

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

MICHAEL J. IANNONE, JR., and NICOLE
A. JAMES, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

AUTOZONE, INC. et al.,

Defendants.

Case No.: 2:19-cv-02779-MSN-tmp

SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT ("*Settlement Agreement*") is entered into by and between: (i) *Named Plaintiffs* in the above-captioned action for themselves and on behalf of the *Settlement Class*; and (ii) *Defendants Northern Trust Corporation and Northern Trust Investments, Inc.* ("*Northern Trust Defendants*").

NOW, THEREFORE, without any admission or concession on the part of the *Named Plaintiffs* of any lack of merit of the *Action* whatsoever, and without any admission or concession on the part of *Northern Trust Defendants* as to the merit of the *Action*, it is hereby STIPULATED AND AGREED, by and among the *Parties* to this *Settlement Agreement*, through their respective attorneys, subject to approval of the *Court* pursuant to the Federal Rules of Civil Procedure, in consideration of the benefits flowing to the *Parties* hereto from the *Settlement Agreement*, that all *Released Claims* as against the *Released Parties* shall be compromised, settled, released, and dismissed with prejudice, upon and subject to the following terms and conditions:

1. DEFINITIONS

As used in this *Settlement Agreement*, italicized and capitalized terms and phrases not otherwise defined have the meanings provided below:

- 1.1. "*Action*" shall mean *Iannone, et al. v. AutoZone, Inc. et al.*, No.: 2:19-cv-02779-MSN-tmp and any and all cases now or hereafter consolidated therewith.
- 1.2. "*Agreement Execution Date*" shall mean the date on which this *Settlement Agreement* is fully executed, as provided in Section 11.12 below.
- 1.3. "*AutoZone*" means Defendant AutoZone, Inc., a non-settling Defendant in the *Action*, and its past, present, or future parent companies, subsidiaries, affiliates,

divisions, joint ventures, members, assigns, representatives, attorneys, agents, insurers, reinsurers, shareholders, officers, directors, managers, employees, partners, predecessors, successors, and successors-in-interest.

- 1.4. “*Bar Order*” means the settlement bar order as set forth in Section 2.2.2.
- 1.5. “*Barred Claims*” means (a) Claims asserted or that could have been or could be asserted by Non-Settling Defendants, or Non-Settling Defendants’ past, present, or future parent companies, subsidiaries, affiliates, divisions, joint ventures, members, assigns, representatives, attorneys, agents, insurers, reinsurers, shareholders, officers, directors, managers, employees or partners, against the Settling Defendants or the Released Parties for indemnification and/or contribution, however denominated, whether common law, statutory, or contractual, and regardless of the allegations, facts, law, theories, or principles, that arise from or related in any way to the Claims and allegations in this Action, or (b) Claims asserted that could have been or could be asserted by the Settling Defendants or the Released Parties, including the Settling Defendants’ and Released Parties’ past, present, or future parent companies, subsidiaries, affiliates, divisions, joint ventures, members, assigns, representatives, attorneys, agents, insurers, reinsurers, shareholders, officers, directors, managers, employees or partners, against Non-Settling Defendants for indemnification and/or contribution, however denominated, whether common law, statutory, or contractual, and regardless of the allegations, facts, law, theories, or principles, that arise from or relate in any way to the Claims and allegations in this Action.
- 1.6. “*CAFA*” shall mean the Class Action Fairness Act of 2005, 28 U.S.C. §§ 1711-1715.

- 1.7. “*CAFA Notice*” shall mean notice of this proposed *Settlement* to the appropriate federal and state officials, as provided by *CAFA*.
- 1.8. “*CAFA Notice Recipients*” shall have the meaning set forth in Section 2.2.5.
- 1.9. “*Incentive Awards(s)*” means the monetary amount awarded by the *Court* to each *Named Plaintiff* and/or *Former Named Plaintiff* in recognition of their assistance in the prosecution of this *Action*, for which *Class Counsel* may seek an amount not exceeding \$10,000 per *Named Plaintiff* or *Former Named Plaintiff* payable from the *Settlement Fund*. Any such *Incentive Award* shall be subject to the approval of the *Court* as stated in Section 10.1 below.
- 1.10. “*Class Counsel*” shall mean James White Firm LLC, Law Office of Lange Clark, P.C., and Wiggins Childs Pantazis Fisher and Goldfarb LLC.
- 1.11. “*Class Representatives*” shall mean *Named Plaintiffs*.
- 1.12. “*Class Notice*” shall mean the form of notice, attached hereto as Exhibit A.
- 1.13. “*Class Period*” shall mean November 11, 2013 through the date of the preliminary approval order (the “*Class Period*”).
- 1.14. “*Class Settlement Amount*” shall mean the amount of \$2,500,000.00 described in Section 7.2 below.
- 1.15. “*Company*” or “*Northern Trust*” shall mean Northern Trust Corporation and/or Northern Trust Investments, Inc., and each *Person* that controls, is controlled by, or is under common control with *Northern Trust*, including any of their direct and indirect parents, subsidiaries, affiliates and *Representatives*, as well as each of their predecessors and *Successors-In-Interest*.
- 1.16. “*Complaints*” shall mean the original Complaint filed in this Action at ECF No. 1 on November 13, 2019 and the First Amended Complaint filed at ECF No. 70-1 on March 31, 2021.
- 1.17. “*Court*” shall mean the United States District Court for the Western District of Tennessee, Western Division.
- 1.18. “*ERISA*” shall mean the Employee Retirement Income Security Act of 1974, as amended, including all regulations promulgated thereunder, and court decisions interpreting ERISA, as amended, or regulations promulgated thereunder.
- 1.19. “*Fairness Hearing*” shall have the meaning set forth in Section 2.2.4.
- 1.20. “*Final*” shall mean with respect to any judicial ruling or order, that the period for any appeals, petitions, motions for reconsideration, rehearing, *certiorari* or any other proceedings for review (“*Review Proceeding*”) has expired without the

initiation of a Review Proceeding, or, if a Review Proceeding has been timely initiated, that there has occurred a full and final disposition of any such Review Proceeding without a reversal or any material modification, including the exhaustion of proceedings in any remand and/or subsequent appeal after remand.

- 1.21. “*Final Approval Order and Judgment*” shall mean the entry of the *Court’s* order approving this *Settlement* pursuant to FED. R. CIV. P. 23(e) in substantially the form attached hereto as Exhibit B.
- 1.22. “*Final List*” shall have the meaning set forth in Section 8.3.
- 1.23. “*Independent Fiduciary*” shall mean the person or entity selected and retained by the *Settling Defendants* as an independent fiduciary to the *Plan* with respect to the *Settlement Agreement* for the purposes of rendering the determination set forth in Section 2.6. Costs associated with the *Independent Fiduciary* shall be borne by the *Settling Defendants*.
- 1.24. “*Individual Defendants*” shall mean non-settling Defendants Bill Giles, Brian Campbell, Steve Beussink, Kristin Wright, Michael Womack, Kevin Williams, and Rick Smith.
- 1.25. “*Named Plaintiffs*” or “*Class Representatives*” shall mean Michael J. Iannone, Jr. and Nicole A. James (a.k.a Nik James).
- 1.26. “*Net Proceeds*” shall have the meaning set forth in Section 8.2.3.
- 1.27. “*Non-Settling Defendants*” shall mean *AutoZone* and *Individual Defendants*.
- 1.28. “*Parties*” shall mean the *Plaintiffs* and the *Northern Trust Defendants*.
- 1.29. “*Person*” shall mean an individual, partnership, corporation, governmental entity or any other form of entity or organization.
- 1.30. “*Plaintiffs*” shall mean *Named Plaintiffs* and each member of the *Settlement Class*.
- 1.31. “*Plan*” shall mean the AutoZone Inc. 401(k) Plan, and each of its predecessor plans or successor plans, individually and collectively, and any trust created under such plans.
- 1.32. “*Plan of Allocation*” shall mean the method of allocating settlement funds to members of the *Settlement Class* inclusive of those who have positive account balances at the time of distribution of the *Net Proceeds* (“*Current Participants*”) and those who no longer have an account with a positive balance at the time of distribution of the *Net Proceeds*, as well as the beneficiaries who, according to the records of the *Recordkeeper*, received a distribution from an account of a *Settlement Class Member* prior to distribution of the *Net Proceeds* (“*Former Participants*”). A proposed form of the *Plan of Allocation* is attached hereto as Exhibit C.

- 1.33. “*Preliminary Approval Order*” shall mean the order of the *Court* in substantially the form attached hereto as Exhibit D, whereby the *Court* preliminarily approves this *Settlement*.
- 1.34. “*Preliminary Approval Motion*” shall have the meaning set forth in Section 2.2.2.
- 1.35. “*Recordkeeper*” shall mean the entity that maintains electronic records of the Plan’s participants and their individual accounts and account histories.
- 1.36. “*Released Claims*” shall have the meaning set forth in Sections 3.1 and 3.2.
- 1.37. “*Released Parties*” shall mean *Northern Trust Defendants* and their past, present, and future affiliates, subsidiaries, divisions, joint ventures, predecessors, successors, successors-in-interest, and assigns, employee benefit plan fiduciaries (with the exception of the *Independent Fiduciary*), employee benefit plan administrators, and their predecessors, successors, affiliates and subsidiaries, consultants, subcontractors, boards of trustees, boards of directors, officers, trustees, directors, partners, agents, managers, members, employees, representatives, attorneys, administrators, fiduciaries, insurers, co-insurers, reinsurers, accountants, auditors, advisors, personal representatives, heirs, executors, administrators, associates, and all persons acting under, by, through, or in concert with any of them. “*Released Parties*” shall not include *AutoZone* or *Individual Defendants*.
- 1.38. “*Releases*” shall mean the releases set forth in Section 3.2.
- 1.39. “*Representatives*” shall mean representatives, attorneys, agents, directors, officers or employees.
- 1.40. “*Settlement*” shall mean the settlement to be consummated under this *Settlement Agreement*.
- 1.41. “*Settlement Administrator*” shall be the entity selected by *Class Counsel*, subject to approval by *Defense Counsel*, as provided in Section 8.1.1.
- 1.42. “*Settlement Class*” shall mean all persons, other than *AutoZone* or *Individual Defendants*, who were participants as of November 11, 2013 in Plan, and invested in any of the GoalMaker Funds¹ including (i) beneficiaries of deceased participants who, as of November 11, 2013, were receiving benefit payments or will be entitled to receive benefit payments in the future, and (ii) alternate payees under a Qualified Domestic Relations Order who, as of November 11, 2013, were receiving benefit payments or will be entitled to receive benefit payments in the future; and (b) all persons, other than *AutoZone*, who have been participants or beneficiaries in either

¹ “GoalMaker Funds” is defined in the Chief Magistrate Judge’s Report and Recommendation to certify the class [ECF No. 205] at 3–4.

the *Plan* and had account balances in the *Plan* at any time between November 11, 2013 through the date of the preliminary approval order.

- 1.43. “*Settlement Class Member*” or “*Class Member*” shall mean a member of the *Settlement Class*.
- 1.44. “*Settling Defendants*” means Northern Trust Defendants.
- 1.45. “*Settling Defendants’ Counsel*” means King & Spalding LLP and Harris Shelton Hanover Walsh PLLC.
- 1.46. “*Settlement Fund*” shall have the meaning set forth in Section 7.1.
- 1.47. “*Successor-In-Interest*” shall mean a *Person’s* estate, legal representatives, heirs, successors or assigns, including successors or assigns that result from corporate mergers, acquisitions, or other structural changes.

2. **CONDITIONS TO FINALITY OF SETTLEMENT**

This *Settlement* shall be contingent upon each of the following conditions in Sections 2.1 through 2.6 being satisfied. The *Parties* agree that if any of these conditions are not satisfied, then this *Settlement Agreement* is terminated, and the *Action* will for all purposes with respect to the *Parties* revert to its status as of the day before the *Settlement Agreement* was executed. In such event, *Settling Defendants* will not be deemed to have consented to the class certification order in Section 2.2, the agreements and stipulations in this *Settlement Agreement* concerning class definition or class certification shall not be used as evidence or argument to support a motion for class certification, and *Settling Defendants* will retain all rights with respect to class certification.

- 2.1. The *Court* shall approve the *Settlement Class* as provided for in Section 2.2.
- 2.2. Court Approval and Class Certification. The *Settlement* shall have been approved by the *Court*, as provided for in this Section, and the *Court* shall have entered the *Final Approval Order and Judgment* substantially in the form attached as Exhibit B hereto. The *Parties* shall cooperate in good faith to obtain *Court* approval of the *Settlement* including with respect to the following:
 - 2.2.1. Class Certification. In connection with the proceedings on preliminary and final approval of the *Settlement*, *Named Plaintiffs* shall, through *Class Counsel*, seek orders certifying the *Settlement Class* pursuant to FED. R. CIV. P. 23(b)(1) and *Settling Defendants* shall consent to such certification of the *Settlement Class* for purposes of this *Settlement* only. Nothing herein shall alter or otherwise modify the class certified at Dkt. No. 239.
 - 2.2.2. Motion for Preliminary Approval of Settlement and of Notice. As soon as reasonably possible upon the full execution of this *Settlement Agreement* by the *Parties*, but not later than December 7, 2023 (unless the *Parties* agree to an extension approved by the *Court*), *Class Counsel* will file a *Preliminary Approval*

Motion with the *Court* seeking entry of the *Preliminary Approval Order* substantially in the form attached hereto as Exhibit D, including the exhibits thereto. *Settling Defendants* will not object to such motion.

- 2.2.3. Motion for Bar Order. As soon as reasonably possible upon the full execution of this *Settlement Agreement* by the *Parties*, but not later than December 7, 2023 (unless the *Parties* agree to an extension approved by the *Court*), *Settling Defendants* will file a motion with the *Court* seeking entry of the *Bar Order* substantially in the form attached hereto as Exhibit E, including the exhibits thereto. *Class Counsel* will not object to such motion.
- 2.2.4. Issuance of Class Notice. *Plaintiffs* shall cause notice to be provided on the date and in the manner set by the *Court* in its *Preliminary Approval Order*. *Settling Defendants* shall have no responsibility for transmittal or distribution of the *Class Notice*, except with respect to the cooperation required by Section 4.2.
- 2.2.5. The Fairness Hearing. On or after the date set by the *Court* for the final hearing pursuant to FED. R. CIV. P. 23(e)(2) (the "*Fairness Hearing*") the *Court* will determine: (i) whether to enter judgment finally approving the *Settlement*; (ii) whether to enter judgment finally approving the *Bar Order*; and (iii) what, if any, legal fees, compensation and expenses should be awarded to *Class Counsel* and to the *Named Plaintiffs* and *Former Named Plaintiffs* as contemplated by Section 10 of this *Settlement Agreement*.
- 2.2.6. CAFA Notices. Pursuant to *CAFA*, *Settling Defendants* shall provide *CAFA Notices* to the appropriate governmental agencies (the "*CAFA Notice Recipients*") within ten (10) calendar days after the filing of the *Preliminary Approval Motion*. The costs of such notice shall be paid from the *Settlement Fund* and shall be considered administrative expenses. In the event that the *Preliminary Approval Order* provides for any modifications to the *CAFA Notices*, then the *Settlement Administrator* shall prepare and issue supplemental or amended *CAFA Notices* as appropriate. The costs of such supplemental or amended *CAFA Notices* shall be paid from the *Settlement Fund* and shall be considered administrative expenses.
- 2.3. Finality of Judgment. The *Final Approval Order and Judgment* shall have become *Final*.
- 2.4. Funding of Class Settlement Amount. The *Company* shall have caused the *Class Settlement Amount* to be deposited at the time prescribed by and otherwise as provided for in Section 7.2.
- 2.5. Resolution of CAFA Objections (If Any). In the event that any of the *CAFA Notice Recipients* objects to and requests material modifications to the *Settlement*, *Named Plaintiffs* agree to cooperate and work with *Settling Defendants* to overcome such objection(s) and requested material modifications. In the event such objection(s) or requested material modifications are not overcome, *Settling Defendants* shall have the right to terminate the *Settlement Agreement* pursuant to Section 9.

- 2.6. Settlement Authorized by Independent Fiduciary. At least twenty (20) days prior to the *Fairness Hearing*, the *Independent Fiduciary* shall have approved and authorized in writing the *Settlement*, and given the *Releases* to all of the *Released Parties* in its capacity as fiduciary of the *Plan* for and on behalf of the *Plan*, on the terms set forth in Section 3, in accordance with Prohibited Transaction Class Exemption 2003-39. If the *Independent Fiduciary* disapproves or otherwise does not authorize the *Settlement* or refuses to execute the *Releases* on behalf of the *Plan*, then *Settling Defendants* shall have the option to waive this condition if so stipulated by the *Parties*. Such option is to be exercised in writing within the earlier of: (i) ten (10) days after the *Parties*' receipt of the *Independent Fiduciary*'s written determination; or (ii) three (3) days prior to the date set for the *Fairness Hearing*, unless otherwise agreed to by the *Parties*. The *Parties* shall comply with reasonable requests made by the *Independent Fiduciary*. A copy of the *Independent Fiduciary* determination letter and report shall be provided to *Class Counsel* who may file it with the *Court* in support of *Final* approval of the *Settlement*. The *Settling Defendants* shall bear the costs associated with the *Independent Fiduciary*.

3. RELEASES

- 3.1. *Named Plaintiffs* and each member of the *Settlement Class* (on behalf of themselves and the *Plan*) conclusively, absolutely, unconditionally, irrevocably and forever release and discharge the *Released Parties* from *Released Claims* that the *Named Plaintiffs* or the *Settlement Class*, directly, indirectly, derivatively, or in any other capacity ever had, now have or hereafter may have, except that the releases under this Section 3.1 and Section 3.2 shall not include claims relating to the covenants or obligations set forth in this *Settlement Agreement*.
- 3.2. Releases. Subject to Section 9 herein, effective upon the date that *Final Order and Judgment* is *Final*, the following *Releases* shall be effective: any and all actual or potential claims (including claims for any and all losses, damages, unjust enrichment, attorneys' fees, disgorgement, litigation costs, injunction, declaration, contribution, indemnification or any other type or nature of legal or equitable relief), actions, demands, rights, obligations, liabilities, expenses, costs, and causes of action, accrued or not, whether arising under federal, state, or local law, whether by statute, contract, or equity, whether brought in an individual or representative capacity, whether accrued or not, whether known or unknown, suspected or unsuspected, foreseen or unforeseen based in whole or in part on acts or failures to act from the beginning of time through the end of the Class Period (together with the specific examples in Sections 3.2.1—3.2.5, the *Released Claims*):
- 3.2.1. That were asserted in the *Action*, or that arise out of, relate to, or are based on any of the allegations, acts, omissions, facts, matters, transactions, or occurrences that were alleged, or could have been alleged, in the *Complaint* filed in the *Action*; and/or
- 3.2.2. That arise out of, relate in any way to, are based on, or have any connection with (a) the selection, oversight, retention, monitoring,

compensation, fees, or performance of the Plan's investment options or service providers; (b) any advice or other services Northern Trust provided to the Plan including any related acts or omission; (c) disclosures or failures to disclose information regarding the Plan's investment options, fees, or service providers; (d) the management, oversight or administration of the *Plan* or its fiduciaries; or (e) alleged breach of the duty of loyalty, care, prudence, diversification, or any other fiduciary duties or prohibited transactions under ERISA; or

- 3.2.3. That would be barred by *res judicata* based on entry of the *Final Approval Order and Judgment*; or
 - 3.2.4. That relate to the direction to calculate, the calculation of, and/or the method or manner of allocation of the Qualified Settlement Fund to the *Plan* or any Class Member in accordance with the *Plan of Allocation*.
 - 3.2.5. That relate to the approval by the *Independent Fiduciary* of the *Settlement*, unless brought against the *Independent Fiduciary* alone.
 - 3.2.6. The *Class Representatives*, *Class Members*, and the *Plan* expressly waive and relinquish, to the fullest extent permitted by law, any and all provisions, rights, and benefits conferred by Section 1542 of the California Civil Code, which provides that a "general release does not extend to claims 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," and any similar state, federal or other law, rule or regulation or principle of common law of any domestic governmental entity.
 - 3.2.7. "Released Claims" does not include any *Class Representatives'* or the *Settlement Class Members'* right to their respective vested account balances under the terms of the *Plan* and according to the *Plan's* records as of the date the *Settlement* becomes *Final*. "Released Claims" does not include any pending litigation or administrative processes other than the *Action*.
- 3.3 Dismissal With Prejudice. The *Action* and all *Released Claims* shall be dismissed with prejudice with respect to the *Settling Defendants*.
- 3.4 *Settling Defendants* (or their *Successors-In-Interest*) shall conclusively, absolutely, unconditionally, irrevocably and forever release and discharge the *Named Plaintiffs* and *Class Counsel* from all claims, liabilities, and damages *Settling Defendants* have or could have related to *Named Plaintiffs' and Class Counsel's* institution or prosecution of the *Action* except that the release under this Section 3.4 shall not include claims relating to the covenants or obligations set forth in this *Settlement Agreement*.

4. COVENANTS

The *Parties* covenant and agree as follows:

- 4.1. Taxation of Class Settlement Amount. *Plaintiffs* acknowledge that the *Released Parties* have no responsibility for any taxes due on funds deposited in or distributed from the *Settlement Fund* or that the *Plaintiffs* or *Class Counsel* receive from the *Class Settlement Amount*. *Plaintiffs* further acknowledge that any such tax payments and any professional, administrative or other expenses associated with such tax payments shall be paid out of the *Settlement Fund*, as set forth more fully in Section 7.1.2 below. Nothing herein shall constitute an admission or representation that any such taxes will or will not be due.
- 4.2. Cooperation. The *Parties* will cooperate, through reasonable efforts, through reasonable efforts to implement the *Plan of Allocation*.
 - 4.2.1. *Class Counsel* shall request *AutoZone* or the *Recordkeeper* provide to the *Settlement Administrator* within ten (10) business days of entry of the *Preliminary Approval Order*: (1) the names and last known addresses of members of the *Settlement Class*, as compiled from reasonably accessible electronic records maintained by the *Recordkeeper*; (2) the social security numbers of *Settlement Class Members* in order for the *Settlement Administrator* to perform a National Change of Address search to update out-of-date addresses; and (3) *Plan* participant data described in the *Plan of Allocation*. With respect to the aforementioned data, the *Plan's Recordkeeper* shall take commercially reasonable steps to ensure the data provided is complete as it exists in the *Recordkeeper's* systems. Neither *Plaintiffs* nor *Class Counsel* will be responsible or liable in any way for ensuring the completeness or accuracy of the information provided by the *Recordkeeper* pursuant to this section. If *AutoZone* or the *Recordkeeper* fail or refuse to provide the aforementioned data to the *Settlement Administrator* within ten (10) business days after entry of the *Preliminary Approval Order*, *Class Counsel* will promptly seek relief from the Court, including staying or tolling any deadlines occurring after the entry of the *Preliminary Approval Order*, including the payments due under Section 7.2 of this Settlement Agreement.
 - 4.2.2. The *Settlement Administrator* shall use the information provided through Section 4.2.1 to compile a "*Preliminary List*" of members of the *Settlement Class* for purposes of sending the *Class Notice* and calculating payments pursuant to the *Plan of Allocation*.
 - 4.2.3. *Class Counsel* and their agents will use any information provided by *AutoZone* or the *Recordkeeper* pursuant to Section 4.2.1 solely for the purpose of providing notice and administering this *Settlement* and for no other purpose and will take all reasonable and necessary steps as required by law to maintain the security and confidentiality of this information.

- 4.3 The *Parties* shall not do anything or take any position inconsistent with obtaining a prompt *Final Approval Order and Judgment* approving the *Settlement* unless expressly permitted by this *Settlement Agreement*. The *Parties* shall suspend any and all efforts to prosecute and to defend the *Action* (as it relates to the Settling Defendants) pending entry of the *Final Approval Order and Judgment* or, if earlier, termination of the *Settlement Agreement*.
- 4.4 Any costs, fees, and expenses incurred by third parties, including the reasonable costs, fees, and expenses incurred by any third-party *Recordkeeper* in providing the cooperation as set forth herein, including in Section 4.2, shall be paid out of the *Settlement Fund*.
- 4.5 Covenant Not to Sue. Subject to Section 9 herein, *Plaintiffs* and the members of the *Settlement Class* covenant and agree: (i) not to file against any *Released Party* any *Released Claim*, or any claim based on, relating to or arising from any *Released Claim*; and (ii) that the foregoing covenants and agreements shall be a complete defense to any such *Released Claims* against any of the respective *Released Parties*.

5. REPRESENTATIONS AND WARRANTIES

- 5.1. *Parties' Representations and Warranties*. The *Parties* represent and warrant as follows, and each *Party* acknowledges that each other *Party* is relying on these representations and warranties in entering into this *Settlement Agreement*:
- 5.1.1. That they have diligently prepared the case pursuant to the Court's orders; that they are voluntarily entering into this *Settlement Agreement* as a result of arm's-length negotiations; that in executing this *Settlement Agreement* they are relying solely upon their own judgment, belief and knowledge, and the advice and recommendations of their own independently selected counsel, concerning the nature, extent and duration of their rights and claims hereunder and regarding all matters which relate in any way to the subject matter hereof; and that, except as provided herein, they have not been influenced to any extent whatsoever in executing this *Settlement Agreement* by any representations, statements or omissions pertaining to any of the foregoing matters by any *Party*, or by any *Person* representing any *Party*, to this *Settlement Agreement*. Each *Party* assumes the risk of mistake as to facts and/or law.
- 5.1.2. That they have carefully read the contents of this *Settlement Agreement*, and that this *Settlement Agreement* is signed freely by each *Person* executing this *Settlement Agreement* on behalf of each of the *Parties*. The *Parties*, and each of them, further represent and warrant to each other that he, she, or it has made such investigation of the facts pertaining to the *Settlement*, this *Settlement Agreement* and all of the matters pertaining thereto, as he, she or it deems necessary.
- 5.2. *Signatories' Representations and Warranties*. Each *Person* executing this *Settlement Agreement* on behalf of any other *Person* does hereby personally represent and warrant to the other *Parties* that he or she has the authority to execute

this *Settlement Agreement* on behalf of, and fully bind, each principal whom such individual represents or purports to represent.

6. **NO ADMISSION OF LIABILITY**

6.1. The *Parties* understand and agree that this *Settlement Agreement* embodies a compromise settlement of disputed claims, and that nothing in this *Settlement Agreement*, including the furnishing of consideration for this *Settlement Agreement*, shall be deemed to constitute any finding that any party had a fiduciary status under ERISA or a finding of any wrongdoing by any of *Settling Defendants*, or give rise to any inference of fiduciary status under ERISA or wrongdoing or admission of wrongdoing or liability in this or any other proceeding. This *Settlement Agreement* and the payments made hereunder are made in compromise of disputed claims and are not admissions of any liability of any kind, whether legal or factual. *Settling Defendants* specifically deny any such liability or wrongdoing and state that they are entering into this *Settlement Agreement* to eliminate the burden and expense of further litigation. Further, the *Named Plaintiffs*, while believing that all claims brought in the *Action* have merit, have concluded that the terms of this *Settlement Agreement* are fair, reasonable and adequate to the *Plan*, themselves and members of the *Settlement Class* given, among other things, the inherent risks, difficulties and delays in complex ERISA litigation such as this. Neither the fact nor the terms of this *Settlement Agreement* shall be used or offered or received in evidence in any action or proceeding for any purpose, except in an action or proceeding to enforce this *Settlement Agreement* or arising out of or relating to the *Final Approval Order and Judgment*.

7. **THE SETTLEMENT FUND, DELIVERIES INTO THE SETTLEMENT FUND**

7.1. The Settlement Fund.

7.1.1. Within ten (10) business days after entry of the *Preliminary Approval Order*, *Class Counsel* through the *Settlement Administrator* shall establish a settlement fund account (the "*Settlement Fund*") which shall be considered a common fund created as a result of the *Action*. *Class Counsel* shall instruct the *Settlement Administrator* to establish an escrow account at an FDIC insured bank ("*Escrow Account*") consistent with this *Settlement Agreement*. Once such *Escrow Account* is established, *Class Counsel* shall promptly notify *Settling Defendants* of the date of the establishment of the *Settlement Fund*; and provide *Settling Defendants* with a properly executed form W-9 and such other information that is reasonably necessary to effect the payments described in Section 7.2.

7.1.2. The *Settlement Fund* shall bear interest to the extent possible. The *Settlement Fund* shall be structured and managed to qualify as a Qualified Settlement Fund under Section 468B of the Internal Revenue Code and Treasury regulations promulgated thereunder and shall make tax filings and provide reports to *Class Counsel* for tax purposes. The *Parties* shall not take a position in any filing or before any tax authority inconsistent with such treatment. The *Settlement Fund* will pay any

federal, state, and local taxes that may apply to the income of the *Settlement Fund*. The *Settlement Administrator* shall arrange for the preparation and filing of all tax reports and tax returns required to be filed by the *Settlement Fund* and for the payment from the *Settlement Fund* of any taxes owed, and will upon request send to *Class Counsel* copies of all such filings and receipts of payment in a timely manner. The *Settlement Administrator* shall be authorized to retain a certified public accounting firm for those purposes. All taxes on the income of the *Settlement Fund* and tax-related expenses incurred in connection with the taxation of the *Settlement Fund* shall be paid solely out of the *Settlement Fund*, shall be considered a cost of administration of the *Settlement*, and shall be timely paid without further order of the *Court*. The *Settlement Administrator* shall arrange for the preparation and issuance of any required Forms 1099 to *Persons* receiving payments from the *Settlement Fund* for administrative services, and costs incurred in connection therewith also shall be paid solely out of the *Settlement Fund*, shall be considered a cost of administration of the *Settlement*, and shall be timely paid by the *Settlement Fund* without further order of the *Court*. Costs or expenses of opening or closing the *Settlement Fund*, and all fees and expenses of the *Settlement Administrator*, and any professional advisors who are engaged by the *Settlement Administrator* in connection with the *Settlement Fund*, shall be funded solely from the *Settlement Fund*, and *Plaintiffs* expressly acknowledge that *Settling Defendants* have no responsibility for any such fees or expenses.

- 7.2. The Class Settlement Amount. In consideration of all of the promises and agreements set forth in this *Settlement Agreement*, the *Company* will cause a payment to be made to the *Settlement Fund* in the amount of \$500,000 not later than twenty-one (21) days following the *Court's* entry of the *Preliminary Approval Order* or *Class Counsel's* providing *Settling Defendants' Counsel* with a properly executed form W-9 and such other information that is reasonably necessary to effect such payment, whichever is later, into the *Escrow Account*. Within twenty-one (21) calendar days after the *Final* approval of the *Settlement*, the *Company* shall cause a payment to be made to the *Settlement Fund* for the remainder of the *Class Settlement Amount* (\$2,000,000.00). In no event shall the *Settlement Fund* be required to exceed the *Class Settlement Amount*, and in no event shall the *Company* be required to make payments or incur any expenses in excess of this amount. In no event shall the *Company* be required to make payments or incur any expenses under this *Settlement Agreement* except as expressly set forth herein. Other than the costs specified in Sections 1.23, the *Class Settlement Amount* shall be the only amount paid by *Settling Defendants* under this *Settlement Agreement*, and *Settling 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 payments that any of the *Plaintiffs* may claim they are entitled to under the current, former, or future *Plan* as a result of this *Settlement* or any *Plaintiffs'* recovery under this *Settlement*.
- 7.3. All funds held in the *Settlement Fund* shall be deemed to be in the custody of the *Court* and shall remain subject to the jurisdiction of the *Court* until such time as the

funds are distributed or are returned to the persons paying the same pursuant to the *Final Judgment and Settlement Agreement*.

8. **PAYMENTS FROM THE SETTLEMENT FUND**

- 8.1. Disbursements from *Settlement Fund* prior to *Settlement* becoming *Final*. *Class Counsel* shall direct the *Settlement Administrator* to disburse money from the *Class Settlement Fund* as follows:
 - 8.1.1. Expenses of Class Notice. After entry of the *Preliminary Approval Order*, the *Settlement Administrator* shall be directed in writing to disburse from the *Settlement Fund* an amount sufficient for the payment of costs of the *Class Notice*. *Class Counsel* shall select a *Settlement Administrator* to assist with *Class Notice* and administration of the *Settlement*, subject to the agreement of the *Company*, which agreement shall not be unreasonably withheld. The *Settlement Administrator* shall make reasonable and customary efforts to locate and provide notice to all *Settlement Class Members*. Any reasonable costs, expenses or fees incurred in connection with the administration of this *Settlement* shall be paid out of the *Settlement Fund*.
 - 8.1.2. For taxes and expenses of the *Settlement Fund* as provided in Section 7.1.2 herein.
 - 8.1.3. For costs and expenses of the *Settlement Administrator* in implementing the *Plan of Allocation* and otherwise administering the *Settlement*.
 - 8.1.4. For reasonable costs and expenses incurred by the *Recordkeeper* (or *Authorized Administrator*) in assisting with the implementation of this *Settlement*.
- 8.2. Upon the *Settlement* becoming *Final*, *Class Counsel* shall direct the *Settlement Administrator* to disburse money from the *Class Settlement Fund* as follows:
 - 8.2.1. For Attorneys' Fees and Expenses. As provided in Section 10.2 herein and approved by the *Court*.
 - 8.2.2. For *Incentive Awards*. As provided in Section 10.2 herein and approved by the *Court*.
 - 8.2.3. Implementation of the *Plan of Allocation*. *Class Counsel* shall propose to the *Court* a *Plan of Allocation*, in substantial conformity to the one attached hereto as Exhibit C, which shall provide for the calculation, allocation, and distribution of the *Settlement Fund* net of the disbursements called for in Sections 8.1 and 8.2 ("*Net Proceeds*"). The *Settlement Administrator* shall be exclusively responsible and liable for calculating the amounts payable to the members of the *Settlement Class* pursuant to the *Plan of Allocation*, as well as for complying with all tax laws, rules, and regulations and withholding obligations with respect to the members of the *Settlement Class*. *Settling Defendants* shall have no liability related to the calculation or taxability of such payments. Upon the *Final Approval Order and Judgment* becoming *Final* as provided in Section 2.3, and after the amounts payable

pursuant to Sections 8.1 and 8.2 have been disbursed, or, in the case of future expenses such as those set forth in 7.1.2, set aside and withheld, *Class Counsel* shall direct the *Settlement Administrator* to disburse the *Net Proceeds* as provided by this *Settlement Agreement* and the *Plan of Allocation*. The *Recordkeeper* or any other entity with appropriate authority under the *Plan* (an “*Authorized Administrator*”), shall allocate to members of the *Settlement Class* who are not *Former Participants* any *Net Proceeds* received by the *Plan* as calculated by the *Settlement Administrator* according to the *Plan of Allocation*, documentation of which *Class Counsel* shall direct the *Settlement Administrator* to provide to the *Authorized Administrator* pursuant to the *Plan of Allocation* no later than the distribution of the *Net Proceeds*. The *Settlement Administrator* shall promptly notify *Class Counsel* as to the date(s) and amounts(s) of said allocation(s) made to members of the *Settlement Class* who are not *Former Participants*. The *Settlement Administrator* shall be exclusively responsible for distributing *Net Proceeds* allocated to the *Former Participants* as provided by the *Plan of Allocation*. In the event that the *Company* or *Recordkeeper* incurs obligations for the implementation of the *Plan of Allocation* with respect to *Former Participants* in connection with distributions, calculations, tax withholdings, tax reporting or notifications, the *Company* or *Recordkeeper* shall be entitled to reimbursement from the *Settlement Fund* for the reasonable costs and expenses, including for the retention of a third-party vendor, of implementing the *Plan of Allocation*. Nothing herein shall constitute approval or disapproval of the *Plan of Allocation* by *Settling Defendants*, and *Settling Defendants* shall have no responsibility or liability for the *Plan of Allocation* and shall take no position for or against the *Plan of Allocation*.

- 8.2.4. The *Net Proceeds* distributed to the *Plan* pursuant to the *Plan of Allocation* shall constitute “restorative payments” within the meaning of Revenue Ruling 2002-45 for all purposes.
- 8.3. Final List of *Settlement Class Members*. Prior to the disbursement of *Net Proceeds* to the *Plan*, the *Settlement Administrator* shall provide to the *Recordkeeper*, the *Company*, and *Class Counsel* a *Final List* of members of the *Settlement Class*, in an electronic format approved by the *Recordkeeper* and the *Company*, to whom the *Net Proceeds* will be distributed in accordance with the *Plan of Allocation*. The *Final List* shall be final, and only persons on the list, or beneficiaries as provided in Section 1.30, shall be eligible to receive any recovery from this *Settlement*.
- 8.4. After the distribution of *Net Proceeds* to the *Plan* and allocation of the *Net Proceeds* pursuant to the *Plan of Allocation*, amounts allocable to members of the *Settlement Class* who cannot be located or otherwise cannot receive their *Settlement* payment shall be deposited in the *Plan’s* forfeiture account and used for the purpose of defraying administrative fees and expenses of the *Plan* that would otherwise be charged to the *Plan’s* participants.
- 8.5. Payments in the Event of Termination. If the *Settlement Agreement* is terminated for any reason, neither the *Parties* nor *Class Counsel* shall have any obligation to reimburse the *Settlement Fund* for costs incurred for the *Class Notice*, or other costs

or expenses of the *Settlement Fund* incurred by the *Settlement Fund* under this *Settlement Agreement* before termination.

9. **TERMINATION OF THE SETTLEMENT AGREEMENT**

9.1. Termination. This *Settlement Agreement* shall terminate if: (a) if and when any condition specified in Section 2 of this *Settlement Agreement* is not satisfied; or (b) the *Final Approval Order and Judgment* does not become *Final*. Notwithstanding the foregoing, this *Settlement Agreement* shall not terminate because a court of competent jurisdiction modifies, reverses, or refuses to enter any order relating to the award of attorneys' fees and expenses or compensation for the *Named Plaintiffs*. If within thirty-one (31) days after the date when any reversal or modification which would cause this *Settlement Agreement* to terminate becomes *Final* the *Parties* have not agreed in writing to proceed with all or part of the *Settlement Agreement* in light of such ruling, then this *Settlement Agreement* shall automatically terminate and thereupon become null and void, except as otherwise provided herein.

9.2. Consequences of Termination of the Settlement Agreement. If the *Settlement Agreement* is terminated, the following shall occur:

9.2.1. *Class Counsel* and counsel for *Settling Defendants* shall within ten (10) days after the date of termination of the *Settlement Agreement* jointly notify the *Settlement Administrator* in writing to return to the *Company*, or its insurer(s) the full amount contained in the *Settlement Fund*, with all net income earned thereon, after deduction of any amounts disbursed from and/or incurred by the *Settlement Fund* as of the date of the termination, and direct the *Settlement Administrator* to effect such return within fourteen (14) days after such notification. Prior to the return of amounts contemplated by this Section, the *Settlement Administrator* shall fully and finally fulfill and set aside for any and all tax obligations of the *Settlement Fund* as set forth in Section 7.1.2 and the *Company* shall have no past, present or future liability whatsoever for any such tax obligations. Upon receipt of such joint notice, the *Settlement Administrator* will promptly inform the *Company* of fees, if any, related to the return of the *Settlement Fund*, and will deduct such fees from the returned funds unless the *Company* objects within three (3) business days.

9.2.2. The *Action* shall for all purposes with respect to the *Parties* revert to its status as of the before this *Settlement Agreement*.

9.2.3. All provisions of this *Settlement Agreement* shall be null and void except as otherwise provided herein.

10. **ATTORNEYS' FEES AND EXPENSES**

10.1. Application for Attorneys' Fees and Expenses and Incentive Awards. Pursuant to the common fund doctrine and/or any applicable statutory fee provision, *Class Counsel* may apply to the *Court* for an award of attorneys' fees not to exceed 33 1/3 percent of the *Settlement Amount* and reimbursement of reasonable expenses to

Class Counsel, to be paid solely from the *Settlement Fund*. *Class Counsel* also may apply to the *Court* for compensation to *Named Plaintiffs* and the *Former Named Plaintiffs* in amounts not to exceed \$10,000 for each *Named Plaintiff* and *Former Named Plaintiff* for their contributions to the *Action* and *Named Plaintiffs* and the *Former Named Plaintiffs* shall be entitled to receive such compensation from the *Settlement Fund* to the extent awarded by the *Court*.

- 10.2. Disbursement of Attorneys' Fees and Expenses, and Incentive Awards. Following (a) the entry of an order allowing payment of attorneys' fees and expenses and *Incentive Awards*, and (b) entry of the *Final Order and Judgment*, *Class Counsel* may instruct the *Settlement Administrator* in writing to disburse the payments set forth in clause (a) from the *Settlement Fund*, which the *Settlement Administrator* shall do within five (5) business days of receiving such direction.
- 10.3. The *Incentive Awards*, *Plan of Allocation*, and award of attorneys' fees and expenses as described in Section 10.1 and 10.2 are matters separate and apart from the *Settlement* between the *Parties*, and no decision by the *Court* or any other court concerning the *Incentive Awards*, the *Plan of Allocation* or award of attorneys' fees and expenses shall affect the validity of the *Settlement Agreement*, the releases or covenants granted herein or the finality of the *Settlement*. In the event the *Court* awards less than the requested amount of attorneys' fees, expenses, or *Incentive Awards*, the *Parties* agree that the difference between the amounts requested and the amounts rewarded will remain in the *Settlement Fund* as Net Proceeds.

11. MISCELLANEOUS PROVISIONS

- 11.1. Governing Law. This *Settlement Agreement* shall be governed by the laws of the State of Tennessee without giving effect to the conflict of laws or choice of law provisions thereof, except to the extent that the law of the United States governs any matter set forth herein, in which case such federal law shall govern.
- 11.2. Amendment. Before entry of the *Final Approval Order and Judgment*, the *Settlement Agreement* may be modified or amended only by written agreement signed by or on behalf of all *Parties*. Following entry of the *Final Approval Order and Judgment*, the *Settlement Agreement* may be modified or amended only by written agreement signed by or on behalf of all *Parties* and approved by the *Court*.
- 11.3. Waiver. The provisions of this *Settlement Agreement* may be waived only by an instrument in writing executed by the waiving party. The waiver by any party of any breach of this *Settlement Agreement* shall not be deemed to be or construed as a waiver of any other breach, whether prior, subsequent or contemporaneous, of this *Settlement Agreement*.
- 11.4. Construction. None of the *Parties* hereto shall be considered to be the drafter of this *Settlement Agreement* or any provision hereof for the purpose of any statute, case law or rule of interpretation or construction that would or might cause any provision to be construed against the drafter hereof.

- 11.5. Principles of Interpretation. The following principles of interpretation apply to this *Settlement Agreement*:
- 11.5.1. Headings. The headings of this *Settlement Agreement* are for reference purposes only and do not affect in any way the meaning or interpretation of this *Settlement Agreement*.
- 11.5.2. Singular and Plural. Definitions apply to the singular and plural forms of each term defined.
- 11.5.3. Gender. Definitions apply to the masculine, feminine and neuter genders of each term defined.
- 11.5.4. References to a Person. References to a *Person* are also to the *Person's* permitted successors and assigns.
- 11.5.5. Terms of Inclusion. Whenever the words “include,” “includes,” or “including” are used in this *Settlement Agreement*, they shall not be limiting but rather shall be deemed to be followed by the words “without limitation.”
- 11.6. Further Assurances. Each of the *Parties* agrees, without further consideration, and as part of finalizing the *Settlement* hereunder, that they will in good faith execute and deliver such other documents and take such other actions as may be reasonably necessary to consummate and effectuate the subject matter and purpose of this *Settlement Agreement*.
- 11.7. Survival. All representations, warranties and covenants set forth in this *Settlement Agreement* shall be deemed continuing and shall survive the termination or expiration of this *Settlement Agreement*.
- 11.8. Notices. Any notice, demand, or other communication under this *Settlement Agreement* (other than the *Class Notice* or other notice given at the direction of the *Court*) shall be in writing and shall be deemed duly given upon receipt if it is addressed to each of the intended recipients as set forth below and personally delivered, sent by registered or certified mail (postage prepaid), sent by confirmed facsimile or delivered by reputable express overnight courier:

IF TO *PLAINTIFFS*:

D.G. Pantazis, Jr.
WIGGINS CHILDS PANTAZIS FISHER
GOLDFARB LLC
The Kress Building
301 Nineteenth Street North
Birmingham, Alabama 35203
Tel: (205) 314-0557
dgpjr@wigginschilds.com

IF TO *SETTLING DEFENDANTS*:

David Tetrick
Danielle Chattin
KING & SPALDING, LLP
1180 Peachtree Street, NE
Atlanta, GA 30309-3521
(404) 572-4600 phone
dtetrick@kslaw.com
dchattin@kslaw.com

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

- 11.9. Entire Agreement. This *Settlement Agreement* contains the entire agreement among the *Parties* relating to this *Settlement*. It specifically supersedes any settlement terms or settlement agreements relating to the *Settling Defendants* that were previously agreed upon orally or in writing by any of the *Parties*.
- 11.10. Counterparts. This *Settlement Agreement* may be executed by an electronic mail exchange of scanned executed signature pages and/or e-signatures, and any signature transmitted by such means for the purpose of executing this *Settlement Agreement* shall be deemed an original signature for purposes of this *Settlement Agreement*. This *Settlement Agreement* may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same instrument.
- 11.11. Binding Effect. This *Settlement Agreement* binds and inures to the benefit of the *Parties* hereto, their assigns, heirs, administrators, executors and successors.
- 11.12. Agreement Execution Date. The date on which the final signature is affixed below shall be the *Agreement Execution Date*.
- 11.13. Confidentiality and Communications Regarding *Settlement* and this *Action*. The terms of the *Settlement* shall remain confidential until the *Preliminary Approval Motion* is filed.
- 11.14. Third-Party Beneficiaries. There shall be no third-party beneficiaries to this Agreement.

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

Date: 11/30/23

Date: 11/30/23

For Plaintiffs and the Class:

For Settling Defendants:



James H. White, IV
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Counsel for Settling Defendants

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Counsel for Plaintiffs

PARTY SIGNATURES

Michael Iannone
Michael Iannone (Nov 30, 2023 14:30 EST)

Michael Iannone

Date: 30/11/2023

Nik James

Date:

On Behalf of Northern Trust Defendants

Date:

Name:

Title:

PARTY SIGNATURES

Michael Iannone

Date:

Nik James
Nik James (Nov 30, 2023 10:57 MST)

Nik James

Date: 11/30/2023

On Behalf of Northern Trust Defendants

Date:

Name:

Title:

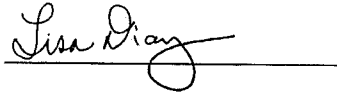
PARTY SIGNATURES

Michael Iannone

Date:

Nik James

Date:



A handwritten signature in cursive script, appearing to read "Lisa Diaz", is written over a horizontal line.

On Behalf of Northern Trust Defendants

Date: November 30, 2023

Name: Lisa Diaz

Title: EVP/Deputy General Counsel