. Set a deadline of no later than fourteen (14) calendar days before the Fairness Hearing by which each Former Participant Class Member must submit a Former Participant Rollover Form to the Settlement Administrator in order to receive their distribution in the form of a rollover pursuant to the Plan of Allocation; and

k. Provide that the Fairness Hearing may, without further direct notice to the Class Members, other than by notice to Class Counsel, be adjourned or continued by order of the Court.

2.2 Review by Independent Fiduciary. The Company shall select and retain the Independent Fiduciary, on behalf of the Plan, to determine whether to approve and authorize the settlement of Plaintiffs' Released Claims on behalf of the Plan.

a. The Independent Fiduciary shall comply with all relevant requirements set forth in PTE 2003-39.

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

c. The Parties shall comply with reasonable requests for information made by the Independent Fiduciary.

d. All fees and expenses associated with the Independent Fiduciary's retention and determination shall be considered Settlement Administrative Expenses.

2.3 Final approval by Court. No later than fourteen (14) calendar days before the Fairness Hearing, or by such other deadline as specified by the Court, Class Counsel shall apply to the Court for entry of the Final Approval Order, in substantially the form attached hereto in Exhibit 6, which shall include, among other provisions, a request that the Court:

a. determine that this Settlement Agreement is entered into in good faith and represents a fair, reasonable, and adequate settlement that is in the best interests of the Class Members;

b. dismiss the Action with prejudice and without costs, except as contemplated by this Settlement Agreement;

- c. decree that neither the Final Approval Order nor this Settlement Agreement constitutes an admission by any Defendant or Released Party of any liability or wrongdoing;
- d. bar and enjoin all Class Members from asserting any of Plaintiffs' Released Claims against any of the Released Parties; and
- e. preserve the Court's continuing and exclusive jurisdiction over the Parties and all Class Members to administer, construe, and enforce this Settlement Agreement in accordance with its terms for the mutual benefit of the Parties, but without affecting the finality of the Final Approval Order.

ARTICLE 3 – SETTLEMENT ADMINISTRATION

3.1 CAFA Notice. No later than ten (10) calendar days after the Named Plaintiff's filing of this Settlement Agreement and motion for entry of the Preliminary Approval Order with the Court, the Settlement Administrator shall provide appropriate notice of this Settlement Agreement to the Attorney General of the United States and to the Attorneys General of all states in which Class Members reside, as specified in 28 U.S.C. § 1715(b). The costs of such notice shall be considered an Administrative Expense. Upon completing such notice, the Settlement Administrator shall provide written notice to Class Counsel and Defendants' Counsel. A proposed form of this Notice shall be attached to the Preliminary Approval Motion in substantially the form attached hereto as Exhibit 5.

3.2 Notice to Class Members.

a. The Plan's recordkeeper or its designee shall provide the Settlement Administrator with all information necessary to send the Settlement Notices and carry out the Plan of Allocation no later than ten (10) Business Days before the Notices are to be distributed.

i. The Settlement Administrator shall use the data provided by the Company or the Plan's recordkeeper solely for the purpose of meeting its obligations as Settlement Administrator, and for no other purpose.

b. No later than forty (55) calendar days after the entry of the Preliminary Approval Order, or by such other deadline as specified by the Court, the Settlement Administrator shall send the Notices by email or first-class mail, postage prepaid to Class Members.

c. The Notices shall be in the form approved by the Court, which shall be in substantially the form attached as Exhibits 1 and 2 hereto. The Notice to Former Participant Class Members will include the Former Participant Rollover Form.

d. A Notice shall be sent to (i) the email address on file with the Plan's recordkeeper for all Participant Class Members, or if no email address is on file, then the last known address of each Participant Class Member and (ii) the last known address of each Former Participant Class Member, each as provided by the Plan's recordkeeper (or its designee), unless an updated address is obtained by the Settlement Administrator through its efforts to verify the last known address provided by the Plan's recordkeeper (or its designee).

e. The Settlement Administrator shall use commercially reasonable efforts to locate any Class Member whose Notice is returned and mail such Notices to those Class Members one additional time.

3.3 Settlement Website.

a. On or before the date that the Notices are mailed, or by such other deadline as specified by the Court, the Settlement Administrator shall establish the Settlement Website. The Settlement Administrator shall maintain the Settlement Website until no later than one year after the Settlement Effective Date or sixty (60) calendar days after the receipt of the notice(s)

referenced in Section 5.7, whichever is earlier, at which point the Settlement Administrator shall take down the Settlement Website.

b. The Settlement Website shall contain a copy of the Settlement Agreement, Notices, Former Participant Rollover Form, the operative Amended Complaint (ECF No. 19), and all documents filed with the Court in connection with the Settlement.

c. The Settlement Website shall also include a toll-free telephone number and mailing address through which Class Members may contact the Settlement Administrator directly with questions about the settlement.

3.4 Distribution of Net Settlement Amount. Within forty-two (42) calendar days of the Settlement Effective Date, the Settlement Administrator shall distribute the Net Settlement Amount to Class Members in accordance with the Plan of Allocation as described in Article V herein.

3.5 Maintenance of records. The Settlement Administrator shall maintain reasonably detailed records of its activities carried out under this Settlement Agreement. The Settlement Administrator shall maintain all such records as required by applicable law in accordance with its business practices and provide the same to Class Counsel and Defendants' Counsel upon their request. The Settlement Administrator shall provide such information as may reasonably be requested by the Named Plaintiff, Defendants, Class Counsel, or Defendants' Counsel relating to the administration of the Settlement Agreement.

3.6 Tax Reporting. The Settlement Administrator shall be responsible for reporting to the Internal Revenue Service any taxable distributions made to Class Members pursuant to the Settlement.

3.7 No liability. Named Plaintiff, Defendants, Individual Fiduciary Committee Members, Individual Board Members, Defendants’ Counsel, Class Counsel, and the Released Parties shall have no responsibility for, interest in, or liability whatsoever, with respect to:

- a. any act, omission, or determination of the Settlement Administrator;
- b. the management, investment, or distribution of the Qualified Settlement Fund; or
- c. the calculation, administration, determination, verification, confirmation or

payment of any claims asserted against the Qualified Settlement Fund.

ARTICLE 4 – ESTABLISHMENT OF QUALIFIED SETTLEMENT FUND

4.1.1 Establishment of the Qualified Settlement Fund. No later than ten (10) Business Days after entry of the Preliminary Approval Order, the Escrow Agent shall establish an escrow account. The Parties agree that the escrow account is intended to be, and will be, an interest-bearing Qualified Settlement Fund within the meaning of U.S. Department of Treasury Regulation § 1.468B-1 (26 C.F.R. § 1.468B-1). In addition, the Escrow Agent timely shall make such elections as necessary or advisable to carry out the provisions of this paragraph, including the “relation-back election” (as defined in 26 C.F.R. § 1.468B-1(j)(2)) back to 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 Escrow Agent 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 occur.

4.2 Funding of the Qualified Settlement Fund. In consideration of all the promises and agreements set forth in the Settlement Agreement, the Company will contribute the Gross Settlement Amount to the Qualified Settlement Fund. No other Defendant shall have any obligation to contribute financially to the Qualified Settlement Fund or any other Settlement-

related expenses. The Company shall contribute the Gross Settlement Amount to the Qualified Settlement Fund in the following manner:

a. No later than twenty-eight (28) calendar days after the later of (i) the date the Preliminary Approval Order is entered, or (ii) the escrow account described in Section 4.1 is established and the Escrow Agent shall have furnished to Defendants in writing the escrow account name, IRS W-9 form, and all necessary wiring instructions, the Company shall deposit, or cause to be deposited by its insurer(s), \$80,000.00 into the Qualified Settlement Fund.

b. No later than thirty (30) calendar days after entry of the Final Approval Order, the Company shall deposit, or cause to be deposited by its insurer(s), the remaining \$720,000.00 of the Gross Settlement Amount into the Qualified Settlement Fund.

4.3 Notwithstanding anything to the contrary in this Settlement Agreement, in no event shall the Company or any of the Defendants be required to make payments or incur any expenses in excess of the Gross Settlement Amount. The Gross Settlement Amount shall be the only amount paid by Defendants under this Settlement Agreement, and Defendants shall not be obligated to make any other payments under this Settlement Agreement or in connection with this Settlement including but not limited to any other payments that the Named Plaintiff or Class Members may claim they are entitled to under the Plan as a result of this Settlement.

4.4 Qualified Settlement Fund administrator. For the purpose of § 468B of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 468B) and the regulations promulgated thereunder, the administrator of the Qualified Settlement Fund shall be the Escrow Agent. The Escrow Agent, or the Settlement Administrator on its behalf, shall timely and properly cause to be filed all informational and other tax returns necessary or advisable with respect to the Gross Settlement Amount (including without limitation applying for a taxpayer identification number for

the Qualified Settlement Fund and filing the returns described in 26 C.F.R. § 1.468B-2(k)). Such returns, as well as the election described in Section 4.1, shall be consistent with this Article and, in all events, shall reflect that all taxes (including any estimated taxes, interest, or penalties) on the income earned by the Gross Settlement Amount shall be deducted and paid from the Gross Settlement Amount as described in Section 4.6 herein.

4.5 Investment of the Qualified Settlement Fund. The Escrow Agent shall 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 reinvest the proceeds of these investments as they mature in similar instruments at their then-current market rates.

4.6 Taxes on the income of the Qualified Settlement Fund. All taxes on any income of the Qualified Settlement Fund and expenses and costs incurred in connection with the taxation of the Qualified Settlement Fund (including, without limitation, expenses of tax attorneys and accountants) are Settlement Administrative Expenses and shall be timely paid by the Escrow Agent out of the Qualified Settlement Fund. The Escrow Agent, or the Settlement Administrator on its behalf, shall be responsible for making provision 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. Defendants, the Named Plaintiff, Individual Fiduciary Committee Members, Individual Board Members, Defendants' Counsel, and 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. The Escrow Agent 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 (as well as any amounts that may be required to be withheld under Treas. Reg. § 1.468B-2(1)(2)); neither Defendants, Defendants' Counsel, nor Class Counsel are responsible for the same nor shall they have any liability therefor. The Parties agree to cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this Article IV.

4.7 The Escrow Agent shall not disburse the Qualified Settlement Fund or any portion except as provided in this Settlement Agreement, in an order of the Court, or in a subsequent written stipulation between Class Counsel and Defendants' Counsel. Subject to the orders of the Court, the Escrow Agent is authorized to execute such transactions as are consistent with the terms of this Settlement Agreement.

4.8 After the Settlement Effective Date, the Gross Settlement Amount will be distributed from the Qualified Settlement Fund as follows:

- a. Attorneys' fees, costs and expenses shall be payable to Class Counsel out of the Qualified Settlement Fund after the Settlement Effective Date;
- b. Any Service Award shall be payable from the Qualified Settlement Fund and shall be in addition to any portion of the Net Settlement Fund that the Named Plaintiff would otherwise be entitled to receive as a member of the Settlement Class. Any Service Award will only be distributed after the Settlement Effective Date;
- c. All Settlement Administrative Expenses approved by the Court shall be paid out of the Qualified Settlement Fund after the Settlement Effective Date;

- d. the Net Settlement Amount will be distributed pursuant to the Plan of Allocation. Pending final distribution of the Net Settlement Amount in accordance with the Plan of Allocation, the Escrow Agent will maintain the Qualified Settlement Fund. A contingency reserve not to exceed an amount to be mutually agreed upon by the Parties and approved by the Court may be set aside by the Settlement Administrator for: (1) Settlement Administrative Expenses incurred before the Settlement Effective Date but not yet paid, (2) Settlement Administrative Expenses estimated to be incurred after the Settlement Effective Date but before the end of the Settlement Period.

4.9 The Escrow Agent, or the Settlement Administrator on its behalf, shall be responsible for making provision 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. Defendants, the Named Plaintiff, Defendants' Counsel, and 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.

4.10 No later than February 15 of the year following the calendar year in which the Company or its agents make a transfer to the Qualified Settlement Fund pursuant to the terms of this Article IV, the Company or its agents shall timely furnish a statement to the Escrow Agent, or the Settlement Administrator on its behalf, that complies with Treas. Reg. § 1.468B-3(e)(2), which may be a combined statement under Treas. Reg. § 1.468(e)(2)(ii), and shall attach a copy of the statement to their federal income tax returns filed for the taxable year in which the Company or its agents make a transfer to the Qualified Settlement Fund.

ARTICLE 5 – PLAN OF ALLOCATION

5.1 Calculation of payments to Class Members. Payments to Class Member shall be calculated by the Settlement Administrator based on information provided by the Plan's recordkeeper.

5.2 Amount Allotted for each claim. The Settlement Administrator shall first divide the Net Settlement Amount amongst the Recordkeeping Claim and Investment Claim as follows:

- a. Recordkeeping Claim: 10% of Net Settlement Amount
- b. Investment Claim: 90% of Net Settlement Amount

5.3 Calculation of each Class Member's Final Entitlement Amount. The Settlement Administrator will then determine each Class Member's Final Entitlement Amount through the following formula:

- a. Recordkeeping Claim Entitlement Amount:
 - i. To calculate each Class Member's Recordkeeping Claim Entitlement Amount, the Settlement Administrator shall determine the number of quarters that each individual maintained a balance in the Plan above \$0.00 from July 7, 2017 through June 30, 2024. Each quarter will represent one point for that individual, including any balance from July 7, 2017 through September 30, 2017. The maximum number of points that a participant may receive is 28.
 - ii. The Settlement Administrator shall then divide each individual's points by the sum of the points of all Class Members.
 - iii. The Settlement Administrator shall then determine each Class Member's Recordkeeping Claim Entitlement Amount by taking the percentage calculated in 5.3(a)(ii) and multiplying it by 10% of the Net Settlement Amount.

b. Investment Claim Entitlement Amount:

i. For each Class Member, the Settlement Administrator shall determine an

Average Qualifying Account Balance, defined as follows:

Each Class Member's average, aggregate quarter-ending account balance invested one or more Freedom Fund in Plan for the period of July 7, 2017 to February 4, 2022.²

ii. The Settlement Administrator shall then determine each Class Member's Investment Claim Entitlement Amount by calculating each individual's pro rata share of 90% of the Net Settlement Amount, based on their Average Qualifying Account Balance compared to the sum of all Class Members' Average Qualifying Account Balances.

c. The Settlement Administrator will then determine each Class Member's Final Entitlement Amount by adding their Recordkeeping Claim Entitlement Amount and Investment Claim Entitlement Amount.

d. If the Final Entitlement Amount of the settlement payment to a Former Participant Class Member is calculated by the Settlement Administrator to be less than \$10.00, then that Former Participant Class Member's pro-rata share of the Net Settlement Amount shall be zero for all purposes. The Settlement Administrator shall then remove any Former Participant Class Members whose Final Entitlement Amount was less than \$10.00 and repeat the calculation outlined in Section 5.3 with the remaining Class Members

² Mathematically stated, the *Average Qualifying Account Balance* shall be calculated as follows: $((Q3\ 2017\ Account\ Balance * (86/92)) + (Q4\ 2017\ Account\ Balance) + (Q1\ 2018\ Account\ Balance) + (Q2\ 2018\ Account\ Balance) + (Q3\ 2018\ Account\ Balance) + (Q4\ 2018\ Account\ Balance) + (Q1\ 2019\ Account\ Balance) + (Q2\ 2019\ Account\ Balance) + (Q3\ 2019\ Account\ Balance) + (Q4\ 2019\ Account\ Balance) + (Q1\ 2020\ Account\ Balance) + (Q2\ 2020\ Account\ Balance) + (Q3\ 2020\ Account\ Balance) + (Q4\ 2020\ Account\ Balance) + (Q1\ 2021\ Account\ Balance) + (Q2\ 2021\ Account\ Balance) + (Q3\ 2021\ Account\ Balance) + (Q4\ 2021\ Account\ Balance) + (Q1\ 2022\ Account\ Balance * (36/90)))$ Divided by 19.33 (i.e., the total number of quarters subject to the Investment Claim).

e. The total of all Final Entitlement Amounts may not exceed the Net Settlement Amount. In the event that the Settlement Administrator determines that aggregate monetary payment pursuant to the Plan of Allocation would exceed the Net Settlement Amount, the Settlement Administrator is authorized to make such pro rata changes as are necessary to ensure that the aggregate monetary payment pursuant to the Plan of Allocation does not exceed the Net Settlement Amount.

5.4 Payments to Participant Class Members.

a. Upon completing the calculation of each Class Member's Final Entitlement Amount and no later than twenty-one (21) calendar days following the Settlement Effective Date, the Settlement Administrator shall provide the Company (or its designee), Class Counsel, Defendants' Counsel, and the Plan's recordkeeper information in a mutually agreeable format concerning each Participant Class Member's Final Entitlement Amount, and any other information requested by the Company or the Plan's recordkeeper as necessary to effectuate this Article.

b. No later than fourteen (28) calendar days after receiving the information described in Section 5.4(a) herein, the Plan's recordkeeper (or its designee) shall identify for the Settlement Administrator (1) which, if any, of the Participant Class Members for whom the Settlement Administrator had calculated an Final Entitlement Amount became Former Participant Class Members since the date the Plan's recordkeeper (or its designee) provided the Settlement Administrator with information described in Section 3.2(a) herein, and (2) any Beneficiaries or Alternative Payees that have been identified since the Plan's recordkeeper (or its designee) provided the Settlement Administrator with information described in Section 3.2(a) herein and any other information necessary to carry out the Plan of Allocation.

c. No later than fourteen (28) calendar days after receiving the information described in Section 5.4(b) herein and upon written notice to the Company, Defendants' Counsel and the Plan's recordkeeper, the Settlement Administrator shall effect a transfer from the Qualified Settlement Fund to the Plan of all monetary payments payable to Participant Class Members. The Plan's recordkeeper shall thereafter credit the individual Plan account of each Participant Class Member in an amount equal to that individual's Final Entitlement Amount.

d. Each Participant Class Member's Final Entitlement Amount shall be invested in accordance with and in proportion to such Participant Class Member's investment elections then on file for new contributions to their Plan account. If the Participant Class Member does not have an investment election on file, then such individual shall be deemed to have directed payment of their Final Entitlement Amount to be invested in the Plan's qualified default investment alternative, as defined in 29 C.F.R. § 2550.404c-5.

e. If, as of the date on which the Plan's recordkeeper credits the individual Plan account of each Participant Class Member with their Final Entitlement Amount, an individual believed to be a Participant Class Member no longer has a Plan account balance greater than \$0.00, they will be treated as a Non-Rollover-Electing Former Participant Class Member for purposes of the settlement distribution only and will receive their payment from the Settlement Administrator in the form of a check as described in Section 5.5(a)(ii). If any such Participant Class Member's Final Entitlement Amount is less than \$10.00, the Settlement Administrator shall still mail that Participant Class Member a check for their Final Entitlement Amount.

5.5 Payments to Former Participant Class Members.

a. Each Former Participant Class Member will have the opportunity to elect a tax-qualified rollover of their Final Entitlement Amount to an individual retirement account or other

eligible employer plan, which they have identified on the Former Participant Rollover Form, provided that the Former Participant Class Member's Final Entitlement Amount is not less than \$10.00 and they supply adequate information to the Settlement Administrator to effect the rollover.

i. Rollover-Electing Former Participant Class Members. Upon completing the calculation of each Participant Class Member and Former Participant Class Member's Final Entitlement Amount and no later than sixty (60) calendar days following the Settlement Effective Date, the Settlement Administrator shall effect a rollover from the Qualified Settlement Fund to the individual retirement account or other eligible employer plan elected by each Rollover-Electing Former Participant Class Member in their Former Participant Rollover Form, if the conditions for such rollover are satisfied and any associated paperwork necessary to transfer such Final Entitlement Amount by rollover has been provided. If the Settlement Administrator is unable to effectuate the rollover instructions of any Rollover-Electing Former Participant Class Member as provided in their Former Participant Rollover Form, they will be treated as a Non-Rollover-Electing Former Participant Class Member.

ii. Non-Rollover-Electing Former Participant Class Members. Upon completing the calculation of each Class Member's Final Entitlement Amount and no later than sixty (60) calendar days following the Settlement Effective Date, the Settlement Administrator shall issue a check from the Qualified Settlement Fund to each Non-Rollover-Electing Former Participant Class Member whose Final Entitlement Amount is not less than \$10.00, in the amount of each Former Participant Class Member's Final Entitlement Amount (less any withholdings).

5.6 Payments to Beneficiaries and Alternate Payees.

a. Beneficiaries of Participant Class Members who are entitled to receive all or a portion of a Participant Class Member's Final Entitlement Amount under this Article shall receive

such settlement payments pursuant to the terms of the Plan. Beneficiaries of Former Participant Class Members who are entitled to receive all or a portion of a Former Participant Class Member's Final Entitlement Amount under this Article will receive such settlement payments under the methods described in Section 5.5 for Former Participant Class Members.

b. Alternate Payees of Participant Class Members who are entitled to receive all or a portion of a Participant Class Member's Final Entitlement Amount under this Article shall receive such settlement payments pursuant to the terms of the applicable Qualified Domestic Relations Order. Alternate Payees of Former Participant Class Members who are entitled to receive all or a portion of a Former Participant Class Member's Final Entitlement Amount under this Article will receive such settlement payments under the methods described in Section 5.5 for Former Participant Class Members.

c. The Settlement Administrator shall have sole and final discretion to determine the amounts to be paid to Beneficiaries and Alternate Payees in accordance with the Plan of Allocation set forth in this Article and as ordered by the Court.

5.7 Notice of completion of Plan of Allocation. Within ten (10) Business Days of completing all aspects of the Plan of Allocation, the Settlement Administrator shall, upon request, send to Class Counsel, Defendants' Counsel, and the Company one or more affidavits stating the following: (a) the name of each Class Member to whom the Settlement Administrator sent the Notices (and, for Former Participant Class Members, the Former Participant Rollover Form), and the address of such mailing; (b) the date(s) upon which the Settlement Administrator sent the Notices (and, for Former Participant Class Members, the Former Participant Rollover Form); (c) the name of each Class Member whose Notice was returned as undeliverable; (d) the efforts made by the Settlement Administrator to find the correct address and to deliver the Notice for each such

Class Member; (e) the name of each Class Member who submitted a Former Participant Rollover Form on or before the applicable deadline; (f) the name of each Class Member to whom the Settlement Administrator made a distribution from the Net Settlement Amount, together with the amount and form of the distribution, the name of the payee, the date of distribution, the amount of tax withholdings, if applicable, and the date of remittance of tax withholdings to the appropriate tax authority, if applicable; and (g) the name of each Former Participant Class Member whose Final Entitlement Amount was less than \$10.00.

5.8 Expiration of Checks and Disbursement of Undistributed Monies from the Qualified Settlement

a. All checks issued in accordance with the Plan of Allocation shall be mailed to the address of each Class Member (or his or her Beneficiary or Alternate Payee) provided by the Plan's recordkeeper or any updated address obtained by the Settlement Administrator.

b. All checks issued in accordance with the Plan of Allocation that are not cashed within one hundred twenty (120) calendar days of issuance shall be void and shall revert to the Qualified Settlement Fund. The voidance of checks shall have no effect on Class Members' release of claims, obligations, representations, or warranties as provided herein, which shall remain in full effect. Any amounts that revert to the Qualified Settlement Fund, and any funds that cannot be distributed to Class Members for any other reason, together with any interest earned on them, and after the payment of any applicable taxes by the Escrow Agent, shall be transferred to the Plan's forfeiture account and treated as a forfeiture under the terms of the Plan, except that no such funds shall be used to reduce any Employer contribution (e.g., matching or profit sharing) under Section 4.3(e) of the Plan's terms. Under no circumstances will any such payments revert to the Company or any other Defendant.

5.9 Responsibility for taxes.

a. The Parties acknowledge that any payments to Class Members may be subject to applicable tax laws. The Company, Defendants' Counsel, Class Counsel, and the Named Plaintiff 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 this Settlement Agreement.

b. Each Class Member who receives a payment pursuant to the 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. Each Class Member shall hold Defendants, the Named Plaintiff, Individual Fiduciary Committee Members, Individual Board Members, Defendants' Counsel, 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 Settlement 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.

5.10 Restorative Payments. The Net Settlement Amount to be allocated and distributed to the Former Participant Class Members and to the Plan for distribution to the Participant Class Members in accordance with the Plan of Allocation shall constitute "restorative payments" within the meaning of Revenue Ruling 2002-45 for all purposes.

ARTICLE 6 – ATTORNEYS' FEES AND COSTS AND SERVICE AWARD

6.1 Attorneys' Fees and Costs. No later than fourteen (14) calendar days prior to the deadline provided in the Preliminary Approval Order for Class Members to object to the Settlement Agreement, Class Counsel may file an application with the Court for payment of

reasonable Attorneys' Fees and Costs, and Settlement Administrative Expenses (other than those tax-related expenses automatically deducted pursuant to Section 4.6), to be deducted from the Gross Settlement Amount. Defendants agree to take no position with respect to Class Counsel's application for Attorneys' Fees and Costs and Settlement Administrative Expenses, provided that the Independent Fiduciary has no objection to such Attorneys' Fees and Costs and Settlement Administrative Expenses. Notwithstanding anything herein, the Court's failure to approve, in whole or in part, any application for Attorneys' Fees and Costs, or Settlement Administrative Expenses, sought by Class Counsel shall not prevent the Settlement Agreement from becoming effective, nor shall it be grounds for termination of the Settlement.

6.2 Service Award. No later than fourteen (14) calendar days prior to the deadline provided in the Preliminary Approval Order for Class Members to object to the Settlement Agreement, Class Counsel may file an application with the Court for payment of a Service Award to the Named Plaintiff in an amount not to exceed seven thousand five hundred U.S. dollars (\$7,500.00). Defendants agree not to object to any such requested Service Award, provided that the Independent Fiduciary has no objection to such Service Award. Notwithstanding anything herein, the Court's failure to approve, in whole or in part, any application for the Service Award shall not prevent the Settlement Agreement from becoming effective, nor shall it be grounds for termination of the Settlement.

ARTICLE 7 – RELEASES AND COVENANT NOT TO SUE

7.1 Releases. Subject to Article 9 below, the obligations incurred pursuant to this Settlement Agreement shall be in full and final disposition and settlement of any and all of Plaintiffs' Released Claims and Defendants' Released Claims.

a. Upon the Settlement Effective Date, the Named Plaintiff and every Class Member (on behalf of themselves, their heirs, executors, administrators, successors, and assigns) and the Plan (subject to Independent Fiduciary approval as described in Section 2.2 herein) shall, with respect to each and every Plaintiffs' Released Claim, be deemed to absolutely and unconditionally, finally and forever release, relinquish and discharge each and every Plaintiffs' Released Claim that Named Plaintiff, the Class Members or the Plan directly, indirectly, derivatively, or in any other capacity ever had, now have or hereafter may have against any and all of the Released Parties, and forever shall be enjoined from prosecuting any such Plaintiffs' Released Claim, whether or not Class Members received the Notice, whether or not the Class Members received a payment in connection with this Settlement Agreement, whether or not Former Participant Class Members received the Notices and/or the Former Participant Class Member Rollover Form, whether or not Former Participant Class Members have executed and delivered a Former Participant Class Member Rollover Form or have missed the Former Participant Rollover Form Deadline, 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.

b. Upon the Settlement Effective Date, Defendants, on behalf of themselves and their successors and assigns shall be deemed to fully, finally and forever release, relinquish and forever discharge the Defendants' Released Claims, and forever shall be enjoined from prosecuting any such claims.

c. Nothing herein shall preclude any action to enforce the Settlement Agreement.

7.2 Covenant not to sue. As of the Settlement Effective Date, the Class Members and the Plan (subject to Independent Fiduciary approval as described in Section 2.2 herein) 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 a U.S. Internal Revenue Service determination letter proceeding, a U.S. 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 Released Parties on the basis of, in connection with, or arising out of any of Plaintiffs' Released Claims. Nothing herein shall preclude any action to enforce the Settlement Agreement.

7.3 The Named Plaintiff, Class Counsel, the Plan, or the Class Members may hereafter discover facts in addition to or different from those that they know or believe to be true with respect to the Plaintiffs' Released Claims. Such facts, if known by them, might have affected the decision to settle with Defendants, or the decision to release, relinquish, waive, and discharge the Plaintiffs' 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 Settlement Effective Date, and by operation of the Final Approval Order, shall have, fully, finally, and forever settled, released, relinquished, waived, and discharged any and all Plaintiffs' Released Claims, including Unknown Claims. The 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 Upon the Settlement Effective Date, the Named Plaintiff, Class Members, and the 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, including specifically Section 1542 of the California Civil Code, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

Also, the Named Plaintiff and Class Members with respect to Plaintiffs' Released Claims shall, upon the Settlement Effective Date, waive any and all provisions, rights and benefits conferred by any law 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.

7.5 This Settlement Agreement does not in any way bar, limit, waive, or release any right by the Named Plaintiff or any Class Member to assert and/or recover any moneys resulting from any individual non-Released Claim, as described in Section 1.39, for individual vested benefits brought pursuant to ERISA § 502(a)(1)(B), 29 U.S.C. § 1132(a)(1)(B) that are otherwise due under the terms of the Plan, or any rights or duties arising out of the Settlement Agreement.

ARTICLE 8 – REPRESENTATIONS AND WARRANTIES

8.1 Parties' representations and warranties. Defendants' Counsel, on behalf of Defendants, and Class Counsel, on behalf of the Named Plaintiff and Class Members, represent and warrant as follows, and each acknowledges that each other is relying on these representations and warranties in entering into the Settlement Agreement:

- a. they have carefully read the Settlement Agreement and understand its terms;
- b. they are voluntarily entering into the Settlement Agreement as a result of arm's-length negotiations;

c. they have made such investigation of the facts pertaining to the subject matter of the Settlement Agreement as they deem necessary and appropriate;

d. they assume the risk of mistake as to facts or law; and,

e. they recognize that additional evidence may come to light, but they nevertheless desire to avoid the expense and uncertainty of litigation by entering into the Settlement Agreement.

8.2 Signatories' representations and warranties. The persons executing the Settlement Agreement represent that they have been duly authorized to do so and that they have the authority to take appropriate action required or permitted to be taken pursuant to the Settlement Agreement in order to effectuate its terms.

ARTICLE 9 – TERMINATION

9.1 Right to terminate by each Party. Each Party shall have the right to terminate and abandon the Settlement Agreement by providing written notice of their election to do so to the other Party no later than fourteen (14) calendar days after the occurrence of any of the following conditions:

a. the Court declines to approve the Settlement Agreement or any material part of it;

b. the Court declines to enter the Preliminary Approval Order or materially modifies the contents of the Preliminary Approval Order;

c. the Independent Fiduciary does not approve the release or the Settlement Agreement, or disapproves the release or the Settlement Agreement for any reason whatsoever, or the Company reasonably concludes that the Independent Fiduciary's approval does not include the determinations required by PTE 2003-39, and the Parties do not mutually agree to modify the terms of the Settlement Agreement to facilitate an approval by the Independent Fiduciary or the Independent Fiduciary's determinations required by PTE 2003-39;

d. the Court declines to enter the Final Approval Order or materially modifies the contents of the Final Approval Order; or

e. the Final 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 Settlement Effective Date.

Notwithstanding anything herein, no order of the Court, or modification or reversal on appeal of any order of the Court, solely concerning Attorneys' Fees and Costs or any Service Awards shall constitute grounds for termination of the Settlement Agreement.

9.2 Reversion to prior positions. If the Settlement Agreement is terminated in accordance with this Article, then the Parties and Class Members will be restored to their respective positions immediately before the execution of the Settlement Agreement, this Action shall proceed in all respects as if the Settlement Agreement and any related orders had not been entered, and any order entered by the Court pursuant to the terms of this Settlement Agreement shall be treated as vacated *nunc pro tunc*. All funds deposited in the Qualified Settlement Fund, and any interest earned thereon, shall be returned to the Company within thirty (30) calendar days after the Settlement Agreement is finally terminated or deemed null and void, except as provided for in Section 9.3. The fact of this Settlement Agreement and the terms contained herein shall not be admissible in any proceeding for any purpose, and the Parties expressly and affirmatively reserve all claims, remedies, defenses, arguments, and motions as to all claims and requests for relief that might have been or might later be asserted in the Action.

9.3 In the event that the Settlement Agreement is terminated, Settlement Administrative Expenses incurred prior to the termination shall be paid first from the interest earned, if any, on the Qualified Settlement Fund. Settlement Administrative Expenses in excess of

the interest earned on the Qualified Settlement Fund shall be split evenly and paid by the Company and Class Counsel.

ARTICLE 10 – NO ADMISSION OF WRONGDOING

10.1 The Settlement Agreement, whether or not consummated, and any proceedings taken pursuant to it, is for settlement purposes only. Defendants and the Released Parties deny any and all wrongdoing or liability in connection with any claims which have been made or could have been made, or which are the subject of, arise from, or are connected, directly or indirectly, with or related in any way to the Action, including. The Released Parties deny that any violation of any law, rule, or regulation has ever occurred.

10.2 The Settlement Agreement, whether or not consummated, and any negotiations, proceedings, or agreements relating to the Settlement Agreement, and any matters arising in connection with settlement negotiations, proceedings, or agreements:

a. shall not be offered or received against Defendants, Individual Fiduciary Committee Members, Individual Board Members, or any of the Released Parties as evidence of, or be construed as or deemed to be evidence of, any presumption, concession, or admission of the truth of any fact alleged by the Named Plaintiff or the validity of any claim that has been or could have been asserted in the Action or in any litigation, or the deficiency of any defense that has been or could have been asserted in the Action or in any litigation;

b. shall not be offered or received against Defendants, Individual Fiduciary Committee Members, Individual Board Members, or any of the Released Parties as evidence of a presumption, concession or admission of any fault, misrepresentation or omission with respect to any statement or written document;

c. shall not be offered or received against Defendants, Individual Fiduciary Committee Members, Individual Board Members, or any of the Released Parties as evidence of a presumption, concession, or admission with respect to any liability, negligence, fault, or wrongdoing; and

d. shall not be construed against Defendants, Individual Fiduciary Committee Members, Individual Board Members, or any of the Released Parties as an admission or concession that the consideration to be given hereunder represents the amount which could or would have been recovered after trial of the Action.

ARTICLE 11 –MISCELLANEOUS

11.1 Exhibits included. The exhibits to the Settlement Agreement are integral parts of this Settlement Agreement and are incorporated by reference as if set forth herein.

11.2 Cooperation. Class Counsel and Defendants’ Counsel agree to cooperate fully with one another in seeking Court entry of the Preliminary Approval Order and Final Approval Order.

11.3 Non-disparagement. The Named Plaintiff and Class Counsel will not publicly disparage Defendants, Individual Fiduciary Committee Members, or any Individual Board Members as to the Action, the Plan, or the Settlement.

11.4 Confidentiality. The Parties and their counsel shall keep strictly confidential, and shall not disclose to any third-party the terms and conditions of this Settlement Agreement until such time as the Named Plaintiff files his motion for preliminary approval of the Settlement.

11.5 Entire agreement. This Settlement Agreement and all of the exhibits appended hereto constitute the entire agreement of the Parties with respect to the subject matter of the Action and supersede any prior agreement, whether written or oral, as to that subject matter. No representations or inducements have been made by any Party hereto concerning the Settlement

Agreement or its exhibits other than those contained and memorialized herein. The provisions of the Settlement Agreement and its exhibits may not be modified or amended, nor may any of their provisions be waived, except by a writing signed by all Parties hereto or their successors-in-interest.

11.6 Waiver. The waiver by any Party of a breach of the Settlement Agreement by any other Party shall not be deemed a waiver of any other breach of the Settlement Agreement.

11.7 Construction of agreement. This Settlement Agreement shall not be construed more strictly against one Party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the Parties, it being recognized that the Settlement Agreement is the result of arm's-length negotiations between the Parties and all Parties have contributed substantially and materially to its preparation.

11.8 Headings. The headings herein are used for the purpose of convenience only and are not meant to have legal effect.

11.9 Governing law. The Settlement Agreement and all documents necessary to effectuate it shall be governed by the internal laws of the state of Massachusetts without regard to any conflict of law doctrines, except to the extent that federal law requires that federal law govern, and except that all computations of time with respect to the Settlement Agreement shall be governed by Federal Rule of Civil Procedure 6.

11.10 Disputes Concerning Compliance with Settlement Agreement. Class Counsel, Defendants' Counsel, and the Parties agree that any and all disputes concerning compliance with the Settlement Agreement shall be exclusively resolved as follows:

a. If Class Counsel, Defendants' Counsel, or a Party has reason to believe that a legitimate dispute exists concerning the Settlement Agreement, the party raising the dispute shall

first promptly give written notice under the Settlement Agreement to the other party including in such notice: (a) a reference to all specific provisions of the Settlement Agreement that are involved; (b) a statement of the alleged non-compliance; and (c) a brief statement of the specific facts, circumstances, and any other arguments supporting the position of the party raising the dispute;

b. Within ten (10) business days after receiving the notice described in Section 11.10(a), the receiving party shall respond in writing with its position and the facts and arguments it relies on in support of its position;

c. For a period of not more than ten (10) business days following receipt of the response described in Section 11.10(b), the Parties shall undertake good-faith negotiations, which may include meeting in person or conferring by telephone, to attempt to resolve the dispute;

d. If the dispute is not resolved during the period described in Section 11.10(c), either party may request that the Court resolve the dispute;

e. In connection with any disputes concerning compliance with the Settlement Agreement, the Parties agree that each party shall bear its own fees and costs unless the Court orders otherwise.

11.11 Personal Jurisdiction. The Parties agree that the Court has personal jurisdiction over the Named Plaintiff, Class Members, and Defendants, and shall retain that jurisdiction for purposes of enforcing the Settlement Agreement and resolving any disputes concerning compliance with the Settlement Agreement.

11.12 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 the negotiation, preparation, or compliance with the Settlement Agreement, and including any fees, expenses, and disbursements of its counsel and other advisors. Nothing in

the Settlement Agreement shall require Defendants or any Released Party to pay any monies other than as expressly provided herein.

11.13 Execution in counterparts. The Settlement Agreement may be executed in one or more counterparts and may be executed by facsimile or electronic signature. All executed counterparts and each of them shall be deemed to be one and the same instrument provided that counsel for the Parties shall exchange among themselves signed counterparts.

11.14 Notices. Unless otherwise provided herein, any notice, demand, or other communication under the Settlement Agreement (other than Notices to Class Members or other notices provided 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 delivered by hand, sent by registered or certified mail postage prepaid, or delivered by reputable express overnight courier as follows:

- a. if to the Named Plaintiff:

Paul M. Secunda
WALCHESKE & LUZI, LLC
235 N. Executive Drive, Suite 240
Brookfield, Wisconsin 53005

- b. if to Defendants:

Alison V. Douglass
GOODWIN PROCTER LLP
100 Northern Avenue
Boston, Massachusetts 02110

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

AGREED TO ON BEHALF OF NAMED PLAINTIFF David Daggett, as class representative on behalf of the Class Members, and on behalf of the Plan

Dated: September 30, 2024

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

AGREED TO ON BEHALF OF DEFENDANTS Waters Corporation, Waters Technologies Corporation, the Board of Directors of Waters Technologies Corporation, and the Employee Benefits Administrative Committee of Waters Technologies Corporation

Dated: September 30, 2024

By: *Alison V. Douglass*
Alison V. Douglass
GOODWIN PROCTER LLP
100 Northern Avenue
Boston, Massachusetts 02110
(617) 570-1000
ADouglass@goodwinlaw.com

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

If you participated in the Waters Employee Investment Plan (the "Plan") at any time from July 7, 2017 to [Date of Preliminary Approval Order], you are part of a class action settlement.

IMPORTANT

PLEASE READ THIS NOTICE CAREFULLY

THIS NOTICE RELATES TO THE PENDENCY OF A CLASS ACTION LAWSUIT AND, IF YOU ARE A SETTLEMENT CLASS MEMBER, CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHTS TO OBJECT TO THE SETTLEMENT

***A Federal Court authorized this notice. You are not being sued.
This is not a solicitation from a lawyer.***

- A Settlement has been reached in a class action lawsuit against Waters Corporation, Waters Technologies Corporation (together with Waters Corporation, "Waters"), the Board of Directors of Waters Technologies Corporation, and the Employee Benefits Administrative Committee of Waters Technologies Corporation (together, "Defendants"). The class action lawsuit involves whether or not Defendants violated their fiduciary duties under the Employee Retirement Income Security Act of 1974 ("ERISA") in managing the Plan. Defendants deny all claims, and nothing in the Settlement is an admission or concession on Defendants' part of any fault or liability whatsoever.
- You are included as a Class Member if you participated in the Plan at any time from July 7, 2017 to [Date of Preliminary Approval] (the "Class Period").
- The terms and conditions of the Settlement are set forth in the Settlement Agreement dated [Date], and are summarized below. Capitalized terms used in this Notice but not defined in this Notice have the meanings assigned to them in the Settlement Agreement. The Settlement Agreement is available at [www.settlementwebsite.com]. Certain other documents will also be posted on that website. You should visit that website if you would like more information about the Settlement or the lawsuit. All papers filed in this lawsuit are also available for review via the Public Access to Court Electronic Records System (PACER), at <http://www.pacer.gov>.
- Under the Settlement, Waters has agreed to cause its insurers to pay \$800,000.00 into a settlement fund. Class Members are eligible to receive a pro rata share of the amount of the settlement fund remaining after payment of Settlement Administrative Expenses, any Attorneys' Fees and Costs that the Court awards to Class Counsel, and any Service Awards that the Court awards to the Named Plaintiff. The amount of each Class member's payment is based on a Plan of Allocation that takes into account each Class Member's account balances over the period of July 7, 2017 through June 30, 2024, as well as the Plan investment options each Class Member invested in over the period of July 7, 2017 through February 4, 2022. **Payments to Class Members who had a Plan account with a balance greater than \$0.00 as of [date of preliminary approval order] (referred to herein as "Participant Class Members") will be deposited into their respective Plan accounts.** Payments to Former Participant Class Members who no longer have an account balance above \$0.00 will be made directly by check, unless the Former Participant Class Member elects to receive their payment through a rollover to a qualified retirement account or the Former Participant Class Member's Final Entitlement Amount is less than \$10.00. Participant Class Members who are determined to no longer have a Plan account with a balance greater than \$0.00 as of the date of their Settlement payments will be treated as Former Participant Class Members and will receive an

allocation by check.

- Please read this notice carefully. Your rights and the choices available to you — and the applicable deadlines to act — are explained in this Notice. Your legal rights are affected whether you act or not. Please note that neither Waters nor any Waters affiliate nor any employees or representatives of Waters or a Waters affiliate may advise you as to what the best choice is for you or how you should proceed.
- The Court still has to decide whether to give its Final Approval to the Settlement. A Fairness Hearing has been scheduled for [DATE] at [TIME] before the Court in courtroom [] of the John Joseph Moakley U.S. Courthouse, 1 Courthouse Way, Boston, Massachusetts. Payments under the Settlement will be made only if the Court finally approves the Settlement and that Final Approval is upheld in the event of any appeal.

THIS TABLE CONTAINS A SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING	<u>Our records indicate that you are a Participant Class Member.</u> You do not need to do anything to receive your settlement payment. You will get a share of the Settlement benefits to which you are entitled and will give up your rights to sue Defendants about the allegations in this case.
OBJECT BY [DATE]	If you wish to object to any part of the Settlement, you must write to Class Counsel and Defendants' Counsel (as identified on page []) to explain why you object.
ATTEND A HEARING	You may also attend the Fairness Hearing and speak at the Fairness Hearing on [DATE]. You may attend the hearing and speak at the hearing without filing a notice of your intention to appear, but you will not be permitted to make an objection if you do not comply with the requirements for making objections.
SUBMIT A CLAIM FORM IF YOU BELIEVE YOU ARE A FORMER PARTICIPANT CLASS MEMBER AND DESIRE A ROLLOVER	If You believe our records are inaccurate, and you are a "Former Participant Class Member" who did not have a Plan account balance greater than \$0.00 on [date of preliminary approval order], or are a Beneficiary or Alternate Payee of such a Participant, you can elect to receive your payment through a rollover to a qualified retirement account. If you are a Former Participant Class Member and would prefer to receive your settlement payment through a rollover to a qualified retirement account, you must complete, sign, and mail a Former Participant Rollover Form by [RETURN DATE SET FORTH IN PRELIMINARY APPROVAL ORDER]. If you believe you are a Former Participant Class Member, a Former Participant Rollover Form may be obtained by calling the Settlement Administrator at 1-800-#### or by accessing www.[Website].com. Former Plan participants who fail to complete, sign, and mail their Former Participant Rollover Form will receive their Settlement distribution by check. Regardless of whether you submit a claim form, you will give up your rights to sue Defendants about the allegations in this case.

BASIC INFORMATION

1. What is this notice and why should I read it?

A court authorized this notice to let you know about a proposed settlement of a class action lawsuit called *Daggett, et al. v. Waters Corporation, et al.*, Civil Action No. 1:23-cv-11527 (D. Mass.), (the “Action”), brought on behalf of the Class Members and the Plan, and pending in the United States District Court for the District of Massachusetts. This notice describes the Settlement. Please read this notice carefully. Your rights and options—**and the deadlines to exercise them**—are explained in this notice. Please understand that if you are a Class Member, your legal rights are affected regardless of whether you act.

2. What is a class action lawsuit?

A class action is a lawsuit in which one or more plaintiffs—in this case, one former Plan participant (the “Named Plaintiff”)—sue on behalf of a group of people who allegedly have similar claims. After the Parties reached an agreement to settle this case, the Court granted preliminary approval of the Settlement. Among other things, this preliminary approval permits Class Members to voice their support of or opposition to the Settlement before the Court makes a final determination as whether to approve the Settlement. In a class action, the Court resolves the issues for all class members.

THE CLAIMS IN THE LAWSUIT AND THE SETTLEMENT

3. What is this lawsuit about?

The Named Plaintiff, suing individually and on behalf of the Class and Plan (the “Plaintiffs”), allege that Defendants breached their fiduciary duties under ERISA by including underperforming investment options in the Plan, failing to adequately monitor the fees and performance of those funds, and failing to adequately monitor fees paid to the Plan’s recordkeeper. A more complete description of what Plaintiffs allege is in the Amended Complaint, which is available on the Settlement Website at www.WEBSITE.com.

Defendants deny all claims of wrongdoing or liability against them and assert that they have always acted prudently and in the best interests of Plan participants and beneficiaries. Defendants are settling the Action solely to avoid the expense, inconvenience, and disruption of litigation, without admitting the allegations of breach and damage contained in the Amended Complaint.

4. Why is there a Settlement?

The Named Plaintiff filed this Action on July 7, 2023. After Defendants moved to dismiss the Action in September 2022, Plaintiffs filed an Amended Complaint on October 12, 2023 to which Defendants moved to dismiss in November 2023. The Court denied Defendants’ motion in April 2024. The Parties have exchanged initial discovery. Instead of continuing Plaintiffs’ case against the Defendants, both sides agreed to a Settlement. That way, both sides avoided the cost and risk of additional court proceedings, and the affected Class Members will receive benefits that they would not have received if the Named Plaintiff had litigated the remaining issues and lost, or had lost on appeal. The Named Plaintiff and his attorneys believe the Settlement is in the best interests of the Class Members. Nothing in the Settlement Agreement is an admission or concession on Defendants’ part of any fault, liability or damages whatsoever, but has been entered into to avoid the uncertainty, expense, and burden of additional litigation.

WHO'S INCLUDED IN THE SETTLEMENT?

5. How do I know if I am in the Settlement Class?

The Court decided that everyone who fits this description is a member of the **Class**:

All participants in and beneficiaries of the Waters Employee Investment Plan (excluding the Defendants or any participant/beneficiary who served on the Fiduciary Committees) beginning July 7, 2017, and running through [the date the Court enters the Preliminary Approval Order].

If you meet the definition above, you are a member of the Class.

THE SETTLEMENT BENEFITS

6. What does the Settlement provide?

Waters has agreed to have its insurers pay \$800,000 into a Qualified Settlement Fund to resolve the claims of Class Members. The Net Settlement Amount (after deduction of any Court-approved expenses associated with administering the Settlement, Attorneys' Fees and Costs, and Service Award to the Named Plaintiff) will be allocated to Class Members according to the Plan of Allocation set forth in the Settlement Agreement. Under the Plan of Allocation, monies will be distributed to Participant Class Members and Former Participant Class Members pro rata based on (i) their account balance for the period July 7, 2017 through June 30, 2024, and (ii) whether they invested in the Fidelity Freedom Funds through the Plan during the period July 7, 2017 through February 4, 2022.

All Class Members and anyone claiming through them will fully release the Plan as well as Defendants, Individual Fiduciary Committee Members, Individual Board members, and the Released Parties from Plaintiffs' Released Claims. The Released Parties include, but are not limited to, Defendants' past, present, and future parent corporation(s), subsidiaries, divisions, joint ventures, predecessors, successors, successors-in-interest, and assigns, and any individual, partnership, corporation, or any other form of entity or organization that controls, is controlled by, or is under common control with any of the foregoing. The Plaintiffs' Released Claims include, but are not limited to, all claims that were asserted in the Action or could have been asserted in the Action based on any of the allegations, acts, omissions, purported conflicts, representations, misrepresentations, facts, events, matters, transactions, or occurrences asserted in the Action, whether or not pleaded in the Complaints. The Plaintiffs' Released Claims also include those that relate to the direction to calculate, the calculation of, and/or the method or manner of allocation of the Net Settlement Fund pursuant to the Plan of Allocation and/or that relate to the approval by the Independent Fiduciary of the Settlement Agreement, unless brought against the Independent Fiduciary alone.

This is *only* a summary of the Released Parties and Plaintiffs' Released Claims, and is not a binding description of either. The governing releases are found within the Settlement Agreement at [www.settlementwebsite.com]. Generally, the release means that Class Members will not have the right to sue the Plan, Defendants, or related parties for conduct during the Class Period arising out of or relating to the allegations in the lawsuit. The entire Settlement Agreement is available at [www.settlementwebsite.com].

HOW TO GET BENEFITS

7. How do I get benefits?

Class Members do not have to submit claim forms in order to receive settlement benefits.

According to our records, you are a current participant in the Plan. The benefits of the Settlement will be distributed automatically once the Court approves the Settlement to Participant Class Members' Plan accounts.

If, however, you are a Former Participant Class Member who did not have a Plan account balance greater than \$0.00 on [date of preliminary approval order], or are a Beneficiary or Alternate Payee of such a Participant, you can elect to receive your payment through a rollover to a qualified retirement account. If you are a Former Participant Class Member and would prefer to receive your settlement payment through a rollover to a qualified retirement account, you must complete, sign, and mail a Former Participant Rollover Form by [RETURN DATE SET FORTH IN PRELIMINARY APPROVAL ORDER]. If you believe you are a Former Participant Class Member, a Former Participant Rollover Form may be obtained by calling the Settlement Administrator at 1-800-#### or by accessing www.[Website].com. Former Plan participants who fail to complete, sign, and mail their Former Participant Rollover Form will receive their Settlement distribution by check.

Participant Class Members who are determined to no longer have a Plan account with a balance greater than \$0.00 as of the date of their Settlement payments will be treated as Former Participant Class Members and will receive an allocation by check.

8. When will I get my payment?

Participant Class Members (or Beneficiaries or Alternate Payees of such participants) will receive their pro rata share of the \$800,000 in the form of a deposit into their Plan account effective no later than sixty (60) days after the Settlement has received final approval and becomes effective. The hearing to consider the final fairness of the Settlement is scheduled for [Fairness Hearing, 2024]. Any Alternate Payees of Participant Class Members will also receive their payment within 60 days, in accordance with the terms of their Qualified Domestic Relations Order.

All checks not cashed within 120 days after they are issued will expire and become void.

Payments made by check may have certain tax consequences; you should consult your tax advisor.

There will be no payments under the Settlement if the Settlement Agreement is terminated.

THE LAWYERS REPRESENTING YOU

9. Who represents the Settlement Class?

For purposes of the Settlement, the Court has appointed lawyers from the law firms of Walcheski & Luzi, LLC and Jonathan M. Feigenbaum, Esq. as Class Counsel. If you want to be represented by your own lawyer, you may hire one at your own expense. In addition, the Court appointed Named Plaintiff David Daggett to serve as the Class representative. He is also a Class Member.

Subject to approval by the Court, Class Counsel has proposed that up to \$7,500 may be paid to the Named Plaintiff as the Class representative in recognition of the time and effort he expended on behalf of the Class. The Court will determine the proper amount of any award to the Named Plaintiff. The Court may award less than that amount.

10. How will the lawyers be paid?

From the beginning of the case, which was filed in July 7, 2023, to the present, Class Counsel have not received any payment for their services in prosecuting the case or obtaining the Settlement, nor have they been reimbursed for any out-of-pocket expenses they have incurred. Class Counsel will apply to the Court for an award of reasonable attorneys' fees (not to exceed one-third of the settlement fund), plus their costs and Settlement Administrative Expenses. Defendants have agreed not to object to such an application. The Court will determine the proper amount of any Attorneys' Fees and Costs to award Class Counsel.

Any Attorneys' Fees and Costs awarded by the Court will be paid to Class Counsel from the settlement fund. Class Counsel will file a motion for an award of Attorneys' Fees and Costs, Settlement Administrative Expenses, and Class Representative's Compensation at least 14 days prior to the objection deadline. This motion will be considered at the Fairness Hearing. Class Counsel also will seek to recover all actual and anticipated litigation costs and administrative expenses associated with the Settlement. The Class Members will not have to pay anything out-of-pocket toward the fees or costs of Class Counsel.

YOUR RIGHTS AND OPTIONS

11. What is the effect of Final Approval of the Settlement?

If the Court grants Final Approval of the Settlement, a final order and judgment dismissing the case will be entered in the Action. Payments under the Settlement will then be processed and distributed. The release by Class Members will also take effect. No Class Member will be permitted to continue to assert Plaintiffs' Released Claims in any other litigation against Defendants or the other persons and entities covered by the release, as described in Question No. 6.

If you object to the terms of the Settlement Agreement, you may notify the Court of your objection. (See Table on page 2 of this Notice.) If the Settlement is not approved, the case will proceed as if no settlement had been attempted or reached. If the Settlement is not approved and the case resumes, there is no guarantee that Class Members will recover more than is provided for under the Settlement, or anything at all.

12. What happens if I do nothing at all?

If you do nothing, and the Settlement is approved, you will release any claims you may have against Defendants, Individual Fiduciary Committee Members, or the Released Parties concerning the conduct Plaintiffs allege in their complaints. (See Question No. 6.) You may also receive a payment as described in Question No. 6.

13. How do I get out of the Settlement?

If the Court approves the Settlement, you will be bound by it and will receive whatever benefits you are entitled to under its terms. You cannot exclude yourself from the Settlement, but you may notify the Court of your objection to the Settlement. (See Question No. 15.) If the Court approves the Settlement, it will do so under Federal Rule of Civil Procedure 23(b)(1), which does not permit Class Members to opt out of the Class.

14. Can I sue Waters for the same thing later?

No. If the Court approves the Settlement, you will have given up any right to sue Waters or any of the Released Parties for the Plaintiffs' Released Claims.

15. How do I object to the Settlement?

You can object to the Settlement if you don't like any part of it. If you object, you must give the reasons why you think the Court should not approve the Settlement. The Court will consider your views. Your objection to the Settlement must be postmarked no later than **[OBJECTION DEADLINE, 2024]** and must be sent to the attorneys for the Parties at the addresses below:

Class Counsel	Defendants' Counsel
Paul M. Secunda WALCHESKE & LUZI, LLC 235 N. Executive Drive, Suite 240 Brookfield, Wisconsin 53005	Alison Douglass GOODWIN PROCTER LLP 100 Northern Avenue Boston, Massachusetts 02110

The objection must be in writing and should include the case name *Daggett, et al. v. Waters Corporation, et al.*, Civil Action No. 1:23-cv-11527; as well as include your (a) name; (b) address; (c) a statement that you are a member of the Settlement Class; (d) the specific grounds for the objection (including all arguments, citations, and evidence supporting the objection); (e) all documents or writings that you desire the Court to consider (including all copies of any documents relied upon in the objection); (f) your signature; and (g) a notice of intention to appear at the Fairness Hearing (if applicable). (If you are represented by counsel, you or your counsel must file your objection through the Court's CM/ECF system.) The Court will consider all properly filed comments from Class Members. If you wish to appear and be heard at the Fairness Hearing in addition to submitting a written objection to the Settlement, you or your attorney should say so in your written objection.

Class Counsel will file with the Court their request for Attorneys' Fees and Costs, Settlement Administrative Expenses, and Service Award to the Named Plaintiff at least two weeks prior to **[OBJECTION DEADLINE, 2024]**, and post it on the Settlement Website.

THE COURT'S FAIRNESS HEARING**16. When and where will the Court hold a hearing on the fairness of the Settlement?**

A Fairness Hearing has been set for **[DATE]** at **[TIME]**, before The **Honorable Myong J. Joun** at the Joseph Moakley U.S. Courthouse, 1 Courthouse Way, Boston, Massachusetts 02210 in **[COURTROOM]**. At the hearing, the Court will hear any comments, objections, and arguments concerning the fairness of the proposed Settlement, including the amount requested by Class Counsel for Attorneys' Fees and Costs, Settlement Administrative Expenses, and the Service Award to the Named Plaintiff as the Class representative. You do not need to attend this hearing. You also do not need to attend to have an objection considered by the Court. (See Question No. 15.)

Note: The date and time of the Fairness Hearing are subject to change by Court Order, but any changes will be posted at **[www.[website].com]**.

17. Do I have to come to the Fairness Hearing?

No. Class Counsel will answer any questions the Court may have. But you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as any written objection you choose to make was filed and mailed on time and meets the other criteria described in the Preliminary Approval Order, the Court will consider it. You may also pay another lawyer to attend, but you don't have to.

18. May I speak at the hearing?

You may ask the Court for permission to speak at the hearing concerning any part of the proposed Settlement by following the instructions in Question No. 15 above.

GETTING MORE INFORMATION

19. Where can I get additional information?

This notice provides only a summary of the matters relating to the Settlement. For more detailed information, you may wish to review the Settlement Agreement. You can view the Settlement Agreement and get more information at [\[WWW.WEBSITE.COM\]](#). You can also get more information by writing to the Settlement Administrator at [\[\]](#) or calling toll-free [\[\]](#).

PLEASE DO NOT CONTACT THE COURT, THE JUDGE, OR WATERS WITH QUESTIONS ABOUT THE SETTLEMENT.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

If you participated in the Waters Employee Investment Plan (the "Plan") at any time from July 7, 2017 to [Date of Preliminary Approval Order], you are part of a class action settlement.

IMPORTANT

PLEASE READ THIS NOTICE CAREFULLY

THIS NOTICE RELATES TO THE PENDENCY OF A CLASS ACTION LAWSUIT AND, IF YOU ARE A SETTLEMENT CLASS MEMBER, CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHTS TO OBJECT TO THE SETTLEMENT

***A Federal Court authorized this notice. You are not being sued.
This is not a solicitation from a lawyer.***

- A Settlement has been reached in a class action lawsuit against Waters Corporation, Waters Technologies Corporation (together with Waters Corporation, "Waters"), the Board of Directors of Waters Technologies Corporation, and the Employee Benefits Administrative Committee of Waters Technologies Corporation (together, "Defendants"). The class action lawsuit involves whether or not Defendants violated their fiduciary duties under the Employee Retirement Income Security Act of 1974 ("ERISA") in managing the Plan. Defendants deny all claims, and nothing in the Settlement is an admission or concession on Defendants' part of any fault or liability whatsoever.
- You are included as a Class Member if you participated in the Plan at any time from July 7, 2017 to [Date of Preliminary Approval] (the "Class Period").
- The terms and conditions of the Settlement are set forth in the Settlement Agreement dated [Date], and are summarized below. Capitalized terms used in this Notice but not defined in this Notice have the meanings assigned to them in the Settlement Agreement. The Settlement Agreement is available at [www.settlementwebsite.com]. Certain other documents will also be posted on that website. You should visit that website if you would like more information about the Settlement or the lawsuit. All papers filed in this lawsuit are also available for review via the Public Access to Court Electronic Records System (PACER), at <http://www.pacer.gov>.
- Under the Settlement, Waters has agreed to cause its insurers to pay \$800,000.00 into a settlement fund. Class Members are eligible to receive a pro rata share of the amount of the settlement fund remaining after payment of Settlement Administrative Expenses, any Attorneys' Fees and Costs that the Court awards to Class Counsel, and any Service Awards that the Court awards to the Named Plaintiff. The amount of each Class member's payment is based on a Plan of Allocation that takes into account each Class Member's account balances over the period of July 7, 2017 through June 30, 2024, as well as the Plan investment options each Class Member invested in over the period of July 7, 2017 through February 4, 2022. **Payments to Class Members who had a Plan account with a balance greater than \$0.00 as of [date of preliminary approval order] (referred to herein as "Participant Class Members") will be deposited into their respective Plan accounts.** Payments to Former Participant Class Members who no longer have an account balance above \$0.00 will be made directly by check, unless the Former Participant Class Member elects to receive their payment through a rollover to a qualified retirement account or the Former Participant Class Member's Final Entitlement Amount is less than \$10.00. Participant Class Members who are determined to no longer have a Plan account with a balance greater than \$0.00 as of the date of their Settlement payments will be treated as Former Participant Class Members and will receive an

allocation by check.

- Please read this notice carefully. Your rights and the choices available to you — and the applicable deadlines to act — are explained in this Notice. Your legal rights are affected whether you act or not. Please note that neither Waters nor any Waters affiliate nor any employees or representatives of Waters or a Waters affiliate may advise you as to what the best choice is for you or how you should proceed.
- The Court still has to decide whether to give its Final Approval to the Settlement. A Fairness Hearing has been scheduled for [DATE] at [TIME] before the Court in courtroom [] of the John Joseph Moakley U.S. Courthouse, 1 Courthouse Way, Boston, Massachusetts. Payments under the Settlement will be made only if the Court finally approves the Settlement and that Final Approval is upheld in the event of any appeal.

THIS TABLE CONTAINS A SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT A ROLLOVER FORM IF YOU WANT TO RECEIVE YOUR PAYMENT THROUGH A ROLLOVER.	Our records indicate that you are a Former Participant Class Member. You can elect to receive your payment through a rollover to a qualified retirement account. If you would prefer to receive your settlement payment through a rollover to a qualified retirement account, you must complete, sign, and mail the enclosed Former Participant Rollover Form by [RETURN DATE SET FORTH IN PRELIMINARY APPROVAL ORDER]. Regardless of whether you submit a claim form, you will give up your rights to sue Defendants about the allegations in this case.
DO NOTHING	According to our records, you are a Former Participant Class Member. As a Former Participants Class Member, if you do not complete, sign, and mail your Former Participant Rollover Form, you will receive the share of the Settlement benefits to which you are entitled via check and will give up your rights to sue Defendants about the allegations in this case.
OBJECT BY [DATE]	If you wish to object to any part of the Settlement, you must write to Class Counsel and Defendants' Counsel (as identified on page []) to explain why you object.
ATTEND A HEARING	You may also attend the Fairness Hearing and speak at the Fairness Hearing on [DATE]. You may attend the hearing and speak at the hearing without filing a notice of your intention to appear, but you will not be permitted to make an objection if you do not comply with the requirements for making objections.

BASIC INFORMATION

1. What is this notice and why should I read it?

A court authorized this notice to let you know about a proposed settlement of a class action lawsuit called *Daggett, et al. v. Waters Corporation, et al.*, Civil Action No. 1:23-cv-11527 (D. Mass.), (the “Action”), brought on behalf of the Class Members and the Plan, and pending in the United States District Court for the District of Massachusetts. This notice describes the Settlement. Please read this notice carefully. Your rights and options—and the deadlines to exercise them—are explained

in this notice. Please understand that if you are a Class Member, your legal rights are affected regardless of whether you act.

2. What is a class action lawsuit?

A class action is a lawsuit in which one or more plaintiffs—in this case, one former Plan participant (the “Named Plaintiff”)—sue on behalf of a group of people who allegedly have similar claims. After the Parties reached an agreement to settle this case, the Court granted preliminary approval of the Settlement. Among other things, this preliminary approval permits Class Members to voice their support of or opposition to the Settlement before the Court makes a final determination as whether to approve the Settlement. In a class action, the Court resolves the issues for all class members.

THE CLAIMS IN THE LAWSUIT AND THE SETTLEMENT

3. What is this lawsuit about?

The Named Plaintiff, suing individually and on behalf of the Class and Plan (the “Plaintiffs”), allege that Defendants breached their fiduciary duties under ERISA by including underperforming investment options in the Plan, failing to adequately monitor the fees and performance of those funds, and failing to adequately monitor fees paid to the Plan’s recordkeeper. A more complete description of what Plaintiffs allege is in the Amended Complaint, which is available on the Settlement Website at www.WEBSITE.com.

Defendants deny all claims of wrongdoing or liability against them and assert that they have always acted prudently and in the best interests of Plan participants and beneficiaries. Defendants are settling the Action solely to avoid the expense, inconvenience, and disruption of litigation, without admitting the allegations of breach and damage contained in the Amended Complaint.

4. Why is there a Settlement?

The Named Plaintiff filed this Action on July 7, 2023. After Defendants moved to dismiss the Action in September 2022, Plaintiffs filed an Amended Complaint on October 12, 20223 to which Defendants moved to dismiss in November 2023. The Court denied Defendants’ motion in April 2024. The Parties have exchanged initial discovery. Instead of continuing Plaintiffs’ case against the Defendants, both sides agreed to a Settlement. That way, both sides avoided the cost and risk of additional court proceedings, and the affected Class Members will receive benefits that they would not have received if the Named Plaintiff had litigated the remaining issues and lost, or had lost on appeal. The Named Plaintiff and his attorneys believe the Settlement is in the best interests of the Class Members. Nothing in the Settlement Agreement is an admission or concession on Defendants’ part of any fault, liability or damages whatsoever, but has been entered into to avoid the uncertainty, expense, and burden of additional litigation.

WHO'S INCLUDED IN THE SETTLEMENT?

5. How do I know if I am in the Settlement Class?

The Court decided that everyone who fits this description is a member of the **Class**:

All participants in and beneficiaries of the Waters Employee Investment Plan (excluding the Defendants or any participant/beneficiary who served on the Fiduciary Committees) beginning July 7, 2017, and running through [\[the date the Court enters the Preliminary Approval Order\]](#).

If you meet the definition above, you are a member of the Class.

QUESTIONS? CALL 1-800-[\[XXX-XXX\]](#) TOLL FREE, OR VISIT WWW.WEBSITE.COM

THE SETTLEMENT BENEFITS

6. What does the Settlement provide?

Waters has agreed to have its insurers pay \$800,000 into a Qualified Settlement Fund to resolve the claims of Class Members. The Net Settlement Amount (after deduction of any Court-approved expenses associated with administering the Settlement, Attorneys' Fees and Costs, and Service Award to the Named Plaintiff) will be allocated to Class Members according to the Plan of Allocation set forth in the Settlement Agreement. Under the Plan of Allocation, monies will be distributed to Participant Class Members and Former Participant Class Members pro rata based on (i) their account balance for the period July 7, 2017 through June 30, 2024, and (ii) whether they invested in the Fidelity Freedom Funds through the Plan during the period July 7, 2017 through February 4, 2022.

All Class Members and anyone claiming through them will fully release the Plan as well as Defendants, Individual Fiduciary Committee Members, Individual Board members, and the Released Parties from Plaintiffs' Released Claims. The Released Parties include, but are not limited to, Defendants' past, present, and future parent corporation(s), subsidiaries, divisions, joint ventures, predecessors, successors, successors-in-interest, and assigns, and any individual, partnership, corporation, or any other form of entity or organization that controls, is controlled by, or is under common control with any of the foregoing. The Plaintiffs' Released Claims include, but are not limited to, all claims that were asserted in the Action or could have been asserted in the Action based on any of the allegations, acts, omissions, purported conflicts, representations, misrepresentations, facts, events, matters, transactions, or occurrences asserted in the Action, whether or not pleaded in the Complaints. The Plaintiffs' Released Claims also include those that relate to the direction to calculate, the calculation of, and/or the method or manner of allocation of the Net Settlement Fund pursuant to the Plan of Allocation and/or that relate to the approval by the Independent Fiduciary of the Settlement Agreement, unless brought against the Independent Fiduciary alone.

This is *only* a summary of the Released Parties and Plaintiffs' Released Claims, and is not a binding description of either. The governing releases are found within the Settlement Agreement at www.settlementwebsite.com. Generally, the release means that Class Members will not have the right to sue the Plan, Defendants, or related parties for conduct during the Class Period arising out of or relating to the allegations in the lawsuit. The entire Settlement Agreement is available at www.settlementwebsite.com.

HOW TO GET BENEFITS

7. How do I get benefits?

Class Members do not have to submit claim forms in order to receive settlement benefits.

The benefits of the Settlement will be distributed automatically once the Court approves the Settlement. **According to our records, you are a Former Participant Class Member. Former Participant Class Members who would prefer to receive their settlement payment through a rollover to a qualified retirement account must complete, sign, and mail the enclosed Former Participant Rollover Form by [RETURN DATE SET FORTH IN PRELIMINARY APPROVAL ORDER].** Former Participant Class Members who fail to complete, sign, and mail their Former Participant Rollover Form will receive their Settlement distribution by check.

8. When will I get my payment?

The Settlement Administrator will effect a rollover of the pro rata share of the \$800,000.00 to Former Participant Class Members (or Beneficiaries or Alternate Payees of such participants) who timely submit a Former Participant Rollover Form to their qualified retirement account selected in that Form within sixty (60) days after the Settlement has received final approval and becomes effective. A check will be issued within the same 60-day period to Former Participant Class Members (or Beneficiaries or Alternate Payees of such participants) who do not submit a Former Participant Rollover Form.

All checks not cashed within 120 days after they are issued will expire and become void.

Payments made by check may have certain tax consequences; you should consult your tax advisor.

There will be no payments under the Settlement if the Settlement Agreement is terminated.

THE LAWYERS REPRESENTING YOU

9. Who represents the Settlement Class?

For purposes of the Settlement, the Court has appointed lawyers from the law firm of Walcheski & Luzi, LLC and Jonathan M. Feigenbam, Esq. as Class Counsel. If you want to be represented by your own lawyer, you may hire one at your own expense. In addition, the Court appointed Named Plaintiff David Daggett to serve as the Class representative. He is also a Class Member.

Subject to approval by the Court, Class Counsel has proposed that up to \$7,500 may be paid to the Named Plaintiff as the Class representative in recognition of the time and effort he expended on behalf of the Class. The Court will determine the proper amount of any award to the Named Plaintiff. The Court may award less than that amount.

10. How will the lawyers be paid?

From the beginning of the case, which was filed in July 7, 2023, to the present, Class Counsel have not received any payment for their services in prosecuting the case or obtaining the Settlement, nor have they been reimbursed for any out-of-pocket expenses they have incurred. Class Counsel will apply to the Court for an award of reasonable attorneys' fees (not to exceed one-third of the settlement fund), plus their costs and Settlement Administrative Expenses. Defendants have agreed not to object to such an application. The Court will determine the proper amount of any Attorneys' Fees and Costs to award Class Counsel.

Any Attorneys' Fees and Costs awarded by the Court will be paid to Class Counsel from the settlement fund. Class Counsel will file a motion for an award of Attorneys' Fees and Costs, Settlement Administrative Expenses, and Class Representative's Compensation at least 14 days prior to the objection deadline. This motion will be considered at the Fairness Hearing. Class Counsel also will seek to recover all actual and anticipated litigation costs and administrative expenses associated with the Settlement. The Class Members will not have to pay anything out-of-pocket toward the fees or costs of Class Counsel.

YOUR RIGHTS AND OPTIONS

11. What is the effect of Final Approval of the Settlement?

If the Court grants Final Approval of the Settlement, a final order and judgment dismissing the case will be entered in the Action. Payments under the Settlement will then be processed and distributed.

The release by Class Members will also take effect. No Class Member will be permitted to continue to assert Plaintiffs' Released Claims in any other litigation against Defendants or the other persons and entities covered by the release, as described in Question No. 6.

If you object to the terms of the Settlement Agreement, you may notify the Court of your objection. (See Table on page 2 of this Notice.) If the Settlement is not approved, the case will proceed as if no settlement had been attempted or reached. If the Settlement is not approved and the case resumes, there is no guarantee that Class Members will recover more than is provided for under the Settlement, or anything at all.

12. What happens if I do nothing at all?

If you do nothing, and the Settlement is approved, you will release any claims you may have against Defendants, Individual Fiduciary Committee Members, or the Released Parties concerning the conduct Plaintiffs allege in their complaints. (See Question No. 6.) You may also receive a payment as described in Question No. 6.

13. How do I get out of the Settlement?

If the Court approves the Settlement, you will be bound by it and will receive whatever benefits you are entitled to under its terms. You cannot exclude yourself from the Settlement, but you may notify the Court of your objection to the Settlement. (See Question No. 15.) If the Court approves the Settlement, it will do so under Federal Rule of Civil Procedure 23(b)(1), which does not permit Class Members to opt out of the Class.

14. Can I sue Waters for the same thing later?

No. If the Court approves the Settlement, you will have given up any right to sue Waters or any of the Released Parties for the Plaintiffs' Released Claims.

15. How do I object to the Settlement?

You can object to the Settlement if you don't like any part of it. If you object, you must give the reasons why you think the Court should not approve the Settlement. The Court will consider your views. Your objection to the Settlement must be postmarked no later than **OBJECTION DEADLINE, 2024** and must be sent to the attorneys for the Parties at the addresses below:

Class Counsel	Defendants' Counsel
Paul M. Secunda WALCHESKE & LUZI, LLC 235 N. Executive Drive, Suite 240 Brookfield, Wisconsin 53005	Alison Douglass GOODWIN PROCTER LLP 100 Northern Avenue Boston, Massachusetts 02110

The objection must be in writing and should include the case name *Daggett, et al. v. Waters Corporation, et al.*, Civil Action No. 1:23-cv-11527; as well as include your (a) name; (b) address; (c) a statement that you are a member of the Settlement Class; (d) the specific grounds for the objection (including all arguments, citations, and evidence supporting the objection); (e) all documents or writings that you desire the Court to consider (including all copies of any documents relied upon in the objection); (f) your signature; and (g) a notice of intention to appear at the Fairness Hearing (if applicable). (If you are represented by counsel, you or your counsel must file your objection through

the Court's CM/ECF system.) The Court will consider all properly filed comments from Class Members. If you wish to appear and be heard at the Fairness Hearing in addition to submitting a written objection to the Settlement, you or your attorney should say so in your written objection.

Class Counsel will file with the Court their request for Attorneys' Fees and Costs, Settlement Administrative Expenses, and Service Awards to the Named Plaintiff at least two weeks prior to **[OBJECTION DEADLINE, 2024]**, and post it on the Settlement Website.

THE COURT'S FAIRNESS HEARING

16. When and where will the Court hold a hearing on the fairness of the Settlement?

A Fairness Hearing has been set for **[DATE]** at **[TIME]**, before The **Honorable Myong J. Joun** at the Joseph Moakley U.S. Courthouse, 1 Courthouse Way, Boston, Massachusetts 02210 in **[COURTROOM]**. At the hearing, the Court will hear any comments, objections, and arguments concerning the fairness of the proposed Settlement, including the amount requested by Class Counsel for Attorneys' Fees and Costs, Settlement Administrative Expenses, and the Service Award to the Named Plaintiff as the Class representative. You do not need to attend this hearing. You also do not need to attend to have an objection considered by the Court. (See Question No. 15.)

Note: The date and time of the Fairness Hearing are subject to change by Court Order, but any changes will be posted at **[www.[website].com]**.

17. Do I have to come to the Fairness Hearing?

No. Class Counsel will answer any questions the Court may have. But you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as any written objection you choose to make was filed and mailed on time and meets the other criteria described in the Preliminary Approval Order, the Court will consider it. You may also pay another lawyer to attend, but you don't have to.

18. May I speak at the hearing?

You may ask the Court for permission to speak at the hearing concerning any part of the proposed Settlement by following the instructions in Question No. 15 above.

GETTING MORE INFORMATION

19. Where can I get additional information?

This notice provides only a summary of the matters relating to the Settlement. For more detailed information, you may wish to review the Settlement Agreement. You can view the Settlement Agreement and get more information at **[WWW.WEBSITE.COM]**. You can also get more information by writing to the Settlement Administrator at **[]** or calling toll-free **[]**.

PLEASE DO NOT CONTACT THE COURT, THE JUDGE, OR WATERS WITH QUESTIONS ABOUT THE SETTLEMENT.

Waters Employee Investment Plan Settlement Administrator
[ADDRESS]
[www.settlementwebsite.com]

FORMER PARTICIPANT ROLLOVER FORM

JOHN Q CLASSMEMBER
123 MAIN ST APT 1
ANYTOWN, ST 12345

Claim Number: 1111111

You are eligible to receive a payment from a class action settlement. The Court has preliminarily approved the class settlement of *Daggett, et al. v. Waters Corporation, et al.*, Civil Action No. 1:23-cv-11527 (D. Mass.). That Settlement provides allocation of monies to the individual accounts of certain persons who participated in the Waters Employee Investment Plan (“Plan”) at any time from July 7, 2017 to **the date of the preliminary approval of the class settlement by the court** (“Class Members”). Class Members who had a Plan account with a balance greater than \$0.00 during the Class Period but who do not have a Plan account with a balance greater than \$0.00 as of the date of **Date of Preliminary Approval** (“Former Participant Class Members”) will receive their allocations in the form of a check or in the form of a rollover if and only if they mail a valid Former Participant Rollover Form postmarked on or before **[RETURN DATE SET FORTH IN PRELIMINARY APPROVAL ORDER]** to the Settlement Administrator with the required information to effectuate the rollover. For more information about the Settlement, please see the Notice Of Class Action Settlement And Fairness Hearing, visit **[www.settlementwebsite.com]**, or call **[phone number]**.

This Former Participant Rollover Form is **ONLY** for Class Members who are **Former Participant Class Members**, or the beneficiaries or alternate payees of Former Participant Class Members (all of whom will be treated as Former Participant Class Members). A Former Participant Class Member is a Class Member who had a Plan account with a balance greater than \$0.00 during the Class Period but does not have a Plan account with a balance greater than \$0.00 as of the date of **[the Preliminary Approval Order]**.

Former Participant Class Members that would like to elect to receive their settlement payment through a rollover to a qualified retirement account must complete, sign, and mail this form with a postmark on or before **[RETURN DATE SET FORTH IN PRELIMINARY APPROVAL ORDER]**. Please review the instructions below carefully. Former Participant Class Members **who do not complete and timely return this form will receive their settlement payment by a check**. If you have questions regarding this form, you may contact the Settlement Administrator as indicated below:

WWW.SETTLEMENTWEBSITE.COM OR CALL **[PHONE NUMBER]**

PART 1: INSTRUCTIONS FOR COMPLETING FORMER PARTICIPANT ROLLOVER FORM

1. If you would like to receive your settlement payment through a rollover to a qualified retirement account, complete this rollover form. You should also keep a copy of all pages of your Former Participant Rollover Form, including the first page with the address label, for your records.
2. **Mail your completed Former Participant Rollover Form postmarked on or before [RETURN DATE SET FORTH IN PRELIMINARY APPROVAL ORDER] to the Settlement Administrator at the following address:**

Waters Employee Investment Plan Settlement Administrator
P.O. Box [number] [City, State, ZIP]

It is your responsibility to ensure the Settlement Administrator has timely received your Former Participant Rollover Form.

3. Other Reminders:

- You must provide date of birth, signature, and a completed Substitute IRS Form W-9, which is attached as part 5 to this form.
- If you desire to do a rollover and you fail to complete all of the rollover information in Part 4, below, payment will be made to you by check.
- If you change your address after sending in your Former Participant Rollover Form, please provide your new address to the Settlement Administrator.
- **Timing of Payments to Eligible Class Members.** The timing of the distribution of the Settlement payments are conditioned on several matters, including the Court's final approval of the Settlement and any approval becoming final and no longer subject to any appeals in any court. An appeal of the final approval order may take several years. If the Settlement is approved by the Court, and there are no appeals, the Settlement distribution likely will occur within three months of the Court's Final Approval Order.

4. **Questions?** If you have any questions about this Former Participant Rollover Form, please call the Settlement Administrator at [phone number]. The Settlement Administrator will provide advice only regarding completing this form and will not provide financial, tax or other advice concerning the Settlement. You therefore may want to consult with your financial or tax advisor. Information about the status of the approval of the Settlement and the Settlement administration is available on the settlement website, [www.settlementwebsite.com].

Because you are a Former Participant Class Member in the Plan, you must decide whether you want your payment (1) sent payable to you directly by check or (2) to be rolled over into another eligible retirement plan or into an individual retirement account ("IRA"). To elect a rollover, please complete and mail this Former Participant Rollover Form postmarked on or before [RETURN DATE SET FORTH IN PRELIMINARY APPROVAL ORDER] to the Settlement Administrator. If you do not return this form, your payment will be sent to you directly by check.

PART 2: PARTICIPANT INFORMATION

First Name	Middle	Last Name
<input type="text"/>	<input type="text"/>	<input type="text"/>
Mailing Address		
<input type="text"/>		
City	State	Zip Code
<input type="text"/>	<input type="text"/>	<input type="text"/>
Home Phone	Work Phone or Cell Phone	
<input type="text"/> - <input type="text"/> - <input type="text"/>	<input type="text"/> - <input type="text"/> - <input type="text"/>	
Participant's Social Security Number	Participant's Date of Birth	
<input type="text"/> - <input type="text"/> - <input type="text"/>	<input type="text"/> - <input type="text"/> - <input type="text"/>	
Email Address	M M	D D Y Y Y Y
<input type="text"/>		

[FORMER PARTICIPANT ROLLOVER FORM CONTINUES ON THE NEXT PAGE]

Participant Signature

Date Signed *(Required)*

Note: If you are subject to backup withholding, you must cross out item 2 above. The IRS does not require your consent to any provision of this document other than this Form W-9 certification to avoid backup withholding.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

David Daggett, et al.,
Plaintiff,

v.

Waters Corporation, et al..
Defendants.

Case No. 1:23-cv-11527

**[PROPOSED] ORDER PRELIMINARILY APPROVING
CLASS ACTION SETTLEMENT, APPROVING PROCEDURE AND
FORM OF NOTICE, AND SCHEDULING FINAL APPROVAL HEARING**

This matter having come before the Court on Plaintiff’s Motion for preliminary approval (the “Motion For Preliminary Approval”) of a proposed class action settlement of the above-captioned action (the “Action”) between Plaintiff David Daggett (“Plaintiff”), individually and on behalf of a Class of participants in the Waters Employee Investment Plan (the “Plan”), and Defendants Waters Corporation, Waters Technologies Corporation, the Board of Directors of Waters Technologies Corporation, and the Employee Benefits Administration Committee of Waters Technologies Corporation (together, “Defendants”), as set forth in the Parties’ Class Action Settlement Agreement (the “Settlement Agreement”), and having duly considered the papers and arguments of counsel, the Court hereby finds and orders as follows:

1. The Court has read and considered the Settlement Agreement, including its Exhibits, and having heard from the Parties hereby preliminarily approves the Settlement Agreement in its entirety. Unless defined herein, all defined terms in this Order shall have the meanings ascribed to them in the Settlement Agreement.

2. The Court has conducted a preliminary evaluation of the Settlement as set forth in the Settlement Agreement for fairness, adequacy, and reasonableness. Based on this preliminary evaluation, the Court finds that there is cause to believe that: (i) the Settlement Agreement is fair, reasonable, and adequate, and within the range of possible approval, (ii) the Settlement Agreement has been negotiated in good faith at arms-length between experienced attorneys familiar with the legal and factual issues of this case, (iii) the form of notice of the Settlement and of the Fairness Hearing is appropriate and warranted; and (iv) the Settlement meets all applicable requirements of law, including Federal Rule of Civil Procedure 23, and is not a coupon settlement for purposes of 28 U.S.C. § 1712. The Settlement Agreement and this Order, collectively or individually, are not a finding or admission of liability by Defendants or any other party.

3. For settlement purposes, the Court hereby certifies the following Class:

All participants and beneficiaries of the Waters Employee Investment Plan (excluding the Defendants or any participant/beneficiary who served on the Fiduciary Committees) beginning July 7, 2017, and running through the date of the Preliminary Approval Order.

4. For settlement purposes, the Court hereby preliminarily approves the appointment of Plaintiff David Daggett as class representative.

5. For settlement purposes, the Court hereby preliminarily approves the appointment of Walcheski & Luzi, LLC as Class Counsel.

6. On [date] at [time] or at such other date and time later set by Court Order, in courtroom [] of the John Joseph Moakley U.S. Courthouse, 1 Courthouse Way, Boston, Massachusetts, this Court will hold a hearing on the fairness, adequacy, and reasonableness of the Settlement Agreement and to determine whether: (i) final approval of the Settlement should be granted, and (ii) Class Counsel's application for Attorneys' Fees and Costs, Settlement Administrative Expenses, and Service Awards to the Named Plaintiff, should be granted, and in

what amount.¹ No later than fourteen (14) days prior to the deadline for Class Members to object to the Settlement Agreement, Class Counsel shall file an application for Attorneys' Fees and Costs, Settlement Administrative Expenses, and Service Awards to the Named Plaintiff. No later than [date 14 days prior to Fairness Hearing], Plaintiff shall file papers in support of Final Approval of the Settlement Agreement and in response to any written objections.

7. Pursuant to the Settlement Agreement, [] is hereby appointed the Settlement Administrator and shall be required to perform all the duties of the Settlement Administrator as set forth in the Settlement Agreement and this Order. [], or its designee, is additionally appointed the Escrow Agent and shall be required to perform all the duties of the Escrow Agent as set forth in the Settlement Agreement and this Order.

8. The Court approves the proposed Notice as a means of giving direct notice to Class Members by email or mail and also by establishing a Settlement Website, as more fully described in the Settlement Agreement. Former Participant Class Members will additionally receive the Former Participant Rollover Form. The Court finds that the proposed Notice and content therein fairly and adequately:

- a. Summarize the claims asserted;
- b. Describe the terms and effect of the Settlement;
- c. Notify the Class that Class Counsel will seek compensation from the Qualified Settlement Fund for Attorneys' Fees and Costs, Settlement Administrative Expenses, and Service Awards;
- d. Give notice to the Class of the time and place of the Fairness

¹ Any change in the date, time, location, or format of the hearing shall be posted on the Settlement Website.

Hearing, and of Class Members' right to appear; and

e. Describe how the recipients of the Notices may object to the Settlement, or any requested Attorneys' Fees and Costs, Settlement Administrative Expenses, or Service Awards.

9. No later than thirty (30) calendar days following the entry of this Preliminary Approval Order, the Settlement Administrator shall cause the Settlement Website to be published on the Internet. No later than thirty (30) calendar days following the entry of this Preliminary Approval Order and in accordance with the terms of the Settlement Agreement, the Settlement Administrator also shall disseminate the Notices that are Exhibits 1 and 2 to the Settlement Agreement to the Class Members and the Former Participant Rollover Form that is Exhibit 3 to the Settlement Agreement to the Former Participant Class Members. Former Participant Class Members must submit a Former Participant Rollover Form to the Settlement Administrator by a date no later than fourteen (14) calendar days before the Fairness Hearing in order to be eligible for a rollover.

10. Pursuant to Rules 23(c)(2) and (e) of the Federal Rules of Civil Procedure, the Notices constitute the best notice practicable under the circumstances, provides due and sufficient notice of the Fairness Hearing and of the rights of all Class Members, and complies fully with the requirements of Fed. R. Civ. P. 23 and due process.

11. Any Class Member may comment in support of or in opposition to the Settlement Agreement; provided, however, that all comments and objections shall only be considered by the Court at the Fairness Hearing if they have been timely sent to Class Counsel and Defendants' Counsel. To be timely, the comment and/or objection and any supporting documents must be mailed or otherwise delivered to Class Counsel and Defendant's Counsel by twenty-eight

(28) calendar days prior to the date of the Fairness Hearing. A Class Member who objects to the Settlement need not appear at the Fairness Hearing for the Class Member's comment to be considered by the Court. All objections from Class Members must include in the written objection the Class Member's name and address; state that the person submitting the objection is a Class Member; state the specific grounds for the objection; include all arguments, citations, and evidence supporting the objection (including copies of any documents relied on); provide a physical signature for the objecting Class Member; and provide a statement indicating whether the objector intends to appear at the Fairness Hearing.

12. Class Counsel shall file any objections to any aspect of the Settlement with the Court as part of their motion for Final Approval of the Settlement.

13. Any party may file a response to an objection by a Class Member before the Fairness Hearing.

14. Any Class Member who fails to object in the manner prescribed herein shall be deemed to have waived such Class Member's objections and forever be barred from making any such objections in this Action or in any other action or proceeding.

15. Each Class Member is preliminarily enjoined from suing Defendants, Individual Fiduciary Committee Members, Individual Board Members, the Plan, or the Released Parties in any action or proceeding alleging any of the Plaintiffs' Released Claims, 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 Action and the Plaintiffs' Released Claims. Further, 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 Plaintiffs' Released Claims against the Defendants, the Plan, or Released Parties.

16. The Settlement Agreement and the proceedings and statements made pursuant to the Settlement Agreement or papers filed relating to the approval of the Settlement Agreement, and this Order, are not and shall not in any event be construed as, offered in evidence as, received in evidence as, and/or deemed to be evidence of a presumption, concession, or an admission of any kind by any of the Parties of: (i) the truth of any fact alleged or the validity of any claim or defense that has been, could have been, or in the future might be asserted in the Action, any other litigation, court of law or equity, proceeding, arbitration, tribunal, investigation, government action, administrative proceeding, or other forum, or (ii) any liability, responsibility, fault, wrongdoing, or otherwise of the Parties or a Released Party. Defendants have denied and continue to deny the claims asserted by Plaintiff. Nothing contained herein shall be construed to prevent the Parties from offering the Settlement Agreement into evidence for the purposes of enforcement of the Settlement Agreement.

17. In the event that the Settlement Agreement is terminated pursuant to its terms or is not approved in all material respects by the Court, or such approval is reversed, vacated, or modified in any material respect by this or any other court, then the Parties and Class Members will be restored to their respective positions immediately before the execution of the Settlement Agreement, this Action shall proceed in all respects as if the Settlement Agreement and any related orders had not been entered, any order entered by the Court pursuant to the terms of the Settlement Agreement shall be treated as vacated *nunc pro tunc*, and no reference to the Settlement Agreement, or any documents, communications, or negotiations related in any way thereto shall be made for any purpose.

IT IS SO ORDERED this ____ day of _____, 2024.

Hon. Myong J. Joun
United States District Court Judge

[DATE], 2024

EXHIBIT 5

Via USPS Priority Mail

{AG name}

Attorney General of {state}

{address 1}

{address 2}

Re: **Class Action Fairness Act Notice**

Daggett, et al. v. Waters Corporation, et al.

United States District Court for the Southern District of Massachusetts

Civil Action No. 1:23-cv-11527

Dear Recipient:

ANALYTICS CONSULTING LLC, an independent claims administrator, on behalf of Defendants, Waters Corporation, Waters Technologies Corporation, the Board of Directors of Waters Technologies Corporation, and the Employee Benefits Administrative Committee of Waters Technologies Corporation (collectively, “Defendants,” and with Plaintiff, the “Settling Parties”), hereby provides your office with this notice under the provisions of the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1715, to advise you of the proposed settlement of the above-captioned class action lawsuit (the “Class Action”) currently pending in the United States District Court for the District of Massachusetts.

Plaintiff filed a Settlement Agreement (“Settlement Agreement”) and associated documents with the Court on September 30, 2024. A hearing on preliminary approval of the settlement is currently scheduled for [DATE] at [TIME] before the Honorable Judge Myong J. Joun at the United States District Court for the District of Massachusetts, John Joseph Moakley U.S. Courthouse, 1 Courthouse Way, Boston, MA 02210, in Courtroom [NO.].

In reference to this letter, a website has been set up for viewing the documents associated with this case. The website is [INSERT] and on this website, under the folder with the case name, the following documents can be found:

1. The Complaint and any materials filed with the Complaint.

The original complaint (Dkt. No.¹ 1) and the amended complaint (Dkt. No. 19) in the Class Action is available on the above referenced website. In addition, the complaint, amended complaint, and all other unsealed pleadings and records filed in the Class Action are available on the internet through the federal government’s

¹ Citations to “Dkt. No. ___” refer to docket entries in Case No. 1:23-cv-11527.

CAFA Coordinator
Office of the Attorney General
April 24, 2023
Page 2

PACER service at <https://ecf.mad.uscourts.gov/cgi-bin/ShowIndex.pl>. Additional information about the PACER service may be found at <https://www.pacer.gov>.

2. Notice of any scheduled judicial hearing in the class action.

The Court has scheduled a hearing on Plaintiff's motion to preliminarily approve the settlement on [DATE] at [TIME] before the Honorable Judge Myong J. Joun at the United States District Court for the District of Massachusetts, John Joseph Moakley U.S. Courthouse, 1 Courthouse Way, Boston, MA 02210, in Courtroom [NO.]. Information concerning any changes to the date, time, and location of the hearing will be available through PACER and can be accessed as described in section (1) above.

3. Any proposed or final notification to class members.

Plaintiff's Motion for Preliminary Approval of Settlement (Dkt. No. [REDACTED]), the Memorandum in Support of Plaintiffs' Motion for Preliminary Approval of Settlement (Dkt. No. [REDACTED]), and all supporting documents (Dkt. Nos. [REDACTED] & [REDACTED]) are available on the above referenced website. The parties' Settlement Agreement and its Exhibits 1-4 (Dkt. No. [REDACTED]) are available on the above referenced website.

The proposed forms of direct notice to class members, which provides notice of the proposed settlement, are included as Exhibits 1 & 2 of the Settlement Agreement is available on the above referenced website.

4. Any proposed or final class action settlement.

As discussed in section (3) above, the parties' Settlement Agreement and its Exhibits 1-4 (Dkt. No. [REDACTED]) are available on the above referenced website.

5. Any settlement or other agreement contemporaneously made between Class Counsel and counsel for Defendants.

There are no additional agreements between Class Counsel and counsel for Defendants.

6. A final judgment or notice of dismissal.

No final judgment or notice of dismissal has yet been entered in the Class Action. Upon entry, a copy of the Final Order and Judgment will be available through PACER and can be accessed as described in section (1) above. A proposed Final Approval Order, as filed with the Court on [DATE], 2024 as Exhibit 4 to the Settlement Agreement, is available on the above referenced website.

CAFA Coordinator
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April 24, 2023
Page 2

7. Names of class members who reside in each state and the estimated proportionate share of the claims of such members to the entire settlement.

Given the nature of the claims in the Class Action, it is not feasible at this time to ascertain the names of all the members of the class who reside in each state or the estimated proportionate share of the claims of such members to the proceeds of the Settlement. It also is not feasible to provide an estimate of the number of members of the class residing in each state and the estimated proportionate share of the claims of such members to the Settlement. Because this is a settlement class under Federal Rule of Civil Procedure 23(b)(1), class members do not have a right to request exclusion from the class.

8. Any written judicial opinion relating to the materials described in sections (3) through (6).

No written judicial opinions have been issued relating to the proposed settlement as of this time.

The Defendants in this matter are represented by Alison V. Douglass of Goodwin Procter LLP, 100 Northern Avenue Boston, MA 02210 and Benjamin S. Reilly of Goodwin Procter LLP, 1900 N Street NW Washington, DC 20036. Should you have any questions regarding this matter, please do not hesitate to contact Alison V. Douglass at (617) 570-1000 or Benjamin S. Reilly at (202) 346-4000.

Thank you for your attention to this matter.

Sincerely,

[SETTLEMENT ADMINISTRATOR SIGNATURE BLOCK]

EXHIBIT 6

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

DAVID DAGGETT, individually, and as a
representative of a Class of Participants and
Beneficiaries of the Waters Employee
Investment Plan,

Plaintiff,

v.

WATERS CORPORATION, et al.,

Defendants.

Case No. 1:23-cv-11527

**[PROPOSED] ORDER ON PLAINTIFF’S MOTION FOR FINAL
APPROVAL OF CLASS ACTION SETTLEMENT**

Wherefore, this ___ day of _____, 20___, upon consideration of Plaintiff’s Motion for Final Order of the Class Action Settlement Agreement dated _____, 2024 in the above matter, the Court hereby orders and adjudges as follows:

1. For purposes of this Final Order and Judgment, except as otherwise defined herein, all capitalized terms used herein shall have the same meaning as are ascribed to them in the Settlement Agreement.
2. The Court has jurisdiction over the subject matter of this action and personal jurisdiction over all parties to the action, including all members of the Settlement Class.
3. The following Settlement Class is certified under Rule 23(b)(1) of the Federal

Rules of Civil Procedure for purposes of the Settlement only:

All participants and beneficiaries of the Waters Employee Investment Plan (excluding the Defendants or any participant/beneficiary who served on the Fiduciary Committees) beginning July 7, 2017, and running through the date of the Preliminary Approval Order.

The Court finds that this Settlement Class meets all of the requirements of Rule 23(a) and 23(b)(1).

4. Pursuant to Rules 23(e)(2), the Court hereby approves and confirms the Settlement and the terms therein as being fair, reasonable, and adequate to the Plan and the Class Members.

5. The Court hereby approves the Settlement and orders that the Parties take all necessary steps to effectuate the terms of the Settlement Agreement.

6. In accordance with the Court's Orders, and as reflected in the information from the Settlement Administrator, Analytics, the Settlement Notices were timely distributed by electronic mail to all Class Members who could be identified with reasonable effort. In addition, pursuant to the Class Action Fairness Act, 28 U.S.C. § 1711, *et seq.* ("CAFA"), notice was provided to the Attorneys General for each of the states in which a Class Member resides and the Attorney General of the United States.

7. The form and methods of notifying the Class Members of the terms and conditions of the proposed Settlement Agreement met the requirements of Rules 23(c)(2) and (e), and due process, and constituted the best notice practicable under the circumstances; and due and sufficient notices of the Fairness Hearing and the rights of all Class Members have been provided to all people, powers and entities entitled thereto, and the requirements of Rule 23 and due process have been met.

8. The Court finds that the Settlement is fair, reasonable, and adequate, based on the following findings of fact, conclusions of law, and determinations of mixed fact/law questions:

A. The Settlement resulted from arm's-length negotiations by experienced and competent counsel overseen by a neutral mediator;

B. The Settlement was negotiated only after Class Counsel had received pertinent information and documents from Defendants;

C. The Parties were well positioned to evaluate the value of the Class Action;

D. If the Settlement had not been achieved, both Plaintiff and Defendants faced the expense, risk, and uncertainty of extended litigation;

E. The amount of the Settlement (\$800,000.00) is fair, reasonable, and adequate. The Settlement amount is within the range of reasonable settlements that would have been appropriate in this case, based on the nature of the claims, the potential recovery, the risks of litigation, and settlements that have been approved in other similar cases;

F. The Class Representative and Class Counsel have concluded that the Settlement Agreement is fair, reasonable, and adequate;

G. Class Members had the opportunity to be heard on all issues regarding the Settlement and release of claims by submitting objections to the Settlement Agreement to the Court; and

H. There were [REDACTED] objections to the settlement. The Court has considered those objections, and they do not affect the Court's determination that the Settlement is fair, reasonable, and adequate. Accordingly, the Court overrules them with prejudice.

I. The Settlement was reviewed by an independent fiduciary, [REDACTED], who has approved the Settlement.

9. The Motion for Final Approval of the Settlement Agreement is hereby GRANTED, the Settlement of the Class Action is APPROVED as fair, reasonable and adequate to the Plans and the Settlement Class. The Motion for Attorney Fees and Costs, Administrative Expenses, and Case Contribution Award is hereby GRANTED.

10. This Class Action and all Released Claims asserted therein, whether asserted by the Class Representative on his own behalf or on behalf of the Class Members, or derivatively to secure relief for the Plan, are dismissed with prejudice, without costs to any of the Parties other than as provided for in the Settlement Agreement.

11. In accordance with Section 7.1(a) of the Settlement Agreement, the Class Representative and each Class Member and their respective heirs, beneficiaries, executors, administrators, estates, past and present partners, officers, directors, agents, attorneys, predecessors, successors, and assigns, shall be (1) conclusively deemed to have, and by operation of the Final Order shall have, fully, finally, and forever settled, released, relinquished, waived, and discharged Defendants, the Plan, and the Released Parties from all Plaintiffs' Released Claims, and (2) barred and enjoined from suing Defendants, the Plan, or the Released Parties in any action or proceeding alleging any of the Plaintiffs' Released Claims, even if any Class Member may thereafter discover facts in addition to or different from those which the Class Member or Class Counsel now know or believe to be true with respect to the Class Action and the Plaintiffs' Released Claims, whether or not such Class Members actually received the Settlement Notices, whether or not such Class Members received a monetary benefit from the Settlement, whether or not Former Participant Class Members have executed and delivered a Former Participant Class Member Rollover Form or have missed the Former Participant Rollover Form Deadline, 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.

12. In accordance with Section 7.1(a) of the Settlement Agreement, 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) on behalf of the Plan shall be (1) conclusively deemed to have, and by operation of the Final Order shall have, fully, finally, and forever settled, released, relinquished, waived, and discharged Defendants and the Released Parties from all Plaintiffs' Released Claims, and (2) barred and enjoined from suing Defendants or the Released Parties in any action or proceeding alleging any of the Plaintiffs' Released Claims, even if any Class Member may thereafter discover facts in addition to or different from those which the Class Member or Class Counsel now know or believe to be true with respect to the Class Action and the Plaintiffs' Released Claims, whether or not such Class Members actually received the Settlement Notices, whether or not such Class Members received a monetary benefit from the Settlement, 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.

13. The Class Representative and each Class Member shall release Defendants, Defendants' Counsel, Class Counsel, the Released Parties, and the Plan from any claims, liabilities, and attorneys' fees and expenses arising from the allocation of the Gross Settlement Amount or Net Settlement Amount and from all tax liability any tax liability, and associated penalties and interest as well as related attorneys' fees and expenses.

14. The Court finds that it has subject matter jurisdiction over the claims herein and personal jurisdiction over the Defendants and the Class Members pursuant to the provisions of ERISA, and expressly retains that jurisdiction for purposes of enforcing and interpreting this Final Order and/or the Settlement Agreement.

15. The Court finds that all applicable CAFA requirements have been satisfied.

16. The Settlement Administrator shall have final authority to determine the share of the Net Settlement Amount to be allocated to each eligible Current Participant and Former Participant pursuant to the Plan of Allocation approved by the Court.

17. With respect to any matters that arise concerning the implementation of distribution to Class Members who are current participants in the Plan (after allocation decisions have been made by the Settlement Administrator in its sole discretion pursuant to the Plan of Allocation), 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.

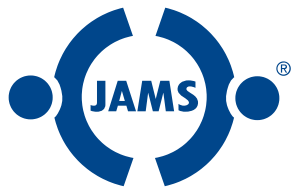
18. Within twenty-one (21) calendar days following the issuance of all Settlement payments to Class Members as provided by the Plan of Allocation approved by the Court, the Settlement Administrator shall prepare and provide to Class Counsel and Defendants' Counsel a list of each person who received a Settlement payment or contribution from the Settlement Fund and the amount of such payment or contribution.

19. Upon the Settlement Effective Date under the Settlement Agreement, all Parties, the Settlement Class, and the Plan shall be bound by the Settlement Agreement and by this Final Approval Order.

IT IS SO ORDERED.

Dated: _____

Hon. Myong J. Joun
United States District Judge



**Local Solutions.
Global Reach.®**

EXHIBIT B



Robert A. Meyer, Esq.

JAMS Mediator, Arbitrator, Referee/Special Master,
Neutral Evaluator

Case Manager

Joshua Kroll

T: 310-309-6206

F: 310-396-7576

1925 Century Park East, 14th Floor, Los Angeles, CA
90067

JKroll@jamsadr.com

Robert A. Meyer is available to conduct cases virtually. JAMS is equipped to provide virtual ADR services on a variety of online platforms, including Zoom, Microsoft Teams, WebEx, and more.

Biography

Robert A. Meyer, Esq. serves as a mediator in complex business litigation pending throughout the United States, including securities and derivative class actions, professional liability lawsuits against accounting and law firms, litigation involving banking and complex financial instruments, cases arising under ERISA, intellectual property disputes, consumer class actions, high-profile employment matters and other commercial disputes.

Mr. Meyer brings the skill set of both an experienced mediator and trial lawyer to his matters. He is a Fellow of the American College of Trial Lawyers and has represented both plaintiffs and defendants in securities litigation, class actions and derivative suits, intellectual property litigation (including copyright, trademark, and right of publicity lawsuits), attorneys' and accountants' professional liability lawsuits, and claims involving breach of contract and commercial fraud.

As a mediator for more than 12 years, Mr. Meyer has focused on building trust with clients and counsel. He comes to each session prepared and regularly conducts pre-mediation conference calls with counsel (and as necessary, with insurers). Mr. Meyer develops creative solutions when negotiations stall. He is persistent with follow-up after mediation sessions, keeping discussions alive, often achieving post-session settlements. Mr. Meyer is ranked on the exclusive "National Mediators" List, *Chambers USA* (2019-2021), where he is recognized for being an "extraordinarily effective [mediator] because he comes well prepared and his views carry a lot of credibility."

ADR Experience and Qualifications

- Successfully mediated numerous securities lawsuits, in federal and state courts, involving both Fortune 500 companies and start-ups. Cases include '34 Act class actions and IPO and SPO class actions under the '33 Act
- Mediation of numerous merger-related and derivative cases pending in Delaware Chancery Court and other courts throughout the country
- Mediation of complex antitrust and competition-related lawsuits
- Expertise in settling consumer class actions pending throughout the United States
- Leading mediator of ERISA lawsuits, including class actions, ESOP litigation and claims by the U.S. Department of Labor
- Extensive experience addressing insurance issues and working with insurance towers
- Mediations of complex business disputes across numerous industries, including financial services, technology, oil & gas, pharmaceuticals and medical devices, entertainment, healthcare, manufacturing retail and professional services
- Nearly 40 years of experience as a litigation attorney (for plaintiffs and defendants)

Representative Matters

Securities Class Actions

- Mediations of shareholder class actions, in federal and state courts, against pharmaceutical and medical device companies alleging misrepresentations involving the development and sale of new and mature products
- Shareholder dispute involving a Chinese investment company accused of hiding illegal lending practices from prospective investors
- *Willis v. Big Lots, Inc.* (S.D. Ohio) – settlement of '34 Act claims
- *Weston v. RCS Capital Corp.* (S.D.N.Y.) – settlement of '34 Act claims
- *In re Ubiquiti Networks, Inc. Securities Litigation* (N.D. Cal.) – settlement of '33 Act claims
- *In re Commvault Systems, Inc. Securities Litigation* (D.N.J.) – settlement of '34 Act claims
- *In re GoPro, Inc. Shareholder Litigation* (San Mateo County Superior Court – settlement of '33 Act claims
- *In re CafePress Inc. Shareholder Litigation* (San Mateo County Superior Court) – settlement of section class action under '33 Act

- *Plymouth County Retirement System v. Model N, Inc.* (San Mateo County Superior Court) – settlement of section 11 class action under '33 Act
- *In re Colonial BancGroup Inc. Securities Litigation* (M.D. Alabama) – settlement of securities class action against directors and officers and outside auditor of failed bank
- *In re Washington Mutual Mortgage Backed Securities Litigation* (W.D. Wash.) – settlement of class action by purchasers of residential mortgage backed securities
- *In re AOL Time Warner Securities Litigation* (Southern District of New York) – counsel to the Special Master; assisted in the mediation of the shareholder class actions (\$2.5 billion) as well as related ERISA, derivative, and opt-out lawsuits
- *Carlson v. Xerox Corporation* (D. Conn.) – settlement (\$750 million) of 21 consolidated shareholder class actions against corporation, management and outside auditor

Mergers and Acquisitions/Shareholder Derivative Litigation

- *In re Good Technology Corporation Stockholder Litigation* (Delaware Chancery Court – \$52 million in settlements of shareholder derivative claims against directors, investment funds and bank arising out of corporate acquisition
- *In re Sanchez Energy Corp. Derivative Litigation* (Delaware Chancery Court – \$30 million settlement of derivative lawsuit alleging breach of fiduciary duty and claims involving controlling shareholder
- *In re In re EZCorp Consulting Agreement Derivative Litigation* (Delaware Chancery Court) – settlement of derivative lawsuit against directors and controlling shareholder
- *3-Sigma Value Financial Opportunities LP v. Jones (Certus)* – \$19.2 million settlement of claims of self-dealing by officers and directors of financial services company
- *Laborers Local #231 Pension Fund v. Websense, Inc.* (San Diego County Superior Court) – settlement of shareholder claims arising out of leveraged buy-out
- *In Re PLX Technology Inc. Stockholder Litigation* – settlement of breach of fiduciary duty claims alleging flawed sales process in connection with merger transaction
- *In re Gardner Denver, Inc. Shareholder Litigation* (Delaware Chancery Court) – \$29 million settlement of shareholder litigation over fairness of merger transaction
- *In re ACS Shareholder Litigation* (Delaware Chancery Court) – settlement of fiduciary duty/shareholder cases arising out of \$6 billion corporate acquisition
- Successful mediations of post-merger adjustment claims

Life Sciences

- Lawsuit by purchaser of drug development division of foreign company seeking purchase price adjustment; defendant allegedly misled purchaser concerning regulatory approvals in China
- Buyout of founders in company developing technology to expedite new drug approvals
- Mediation of shareholder class action against foreign drug manufacturer
- Mediation of shareholder class action involving a genetics testing lab
- Shareholder class action case against an international producer and distributor of diagnostic platforms and tests

- Shareholder class action involving a clinical-stage drug development company

Banking, Financial Services and Complex Financial Matters

- *21 Institutional Investors/JP Morgan* - \$4.5 billion settlement of mortgage repurchase and servicing claims involving 330 RMBS trusts
- Settlement of multiple claims by FDIC against former officers and directors of failed banks
- Settlement of numerous lawsuits (both class actions and individual claims) arising out of purchase of complex instruments, including auction rate securities and mortgage backed securities

Consumer Class Actions

- Settlement of several class actions against retailers and manufacturers of consumer products, including claims of product defects, pricing misrepresentation and unfair competition

Entertainment and Intellectual Property

- Settlement of claims arising out of sale of film library
- Settlement of claims to trademark by three different claimants
- As attorney, handled profits accounting litigation arising from motion picture and recording agreements; motion picture finance; copyright infringement of video games; and successful defense of claims by Estate of Princess Diana alleging Lanham Act violations and publicity rights; and trial of ownership of Hard Rock Café trademark

ERISA and ESOP Litigation

- Action by participants in company ESOP, alleging fiduciaries failed to take corrective action in connection with alleged artificial inflation of IBM stock
- Numerous “church plan” class actions involving claims of non-compliance with ERISA by religiously-affiliated hospitals and health care corporations
- Multiple lawsuits involving large union health plan, including claims against administrators and claims by and against physician groups
- *U.S. Department of Labor v. First Bankers Trust* (S.D.N.Y. and D.N.J.) – settlement of three lawsuits against independent fiduciary
- *Jessop v. Bankers Trust (Mona Vie)* – settlement of parallel class action and DOL claims arising out of ESOP transaction
- *Hans v. Tharaldson* (D.N.D.) – settlement of lawsuit arising out of sale of shares in private corporation to ESOP
- *Calvin v. San Antonio Spurs* (W.D. Texas) – settlement of ERISA class action by retired players in the American Basketball Association
- *zier v. Honeywell Pension & Savings Plan* (D. Arizona) – settlement of ERISA class action

- *In re Merck & Co., Inc. Securities, Derivative & ERISA Litigation* (MDL 1658) (District of New Jersey) – settlement of shareholder “stock drop” lawsuits by participants in ERISA plans
- *In re Xerox Corp. ERISA Litigation* (District of Connecticut) - settlement of shareholder “stock drop” class actions by participants in retirement plans

Professional Liability

- Settlement of claims by manager of investment fund against Big Four accounting firm for failing to detect embezzlement of investment manager
- Settlement of malicious prosecutions against law firm and bank
- *Bankers' Bank Northeast et al. v. Berry, Dunn, McNeil & Parker* (D. Maine) – settlement of professional malpractice claims by third party lenders against accounting firm
- *Gascoyne v. Avellino (New York Supreme Court)* – settlement of claims arising out of Madoff-related investment
- *Hoberman v. Aspiriant, LLC* (Los Angeles County Superior Court) – settlement of malpractice action against business management and accounting firms
- *The Westervelt Company v. Bradley Arant Boult Cummings LLP* (Circuit Court, Alabama) – settlement of legal malpractice action involving corporate benefit and compensation plans
- Settlement of claims by withdrawn partner against former law firm; issues involving partnership agreement and valuation of interest in class action litigation
- Served as sole arbitrator and member of arbitration panel in legal malpractice actions

Antitrust and Competition Law

- Multi-million-dollar antitrust class action involving a door company that allegedly manipulated its stock price while incurring millions of dollars in liability from competing lawsuit
- Mediation of antitrust claims against health insurers involving alleged conspiracy in restraint of trade
- *In Re Transpacific Passenger Air Transportation Antitrust Litigation* – \$21 million settlement of class action involving claims that defendant conspired to fix the price of air travel
- *Pending* \$40 million settlement of class action involving pricing of dairy products
- Mediation of antitrust claims against credit card issuer

Employment

- Multiple mediations of sexual harassment claims and wrongful termination against high profile individuals and public companies
- Currently serving as arbitrator in nine related wage-and-hour claims against oil services company

Honors, Memberships, and Professional Activities

Completed Virtual ADR training conducted by the JAMS Institute, the training arm of JAMS.

- Named "Best Lawyer," *The Best Lawyers in America*, 2020-2022
- Included on the "National Mediators" List, *Chambers USA*, 2019-2021
- Named "Best Lawyer" in Bet-the-Company Litigation, Commercial Litigation and Securities Litigation, *The Best Lawyers in America*, published by Woodward White, Inc., 2010-2016
- Named "Los Angeles Litigation – Securities Lawyer of the Year," *Best Lawyers*, 2014
- Named in "Southern California Super Lawyers" in Business Litigation, Securities Litigation, and Entertainment & Sports, a *Thomson Reuters* business, 2004-2015; Listed in the Top 100 Southern California Super Lawyers, 2005
- Highest "AV Preeminent (5 out of 5)" Professional Rating, *Martindale-Hubbell Law Directory*
- Fellow, American College of Trial Lawyers
- Member, Central District of California Attorney Settlement Officer Panel
- Board of Directors, Public Counsel (the largest pro bono law office in the United States)
- Board of Directors, Attorneys Insurance Mutual (legal malpractice insurer)
- Frequent lecturer before bar associations and for conferences on various topics including mediation, legal ethics, and attorney malpractice

ADR Profiles

- "Trust is Key," *Daily Journal*, ADR Profile, October 13, 2017

Background and Education

- Partner, Chair of Professional Services Litigation and General Counsel, Loeb & Loeb LLP, 1975-2017
- J.D., Georgetown University Law Center, 1975
- B.A., *cum laude*, American University School of International Service, 1972

Counsel Comments

- "There is a small number of mediators who get hired on securities cases and he's a key player in that market."

- *Chambers USA 2021*

- "I don't say this lightly (or often), but you really did a fantastic job yesterday. I was very impressed."

- *Partner at a New York Law Firm*

- "Thank you for all of your help. I've never worked with a mediator who put in this much time and effort."

- Partner at a National Law Firm

- "Thank you for your efforts and consummate professionalism as a skilled mediator."

- Partner at a New York Firm

- "I am writing to express my great respect and sincere appreciation for your work mediating the dispute...and helping the parties to arrive at a settlement."

I am not primarily a litigator, but have overseen the prosecution of a number of disputes over the years and have participated in a number of mediations. From the very beginning I thought you had an exceptional grasp of the substantive issues on both sides. The timing, terms and presentation of your settlement proposal were extraordinarily effective. It may have been less than I hoped for, but that's what the process is about and I believe that it was a good settlement for both sides. Thank you."

- General Counsel of an Investment Firm

- "Anyone can make a deal when the two sides have similar valuations and motives, and a reservoir of trust. Mediators' talents really show through when counsel don't see the risks the same, don't have a good rapport or trust, and don't have the ability to bridge the gap on their own. We got a chance on this one to see a top talent at the mysterious art of getting both sides to the same place."

- Plaintiffs' Counsel

- "You did a masterful job. I look forward to working with you again."

- Partner at a California Law Firm

- "Your candor, guidance, and 'feel' for all of the issues (and players) were critical to getting a deal done."

- Partner at a New York Law Firm

- "Thank you for your patience and perseverance yesterday. This case has a long history with complicated dynamics and you parachuted in yesterday without missing a beat."

- Partner at a New York Law Firm

- "Thank you so much for your perseverance to get us to an agreement. We could not have done so without your continued help, intelligent prodding, and patience in dealing with all."

- Securities Litigation Attorney

News

- Nov. 12, 2021
Nine JAMS Panelists Recognized in 2022 Edition of Southern California Best Lawyers
file:///news/2021/nine-jams-panelists-recognized-in-2022-edition-of-southern-california-best-lawyers
- August 19, 2021
Four JAMS Panelists Named “Lawyers of the Year” and 61 Recognized as “Best Lawyers in America” by Best Lawyers®
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- June 16, 2021
Fourteen JAMS Neutrals Ranked in Chambers USA 2021 Guide
file:///news/2021/fourteen-jams-neutrals-ranked-in-chambers-usa-2021-guide
- December 1, 2020
10 JAMS Panelists Recognized in 2021 Edition of Southern California’s Best Lawyers
file:///news/2020/10-jams-panelists-recognized-in-2021-edition-of-southern-californias-best-lawyers
- August 21, 2020
Seven JAMS Panelists Named “Lawyers of the Year” and 57 Recognized As “Best Lawyers in America” by Best Lawyers®
file:///news/2020/seven-jams-panelists-named-lawyers-of-the-year-and-57-recognized-as-best-lawyers-in-america-by-best-lawyers
- May 6, 2020
Twelve JAMS Neutrals Ranked in Chambers USA 2020 Guide
file:///news/2020/twelve-jams-neutrals-ranked-in-chambers-usa-2020-guide
- August 19, 2019
Five JAMS Panelists Named “Lawyers of the Year” and 59 JAMS Panelists Recognized As “Best Lawyers in America” by Best Lawyers®
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- May 2, 2019
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file:///news/2019/record-number-of-jams-neutrals-ranked-in-chambers-usa-2019
- August 15, 2018

Two JAMS Panelists Named Best Lawyers' "Lawyers of the Year;" 57 JAMS Panelists Recognized as 2019 Best Lawyers in America

file:///news/2018/two-jams-panelists-named-best-lawyers-lawyers-of-the-year-57-jams-panelists-recognized-as-2019-best-lawyers-in-america

- October 5, 2015

Robert A. Meyer, Esq. Joins JAMS

file:///news/2015/robert-a-meyer-esq-joins-jams

Events

- November 9, 2021

ABA Advanced ERISA Litigation Seminar

file:///events/2021/aba-advanced-erisa-litigation

Publications

- February 8, 2018

Meet the Mediators Who Brokered \$1B in 401k Bias Settlements

Bloomberg Law

file:///files/uploads/documents/articles/meyer-bloomberglaw-meet-the-mediators-who-brokered-1b-in-401k-bias-settlements-2018-02-08.pdf

- October 13, 2017

Trust is Key: Attorneys Praise Mediator Robert Meyer for his Intelligence and People Skills

Daily Journal - ADR Profile

file:///files/uploads/documents/ neutrals/meyer-dailyjournal-adr-profile-trust-is-key-2017-10-13.pdf

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Class Action Consulting Services

Exhibit C



ANALYTICS



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1 INTRODUCTION

Analytics is one of the premier providers of class action consulting and administration services - including the planning, notification, claims processing and distribution of settlement funds.

Top law firms, corporate legal departments, Special Masters, and other legal professionals rely on Analytics to plan and implement complex notice and claims programs, including collective and class action settlements, governmental settlements, and regulatory remediation engagements. Our experienced staff, tested systems, and turn-key operations centers are in place to meet the most complex of notice and settlement requirements.

Analytics' program and claims management practice provides:

- PMP-certified project managers
- SOC 1 Type II audited data intake, case management, and distribution process
- FISMA-Moderate accredited infrastructure and applications that includes:
 - Call Centers
 - Claims Resolution
 - Application and Data Hosting
 - Mail Processing
 - Treasury Management and Distribution Services
- Experience providing expert testimony and consulting services regarding legal and operational issues as they relate to the management of claims facilities and communications programs.

1.1 Company Information

1.1.1 Analytics

Analytics was established in 1970, two years after the revisions to Federal Rules of Civil Procedure Rule 23 that made federal class action litigation practical. Throughout our 49-year history, Analytics has assisted clients in managing class action settlements around the globe involving more than 250 million class members and \$6 billion dollars. With decades of experience, Analytics has the demonstrated ability to customize fund administration solutions for every sector and to manage engagements ranging from less than 25 to over 80 million individuals. Our clients include law firms, Special Masters, Fortune 500 corporations, and the United States Government. Analytics has been retained under multi-year contracts to provide expert consulting and administration services to the following agencies to support their consumer and investor protection missions: The Consumer Financial Protection Bureau, Federal Trade Commission, Securities and Exchange Commission, and the Department of Justice.

Our experience covers the full range of collective action, class action and mass tort litigation, including antitrust, building products, consumer fraud, employment, ERISA, racial and sexual discrimination, insurance, privacy, securities, and truth-in-lending litigation. We have



administered settlements ranging in size from fewer than 100 class members to more than 40 million, including one of the largest mailed-notice campaigns in history.

1.1.2 Why Analytics?

There are several qualities that distinguish Analytics as a notice and claims administrator:

- **EXPERTS IN CLASS ACTION NOTICE AND SETTLEMENT ADMINISTRATION.** Our management team includes experts in law, economics, and e-commerce, and averages more than three decade's worth of class action notice and settlement administration experience. The unique perspective this team brings gives us the ability to meet the challenges of modern legal notice and claims administration.
- **WE ARE E-COMMERCE AND TECHNOLOGY EXPERTS.** We are committed to investments in technology to improve the administration process for clients and class members. From load-tested applications designed to accommodate surges in claimant interest, to websites designed for smartphones that encourage participation; our systems are designed to meet the needs of modern notice and claims administration.
- **WE'RE OBSESSIVE ABOUT THE DETAILS.** Our processes are based upon decades of experience and detailed planning and undergo an annual SOC 1 Type II audit. For each engagement, project plans result in defined deliverables as well as measured and transparent results.
- **PERSONALIZED SERVICE FOR CLIENTS AND CLASS MEMBERS** We understand that every engagement is personal: personal to the lawyers who litigated the matter and personal to the class members who participate in the settlement process. For clients, we provide a single point of contact that oversees and coordinates all aspects of each engagement. For class members – we provide the administration support they need in the mode best suited to their needs.
- **WE HAVE NO CONFLICTS.** We have no conflicts of interest that could compromise our services or undermine the trust of the parties. Due to our closely held nature, Analytics has never had a conflict of interest, however remote, in any matter that we've assisted in administering.
- **WE NEVER OUTSOURCE.** All consulting services are performed in house, and we do not offshore any portion of our administration work. This provides us with greater control over our work product and tighter data security for our clients.

Our focused approach to class action consulting provides a single, fully dedicated point of contact who is responsible for overseeing and coordinating all aspects of each engagement. In addition to a single point of contact for each engagement, we provide an unmatched level of access to senior management (all of whom are actively involved with every case we administer). Our management team has regular and direct contact with all employees, from the mailroom, processing staff and customer service representatives working directly with class members, to IT and accounting departments.



While Analytics administers cases of all sizes and scope, we are a recognized as the leader in bespoke case administration. Analytics' Minneapolis facility has 25,000 square feet of floor space (with access to an additional 30,000 of contiguous flexible space) and includes an on-site call center and on-demand, on-premise printing and mail center.

Our success stems from our leadership in the development of methods to notify consumers of their rights and our development of processes that ease the manner in which they participate in a settlement or judgement. Our focus on improving the process and participation rates is backed by our proprietary software application, CARMEN. We pioneered the class action claims administration process - and have incorporated the lessons that we've learned into carefully documented, scalable, notice and administration best practices.

2 EXPERTS – NOTICE AND ADMINISTRATION

State and Federal Courts, the Department of Justice, the Federal Trade Commission, and the Securities and Exchange Commission have all recognized Analytics (and members of the executive team) as experts regarding class notification and notice procedures. Significantly, we have:

- testified regarding the adequacy of notice procedures in direct notice cases;
- testified regarding the adequacy of published notice plans;
- been appointed as a Distribution Fund Administrator by the Securities and Exchange Commission tasked with developing Distribution Plans for court approval;
- been retained as an expert by the Federal Trade Commission to testify regarding the effectiveness of competing notice plans and procedures.

Attached is a biography for Richard Simmons, Analytics' president and principal consultant with respect to notification issues. This biography identifies matters in which Analytics testified as to the adequacy of published notice, including quotes from relevant orders.

This does not include the hundreds of instances where we testified as to notice procedures employed by Analytics so that a court could have a basis for a ruling regarding the adequacy of notice. These cases are reflected in the Partial List of Class Action Consulting Experience that accompanies the biography.

Additionally,

- In 2011, Mr. Simmons was a panelist at the Federal Judicial Center's workshop/meeting regarding class action notice and settlement administration.
- In 2014, we were interviewed by the Consumer Financial Protection Bureau regarding notice and claims administration in class action litigation as part of their study on arbitration and consumer class litigation waivers.
- In 2016, we worked with the Federal Trade Commission's Class Action Notice Project to design and test alternate forms of notice.



- In 2017, Mr. Simmons is the primary author for the Duke Law Center's standards for evaluating class action notice programs.

3 PROJECT MANAGEMENT AND IMPLEMENTATION

Analytics provides turnkey solutions for the management of collective action, class action, and mass tort notice and claims programs. Every engagement is managed using a project management structure designed to meet the standards of the Project Management Institute and our annual SOC 1 audit. We will work closely with each client detailed Project Plan that addresses the lifecycle of the matter from initial database development through distribution of funds. This ensures that the scope of the work is clearly identified, appropriate responsibilities are assigned, and realistic timelines are established for key milestones. This ensures accuracy, timeliness, and cost efficiency for clients.

3.1 Project Management Plan

After a project is awarded to Analytics, a project team is assembled to work with the client to document the matter, coordinate data transfer, and begin the initial process. We will work closely with each client to prepare a detailed Project Plan that addresses the lifecycle of the distribution fund. This ensures that the scope of the work is clearly identified for engagement, appropriate responsibilities are assigned, and realistic timelines are established for milestones.

Analytics senior management team chairs a weekly management meeting that is attended by project managers and a representative from each department that supports their engagements (i.e., Data Services, Shared Services [Call Center and Data Capture], Document Center, and Treasury Management). During this meeting, Project Managers and Executive team will review Analytics' performance against commitments to our clients. This ensures Analytics' senior management is fully informed of each engagement, and that resources are made available so that we meet or exceed client expectations.

3.2 Project Implementation

Analytics leverages its capabilities from startup to closeout to complete all services within the scope of the contract in a timely manner. Analytics' consulting services are based on a tested technology infrastructure and documented processes to securely collect, manage, and distribute data. Consequently, we are able to efficiently and cost-effectively manage matters of any size. We have available for our clients use:

- Applications hosted in secure Tier III data centers;
- Imaging and scanning facilities with a capacity of more than 200,000 pages/day
- Call-center capacity suitable for direct notification programs of up to 40 million consumers; and
- Inbound mail-processing center engineered for volumes that accompany direct notification programs of up to 40 million consumers.



3.2.1 Claims

In a typical engagement, claims are submitted in one of two ways:

- **Online Claims:** A claimant may prepare and submit (or upload) a claim using a secure online claims portal.
- **Paper Claim Submission:** Claimant may submit an original claim form, including supporting documentation (if any) to Analytics.

Our claims processing team is supported by dedicated applications designed to meet the specific needs and workflows of class action settlements. These applications allow for:

- **Document Imaging:** Our applications provide scanned images of claims and supporting documentation and have the ability to interpret the information.
- **Process Management:** Our systems are designed to enforce the criteria of each settlement agreement to ensure claimant eligibility and claim valuation is appropriate and correct.
- **Analysis:** Our systems provide pattern matching for claim validation and identify duplicate claims.
- **Data Security:** Analytics' applications enforce a secure audit trail, and we separate duties for claims processing and review to reduce the risk of fraud.

3.2.2 Claim Controls

In each engagement, we perform comprehensive audits and reviews to ensure that all claims are processed accurately and that the settlement fund is protected against fraud.

3.2.2.1 *Fraud Prevention*

Analytics is an industry leader in addressing and preventing fraudulent transactions. This has been accomplished through statistical analysis of transactions and extensive training of claims analysts to keep a watchful eye for suspicious claims. All staff members are trained to investigate red flag alerts.

Analytics employs an experienced and trained disbursements staff. These professionals are highly skilled in detecting potential check fraud and performing daily fraud and abuse monitoring activities in addition to account reconciliation. The disbursements team has appropriate quality controls in place to ensure error-free processing of financial transactions once the case has reached the disbursement phase.

3.2.2.2 *Misuse of Data*

Analytics has also implemented internal procedures to prevent unscrupulous activity and to protect our clients' and class members' private information. These controls include:

- Configuring all of Analytics' systems so that modifications can only be made to data through the use of Analytics' proprietary applications. Individuals are not allowed direct access to underlying production databases.



- Tracking all modifications to Analytics computer programs with a version control system and auditing all changes.
- Authorizing only designated individuals to perform work on a matter and access data on which any distribution will be based.
- If an individual has the security clearance to make changes in data, all original data is maintained, a copy of the edited data is maintained, and the system records the identity of the individual who made the change.

3.2.3 Claims Support & Contact Center

In a world where consumers expect 24/7 availability, we are committed to providing class members the support that they need, when and how they need it. Each engagement is staffed with dedicated agents and supported by an enterprise grade contact center infrastructure that integrates calls, emails, and online chat into a single system:

- **Interactive Voice Response:** Calls are initially routed to an automated system that answers to 90% of callers' questions. We monitor caller selections to optimize class member experience. If they request to speak to an agent, and hold times are above average, callers can request a return call rather than remain on hold. When requested, voice recognition in multiple languages is available.
- **Call Center Agents:** Calls are routed based on skill sets to agents that are trained on the specific engagement. Agents have access to online scripts (approved by our clients) that provide them with answers frequently asked questions. Inquiries not covered by the script can be immediately queued to a supervisor, and then on to the client if appropriate. We also have Spanish, French, and Chinese speaking agents and can accommodate other languages upon request.
- **Email:** Each email is routed to ticketing systems and immediately acknowledged. Class members know that we've received their inquiry, and we track and report on the response to every email. Where possible, responses are standardized, ensuring that class members receive correct, client approved answers to all of their questions.

Analytics has a full service, in-house call center in its Minneapolis facility with capacity for more than 200 agents (including flexible space). For larger projects, remote locations offer the ability to scale our capacity significantly.

Analytics' contact center system employs VOIP (Voice-Over Internet Protocol) technology that provides clients with local access/toll free/free phone numbers across the globe and allows us to route calls to any location in the world. With real-time monitoring, Analytics is also able to allocate staff as needed to a particular program – all dependent on the amount of incoming calls, number of calls in queue and average hold time. Staffing projections and budget monitoring are also better informed given the detailed, historical information routinely available.

The “average” Analytics' agent has supported callers on hundreds of settlements, and has received training regarding Analytics' applications, policies, and procedures. This training includes



engagement specific information as well as customer service-oriented training to ensure that the answers to callers' questions are delivered in a conversational manner.

Agents are supported in accurate information by a knowledgebase that is integrated into the contact center software that scripts information about each engagement and answers of the most commonly discussed topics.

Call center agents are monitored and coached on an ongoing basis to ensure that consistent messages are delivered regarding each litigation. To further ensure the quality of the experience and the accuracy of the information we provide, calls are anonymously monitored through digital call recordings, and are graded for compliance with standards of accuracy and service.

3.2.4 Distribution Services

Following the completion of the data capture process, Analytics coordinates the distribution of checks or other forms of compensation to eligible recipients. All checks are printed in-house by Analytics, ensuring quick and accurate payment to all eligible claimants once payment amounts are approved.

Analytics has breadth of experience in the distribution of awards on qualifying claims. Fund management and disbursement services are handled on-site by accounting and tax professionals. Rigorous controls that exceed banking and federal government-sector security and audit standards are followed.

Checks are printed on-site with MICR encoding and secure check stock. All financial instruments are handled with dual custody and in areas secured by access keys and recorded digital camera monitoring. Daily account reviews are conducted, and positive pay presentments escalated to the business unit. Monthly reconciliations and account reporting are available for review.

3.3 Technology and Data Security

In managing settlement, Analytics brings decades of experience handling the sensitive and complex data for clients across a range of industries, from financial and healthcare to manufacturing and services. Analytics' pre-existing management processes and years of operations with complex systems and infrastructure to deliver proven value to our clients.

In light of uncertainty and marketing representations made regarding the "alphabet soup" of information security standards (HIPAA, ISO 27001, NIST, PCI/DSS, SAS70, SOC2, SSAE16, for example), Analytics chose to implement the National Institute of Standards and Technology ("NIST") Cybersecurity Framework. This Framework embodies best practices from the various bodies and can be mapped directly to any of these standards¹. It requires us to conduct a risk assessment regarding the data that we maintain (be it credit card data, health, or financial

¹ For example, SOC2 compliance does not indicate NIST compliance, but NIST compliance at the level that Analytics maintains indicates full SOC2 compliance.



information), develop a System Security Plan to address those risks, and then continuously test our compliance with that plan.

Within this standard – also in NIST Publication 800-53 (Security and Privacy Controls for Federal Information Systems and Organizations) - there are various tiers of commitments to information security. After consultation with the Federal Trade Commission (the agency charged with enforcing data privacy), we chose to implement one of the highest standards within this framework– “FISMA” Moderate² (meeting the information security requirements for the top 10% of Federal systems). We hold a FISMA-moderate “authority to operate” or “authority to use” from the US Federal Trade Commission, the US Bureau of Consumer Financial Protection, and the US Securities and Exchange Commission.

Highlights of Analytics’ commitment to technology and data security include:

- **High Availability:** The systems that we utilize support 24/7 operations, are architected for redundancy (i.e., no critical single points of failure) and have a business continuity management strategy in place.
- **Secure Data Transfer:** Analytics takes the protection of personal information very seriously. Analytics will receive encrypted data files from clients using sFTP or encrypted media. The data elements sent by the client may vary from case to case and may include personally identifiable information (PII) such as: full name, address, telephone numbers, date of birth, and social security number
- **Secure Data Storage:** Once Analytics has retrieved the data, it will be processed and stored in Analytics’ secure network. Analytics uses state-of-the-art enterprise database server technology for data storage, and our database and application solution.
- **Audited and Controlled Access:** Analytics staff, including processing and technical support personnel, will have access to the CARMEN Database. IT specialists and Analytics technical and operational program managers will access CARMEN and the CARMEN Database to ensure system performance and to audit the use of the system. All of these users and other authorized users, whose identity and need for access have been validated, will have varying levels of access to CARMEN Database.
- **Physical Security:** Analytics maintains access levels at the physical, software, and database levels. In addition to the many layers of data security, Analytics data processing facilities are physically secured – at the perimeter and within datacenters – through the use of electronic key cards, biometric access controls, and monitoring equipment. Anyone visiting our facility must sign in and out and be accompanied by an employee at all times.
- **Information Governance:** A comprehensive, written Information Security Plan designed to comply with applicable state and Federal laws and to ensure the confidentiality, integrity, and availability of client data.

² FISMA is the acronym for the Federal Information Security Management Act of 2002 that established the initial NIST authority and framework.



- A dedicated information security team, including an Information Technology Security officer, with specific responsibility of implementing and overseeing the Information Security Plan.
- An on-site 3,000 square foot enterprise grade Tier III data center.
- All Analytics personnel who have full access to client data have undergone comprehensive background checks
- Periodic evaluations of the implementation of Analytics' Information Security Plan, including:
 - Annual reviews by the Federal Trade Commission, the Department of Justice, and other external auditors.