

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Agreement”), dated as of June 18, 2019, is entered into by Plaintiffs, James Walters, Michelle Dixon, Charles Powell, and Deana Polcare (Plaintiffs Dixon, Powell, and Polcare will be referred to as “Minnesota Plaintiffs” and collectively with Plaintiff Walters, they shall be referred to as “Plaintiffs”) individually and on behalf of the Settlement Class defined herein, and Defendant Target Corporation (“Target”). Plaintiffs and Target are each individually a “Party” and are collectively the “Parties.” The Parties hereby agree to the following terms in full settlement of the actions entitled *Walters v. Target Corp.*, No. 3:16-cv-1678-L-MDD (S.D. Cal.) (“California Action”) and *Dixon, et al. v. Target Corp.*, No. 0:18-cv-02660 (D. Minn.) (“Minnesota Action”) (California Action and Minnesota Action collectively, the “Actions”), subject to Final Approval, as defined below, by the United States District Court for the Southern District of California (“Court”).

I RECITALS

WHEREAS, on June 29, 2016, Plaintiff Walters filed the California Action and alleged that the TDC, as defined below, is deceptively marketed. Walters further alleged that Target breaches the TDC Agreement, defined below, as well as the duty of good faith and fair dealing by the manner in which Target processes TDC Transactions, defined below, and assesses RPFs, defined below, on consumers. Plaintiff Walters filed the First Amended Complaint on August 15, 2016. The First Amended Complaint asserted causes of action for (I) breach of contract, including the implied covenant of good faith and fair dealing; (II) unjust enrichment; (III) unconscionability; (IV) conversion; (V) violation of the “unfair” prong of California’s unfair competition law (“UCL”); (VI) violation of the “fraudulent” prong of the UCL; (VII) violation of the “unlawful” prong of the UCL; and (VIII) violation of the Consumers Legal Remedies Act;

WHEREAS, on September 14, 2016, Target moved to dismiss the California Action on the basis that the First Amended Complaint failed to state a cause of action, which motion was granted in part and denied in part by the Court on February 14, 2017. Plaintiff’s UCL, CLRA, and breach of the implied covenant of good faith and fair dealing claims survived;

WHEREAS, on June 26, 2017, Target filed a motion for reconsideration of the Court’s order on its motion to dismiss;

WHEREAS, on October 19, 2017, the Court issued an order granting in part and denying in part the motion for reconsideration, further limiting the scope of the good faith and fair dealing count;

WHEREAS, the Parties engaged in extensive fact and class discovery, retained experts, and exchanged expert reports;

WHEREAS, on September 7, 2018, Target filed a motion for summary judgment, which Plaintiff Walters opposed and remains pending;

WHEREAS, on September 12, 2018, Plaintiff Walters filed a motion for class certification, which Target opposed and remains pending;

WHEREAS, on September 12, 2018, Plaintiffs Dixon and Powell filed the Minnesota Action. On January 22, 2019, Plaintiffs Dixon, Powell, and Polcare filed the First Amended Class Action Complaint in which they alleged similar conduct by Target and included counts for: (I) violation of the Minnesota Consumer Fraud Act, Minn. Stat. §§ 325D.44, 325F.68; (II) violation of the Minnesota False Statements in Advertising Act; (III) breach of contract; (IV) violation of the Florida Deceptive and Unfair Trade Practices Act on behalf of Plaintiff Dixon and a Florida Subclass; (V) violation of the North Carolina Consumer Protection Law on behalf of Plaintiff Powell and a North Carolina Subclass; and (vi) violation of the New York General Business Law § 349 on behalf of Plaintiff Polcare and the New York Subclass;

WHEREAS, on April 18, 2019, Target filed an answer in the Minnesota Action and denied liability to Plaintiffs Dixon, Powell, and Polcare on any basis or in any amount;

WHEREAS, Target has denied, and continues to deny each and every claim and allegation of wrongdoing asserted in the Actions, and Target believes it would ultimately be successful in its defense of all claims asserted in the Actions;

WHEREAS, Target has nevertheless concluded that because further litigation involves risks and could be protracted and expensive, settlement of the Actions is advisable;

WHEREAS, Plaintiffs, individually and on behalf of the Settlement Class, as defined below, believe that the claims asserted in the Actions have merit and that there is evidence to support their claims;

WHEREAS, Plaintiffs nevertheless recognize and acknowledge the expense and length of continued litigation and legal proceedings necessary to prosecute the Actions through trial and through any appeals; and

WHEREAS, Plaintiffs have also, in consultation with their counsel, assessed the legal risks faced in the Actions, and on the basis of that assessment believe that the Settlement set forth in this Agreement, and as defined below, provides substantial benefits to Plaintiffs and the Settlement Class; is fair, reasonable, and adequate; and is in the best interests of Plaintiffs and the Settlement Class.

NOW THEREFORE, in light of the foregoing, for good and valuable consideration, the Parties agree that the Actions shall be fully and finally compromised, settled, released, and dismissed with prejudice, subject to the terms and conditions of this Agreement and subject to Final Approval as set forth herein.

II TERMS OF THE SETTLEMENT

Section 1. Definitions

In addition to the terms defined elsewhere in this Agreement, the following capitalized terms used in this Agreement shall have the meanings specified below:

1.1 “Administrative Costs” means all out-of-pocket costs and third-party expenses of the Settlement Administrator that are associated with providing notice of the Settlement to the Settlement Class, administering and distributing the Settlement Class Member Cash Payments to Settlement Class Members, or otherwise administering or carrying out the terms of the Settlement, including but not limited to postage and telecommunications costs. Administrative Costs shall include the Administrator’s hourly charges for administering the Settlement and providing notice.

1.2 “Adjustments” means, collectively, the Class Representative Service Awards, the Fee & Expense Award, and the amount of the Administrative Costs.

1.3 “First Amended Complaint” means the complaint filed in the California Action on August 15, 2016.

1.4 “Cash Settlement Amount” means the \$5,000,000 payable by Target to establish the Settlement Fund.

1.5 “Class Counsel” means Kopelowitz Ostrow Ferguson Weiselberg Gilbert, Kalie LLC, and Tycko & Zavareei LLP.

1.6 “Class Period” means the period between June 29, 2012 and the date of the Preliminary Approval Order.

1.7 “Class Representatives” means the Plaintiffs in the Actions, James Walters, Michelle Dixon, Charles Powell, and Deana Polcare, individually or collectively, if and when the Court appoints them as representatives of the Settlement Class.

1.8 “Class Representative Service Awards” means the service awards that Plaintiffs will seek for their service to the Settlement Class in an amount not to exceed \$19,000 total.

1.9 “Debt Reduction Cash Amount” means twenty-five percent of the value of the RPFs that were the first RPFs incurred by Settlement Class Members during the Class Period and remain outstanding and unpaid as of the Effective Date.

1.10 “Debt Reduction Payment” or, plural, “Debt Reduction Payments,” means the credit to be given to a Settlement Class Member out of the Debt Reduction Cash Amount.

1.11 “Effective Date” shall mean the date when the last of the following has occurred: (1) the day following the expiration of the deadline for appealing Final Approval if no timely appeal is filed, or (2) if an appeal of Final Approval is taken, the date upon which all appeals (including any requests for rehearing or other appellate review), as well as all further appeals therefrom (including all petitions for certiorari) have been finally resolved without material change to the Final Approval Order, as determined by

Target, and the deadline for taking any further appeals has expired such that no future appeal is possible; or (3) such date as the Parties otherwise agree in writing.

1.12 “Fee & Expense Award” means the attorneys’ fees, costs and expenses that Class Counsel will seek from the Court as more fully described in Section 3.2.

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

1.14 “Final Approval Hearing” means the date the Court holds a hearing on Plaintiffs’ motion seeking Final Approval.

1.15 “Final Approval Order” means the order the Court will enter granting Final Approval of the Settlement.

1.16 “Linked Deposit Account” means the deposit account linked to a consumer’s TDC from which the TDC withdraws funds to pay TDC Transactions.

1.17 “National Change of Address Database” means the change of address database maintained by the United States Postal Service.

1.18 “Net Settlement Fund” means the Cash Settlement Amount, less the Adjustments.

1.19 “Objection Deadline” means 130 days after Preliminary Approval (or other date as ordered by the Court).

1.20 “Opt-Out Deadline” means 130 days after Preliminary Approval (or other date as ordered by the Court).

1.21 “Preliminary Approval” means entry of the Preliminary Approval Order.

1.22 “Preliminary Approval Order” means the order entered by the Court granting Preliminary Approval of the Settlement, a proposed form of which is attached as *Exhibit D* hereto.

1.23 “RPF” or, plural, “RPFs,” means the Returned Payment Fee that Target applies to a TDC when a TDC transaction is returned unpaid by the customer’s financial institution holding the Linked Deposit Account.

1.24 “Settlement” means the settlement of the Actions by the Parties and the terms thereof contemplated by this Agreement.

1.25 “Settlement Administrator” means Epiq Systems.

1.26 “Settlement Class” means all TDC holders in the United States who, within the Class Period, incurred at least one RPF in connection with their TDC, that was not refunded or waived.

1.27 “Settlement Class member” means a person who falls within the definition of the Settlement Class.

1.28 “Settlement Class Member” means a person who falls within the definition of the Settlement Class and did not opt out of the Settlement.

1.29 “Settlement Class Member Cash Payment” means an award to a Settlement Class Member of funds from the Net Settlement Fund.

1.30 “Settlement Class Notices” means the notices given to the Settlement Class, which includes *Exhibits A, B, and C*, attached hereto.

1.31 “Settlement Fund” means the \$5,000,000 cash fund created by the deposit of the Cash Settlement Amount.

1.32 “Settlement Fund Account” means the account into which Target will deposit the Cash Settlement Amount.

1.33 “Settlement Value” means, collectively, the Cash Settlement Amount and the Debt Reduction Cash Amount.

1.34 “TDC” means the Target Debit Card.

1.35 “TDC Agreement” means the TDC terms and conditions as may be amended from time to time that all consumers accept when they open a TDC account.

1.36 “TDC Transaction” means a transaction with Target whether in a brick-and-mortar Target store or on Target’s website where a customer uses their TDC to make a purchase.

Section 2. The Settlement

2.1 Conditional Certification of the Settlement Class

(a) Solely for purposes of this Settlement, the Parties agree to certification of the following Settlement Class under Federal Rules of Civil Procedure 23(b)(2) and (b)(3):

All TDC holders in the United States who, within the Class Period, incurred at least one RPF in connection with their TDC, that was not refunded or waived.

(b) In the event that the Settlement does not receive Final Approval, or in the event the Effective Date does not occur, the Parties shall not be bound

by this definition of the Settlement Class, shall not be permitted to use it as evidence or otherwise in support of any argument or position in any motion, brief, hearing, appeal, or otherwise, and Target shall retain its right to object to the maintenance of the Actions as class actions and the suitability of the Plaintiffs to serve as class representatives.

2.2 Settlement Benefits

(a) *Business Practice Changes*

(1) Beginning on or before the Effective Date, Target agrees not to implement or assess RFPs, or any equivalent fee, in connection with TDC transactions that are less than \$7.00, for a period of two years from the Effective Date. Nothing herein shall prohibit Target from continuing the practice change beyond the time period provided herein.

(2) Beginning on or before the Effective Date, Target agrees that any RFPs charged will be the lesser of the RFP as disclosed by the TDC Agreement or the amount of the TDC transaction that was returned unpaid, for a period of two years from the Effective Date. Nothing herein shall prohibit Target from continuing the practice change beyond the time period provided herein.

(3) The Parties will work collaboratively up to the time of Final Approval to amend the TDC Agreement to provide additional information to TDC Holders regarding how they may incur RPFs from Target and non-sufficient funds or overdraft fees from their banks and/or credit unions in connection with the use of the TDC, with Target maintaining final discretion regarding the amended disclosures.

(b) *Monetary Relief*

(1) Settlement Amount. Target has agreed to pay \$5,000,000.00 in cash for the benefit of the Settlement Class; and

(2) Debt Reduction Cash Amount. For Settlement Class Members who did not pay the first RPF they incurred during the Class Period that was not refunded or waived, Target has agreed to waive twenty-five percent of that RPF, which amounts to approximately \$3,222,330.00.

(3) Escrow Account. Within 15 days following Preliminary Approval, Target shall deposit the Cash Settlement Amount into the Settlement Fund Account, which shall be held in an account selected by the Settlement Administrator.

(4) Class Member Monetary Relief. Each Settlement Class Member will receive relief from either the Cash Settlement Amount or Debt Reduction Cash Amount. If the Settlement Class Member paid the first RPF incurred during the Class Period, in whole or part, the Settlement Class Member shall be entitled only to the monetary relief in Section 2.2(b)(5). If the Settlement Class Member has not paid the first RPF incurred during the Class Period, the Settlement Class Member shall be entitled only to the monetary relief in Section 2.2(b)(6).

(5) Calculation of Settlement Class Member Cash Payments. Subject to the limitations set forth in Section 2.2(b)(4), each Settlement Class Member who has paid all or part of the first RPF he or she incurred during the Class Period shall be entitled to receive a Settlement Class Member Cash Payment from the Net Settlement Fund. Each Settlement Class Member Cash Payment shall be equal to the Settlement Class Member's *pro rata* share of the Net Settlement fund based on the dollar amount of the first RPF paid by the Settlement Class Member.

(6) Calculation of Debt Reduction Payments. Subject to the limitations set forth in Section 2.2(b)(4), for each Settlement Class Member who has not paid the first RPF he or she incurred during the Class Period at the time the Settlement Class Member Cash Payments are to be distributed, the Debt Reduction Cash Amount will be used by Target to reduce such outstanding RPF by twenty-five percent. Under no circumstances will Target be required to make any cash payments as a result of the Debt Reduction Payments. No Debt Reduction Payment shall be considered an admission by any Settlement Class Member that the underlying debt is valid.

(7) Complete Relief. In exchange for the releases described below, dismissal with prejudice of the Minnesota Action described below, and a final judgment in the California Action pursuant to the terms of this Settlement Agreement, Target agrees to make the business practice changes described in Section 2.2(a) and to pay the Cash Settlement Amount and Debt Reduction Cash Amount. The Parties agree that the Cash Settlement Amount and Debt Reduction Cash Amount represent the total amount that Target must pay to settle the claims of Settlement Class Members arising from both Actions, and that in no event shall Target be responsible for any payments, costs, expenses, or claims beyond these amounts. No portion of the Cash Settlement Amount shall revert to Target, except where the Settlement is terminated pursuant to the terms of the Agreement.

2.3 Amendment of the California Action and Dismissal of the Minnesota Action. It is the Parties' intent that this Agreement shall resolve the California Action and the Minnesota Action and any and all claims that were brought in both of the Actions. The Parties agree that members of the proposed class in the Minnesota Action are members of the proposed nationwide Settlement Class and shall receive the relief provided in the Agreement to resolve their claims against Target. Therefore, upon Preliminary Approval, the Parties further agree to move the Court in the California Action for leave to amend the First Amended Complaint to add the Minnesota Plaintiffs as plaintiffs in the California Action. It is the intent of the Parties that this will be effectuated for the sole purpose of bringing all Plaintiffs before the Court in the California Action to allow all of the Plaintiffs to be named as Class Representatives in the California Action for the purpose of Settlement only. The motions for Class Representative Service Awards and Fee & Expense Award in the California Action shall encompass and resolve the claims of the Minnesota Plaintiffs for class representative incentive awards, and for the Minnesota Plaintiffs' counsel's attorneys' fees and expense reimbursement. Pursuant to Federal Rule of Civil Procedure 41(A)(1)(ii), Plaintiffs Dixon, Powell, and Polcare will dismiss with prejudice the Minnesota Action within 10 days of the Effective Date. Target shall join in the Minnesota Plaintiffs' stipulation of dismissal.

2.4 Releases.

(a) *Settlement Class Member Release.* Upon the Effective Date, Plaintiffs and each Settlement Class Member, including any present, former, and future spouses, as well as the present, former, and future heirs, executors, estates, administrators, representatives, agents, attorneys, partners, successors, predecessors, and assigns of each of them, shall release, waive, and forever discharge Target and each of its present, former, and future parents, predecessors, successors, subsidiaries, assigns, assignees, affiliates, conservators, divisions, departments, subdivisions, owners, partners, principals, trustees, creditors, shareholders, joint venturers, co-venturers, officers, and directors (whether acting in such capacity or individually), attorneys, vendors, insurers, accountants, nominees, agents (alleged, apparent, or actual), representatives, employees, managers, administrators, and each person or entity acting or purporting to act for them or on their behalf (collectively, "Target Releasees") from any and all claims that: (a) arise from or relate to the conduct alleged in the Actions; (b) arise out of, relate to, or are in connection with the TDC or any fees assessed in connection with the TDC; or (c) arise out of, relate to, or are in connection with the administration of the Settlement ("Released Target Claims").

(b) *Unknown Claims.* With respect to the Released Target Claims, Plaintiffs and the Settlement Class Members shall be deemed to have, and by operation of the Settlement shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code (to the extent it is applicable, or any other similar provision under federal, state or local law to the extent any such provision is applicable), which reads:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Thus, subject to and in accordance with this Agreement, even if the Plaintiffs and/or Settlement Class Members may discover facts in addition to or different from those which they now know or believe to be true with respect to the subject matter of the Released Target Claims, Plaintiffs and each Settlement Class Member, upon entry of Final Approval of the Settlement, shall be deemed to have and by operation of the Final Approval Order, shall have, fully, finally, and forever settled and released all of the Released Target Claims. This is true whether such claims are known or unknown, suspected, or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such different or additional facts.

(c) *Named Plaintiffs Release.* In addition to the releases made by Plaintiffs and the members of the Settlement Class above, Plaintiffs Walters, Dixon, Powell, and Polcare, including each and every one of their respective agents, representatives, attorneys, heirs, assigns, or any other person acting on their behalf or for their benefit, and any person claiming through them, makes the additional following general release of all claims, known or unknown, in exchange and consideration of the Settlement set forth in this Agreement. These named Plaintiffs agree to a general release of the Target Releasees from all claims, demands, rights, liabilities, grievances, demands for arbitration, and causes of action of every nature and description whatsoever, known or unknown, pending or threatened, asserted or that might have been asserted, whether brought in tort or in contract, whether under state or federal or local law.

(d) *Covenant Not to Sue.* Plaintiffs Walters, Dixon, Powell, and Polcare and the Settlement Class Members covenant not to sue or otherwise assert any claims for deceptive practices against Target challenging Target's practices with respect to RPFs, including, but not limited to, the processing of TDC transactions and the marketing of the TDC, during the period of time the changes to business practices set forth in Section 2.2(a) remain in effect, but in no case beyond two years from the Effective Date. Nothing in this paragraph shall be construed as a covenant not to sue if Target does not properly change its business practices as set forth in Section 2.2(a).

2.5 Notice Procedures

(a) *Settlement Administrator.* The Parties have jointly selected Epiq Systems as the Settlement Administrator of the Settlement. Class Counsel will oversee the Settlement Administrator. The Settlement Administrator shall perform the duties, tasks, and responsibilities associated with providing notice and administering the Settlement. The Administrative Costs will be paid out of the Settlement Fund.

(b) *Provision of Information to Settlement Administrator.* Within 15 business days of Preliminary Approval, Target will provide the Settlement Administrator with the following information, which will be kept strictly confidential between the Settlement Administrator and Target, for each Settlement Class member: (i) name; (ii) last known e-mail address if available; (iii) last known mailing address; (iv) TDC Account Number, or some sort of unique identifier that can be used to identify each separate Settlement Class member; (v) the date and amount of the first RPF incurred by each Settlement Class member during the Class Period that has not been refunded or waived; and (vii) for each RPF in item number (v), an identifier that distinguishes whether the RPF was paid by the customer or remains due and owing. The Settlement Administrator shall use the data provided by Target to make the calculations required by the Settlement, and the Settlement Administrator shall share the calculations with Class Counsel. The Settlement Administrator shall use this information solely for the purpose of administering the Settlement.

(c) *Settlement Class Notices.* Within 70 days of Preliminary Approval, or by the time specified by the Court, the Settlement Administrator shall send

the Settlement Class Notices in the forms attached hereto as *Exhibits A, B, and C*, or in such form as is approved by the Court, to the Settlement Class.

(1) The Administrator shall send the “Email Notice,” attached hereto as *Exhibit A*, to all Settlement Class members for whom Target has provided the Settlement Administrator with an e-mail address.

(2) The Settlement Administrator shall send the “Postcard Notice,” attached hereto as *Exhibit B*, to all Settlement Class members for whom Target has not provided an email address and to all Settlement Class members to whom the Settlement Administrator sent the Email Notice via email but for whom the Settlement Administrator receives notice of an undeliverable email. The Postcard Notice shall be mailed after the Settlement Administrator updates mailing addresses provided by Target with the National Change of Address database and other commercially feasible means.

(3) The Settlement Administrator shall also maintain a website containing the Second Amended Complaint, the “Long Form Notice,” attached hereto as *Exhibit C*, Plaintiffs’ motion seeking Preliminary Approval, the Preliminary Approval Order, Plaintiffs’ motion seeking Final Approval, and the Final Approval Order until at least 120 days after Final Approval. The Settlement Administrator shall send the Long Form Notice by mail to any Settlement Class member who requests a copy.

(4) It will be conclusively presumed that the intended recipients received the Settlement Class Notices if the Settlement Administrator did not receive a bounce-back message and if mailed Settlement Class Notices have not been returned to the Settlement Administrator as undeliverable within fifteen days of mailing.

2.6 Opt-Outs and Objections.

As set forth below, Settlement Class members shall have the right to opt-out of the Settlement Class and the Settlement and Settlement Class Members shall have the right to object to the Settlement.

(a) *Requirements for Opting-Out.* If a Settlement Class member wishes to be excluded from the Settlement Class and the Settlement, that Settlement Class member is required to submit to the Settlement Administrator at the address listed in the Settlement Class Notices, a written, signed, and dated statement that he or she is opting-out of the Settlement Class and understands that he or she will not receive a Settlement Class Member Cash Payment or a Debt Reduction Payment from the Settlement of the Action. To be effective, this opt-out statement (i) must be postmarked by the Opt-Out Deadline; (ii) include the Settlement Class member’s name and TDC account number(s); and (iii) must be personally signed and dated by the Settlement Class member(s). The Settlement Administrator will, within 7 days of receiving any opt-out statement, provide counsel for the Parties with a copy of the opt-out statement. Any Settlement Class member who does not timely and validly request exclusion shall be a Settlement Class Member and shall be bound by the terms of this Agreement. The Settlement Class will not include any individuals who send timely and valid opt-out

statements, and individuals who opt-out are not entitled to receive a Settlement Class Member Cash Payment or Debt Reduction Payment under the Settlement.

(b) *Objections.* Any Settlement Class Member who has not submitted a timely opt-out form and who wishes to object to the fairness, reasonableness, or adequacy of the Settlement must send a written objection to the Clerk of the Court, Target's counsel, and Class Counsel by the Objection Deadline.

(1) To be valid and considered by the Court, an objection must (i) be postmarked no later than the Objection Deadline; (ii) be sent to the Clerk of Court, Class Counsel, and Target's counsel, by first class mail and postmarked no later than the Objection Deadline; (iii) include the case name and case number and the objector's name, address, telephone number, and signature; (iv) contain an explanation of the nature of the objection and citation to any relevant legal authority; (v) indicate the number of times the objector has objected to a class action settlement in the past 5 years and the caption for any such case(s); (vi) identify any counsel representing the objector; and (vii) indicate whether the objector (whether *pro se* or through representation) intends to testify at the Final Approval Hearing.

(2) Plaintiffs and Target may file responses to any objections that are submitted. Any Settlement Class Member who timely files and serves an objection in accordance with this section may appear at the Final Approval Hearing, either in person or through an attorney. Failure to adhere to the requirements of this section will bar a Settlement Class Member from being heard at the Final Approval Hearing, either individually or through an attorney, unless the Court otherwise orders.

(3) The Parties shall have the right to take discovery, including via subpoenas *duces tecum* and depositions, from any objector.

(c) *Waiver of Objections.* Except for Settlement Class members who opt-out of the Settlement Class in compliance with the foregoing, all Settlement Class Members will be deemed to be members of the Settlement Class for all purposes under this Agreement, the Final Approval Order, and the releases set forth in this Agreement and, unless they have timely asserted an objection to the Settlement, shall be deemed to have waived all objections and opposition to its fairness, reasonableness, and adequacy.

(d) *No Encouragement of Objections.* Neither the Parties nor any person acting on their behalf shall seek to solicit or otherwise encourage anyone to object to the Settlement or appeal from any order of the Court that is consistent with the terms of this Settlement.

2.7 Benefit Distribution.

(a) Within 10 days of Final Approval, the Settlement Administrator shall provide to Target: (1) a list of the Settlement Class Members who are entitled to receive Settlement Class Member Cash Payments, along with the unique identifier associated with and the amount of the Settlement Class Member Cash Payment due each such Settlement Class Member; and (2) a list of the Settlement Class Members who are

entitled to receive Debt Reduction Payments, along with the unique identifier associated with and the amount of debt to be forgiven for each such Settlement Class Member. The information provided by the Settlement Administrator shall be considered conclusive as to which individuals are entitled to receive Settlement Class Member Cash Payments or Debt Reduction Payments and as to the amounts.

(b) *Distribution of Settlement Class Member Cash Payments.* Within 30 days of the Effective Date, the Settlement Administrator shall send Settlement Class Member Cash Payments to all eligible Settlement Class Members from the Settlement Fund Account via check.

(c) *Mailing Addresses.* Prior to mailing Settlement Class Member Cash Payments, the Settlement Administrator shall attempt to update the last known addresses of the Settlement Class Members through the National Change of Address Database or similar databases. No skip-tracing shall be done as to any checks that are returned by the postal service with no forwarding address. Settlement Class Member Cash Payments returned with a forwarding address shall be re-mailed to the new address within 7 days. The Settlement Administrator shall not mail Settlement Class Member Check Payments to addresses from which Settlement Class Notices were returned as undeliverable.

(d) *Interest.* All interest on the funds in the Settlement Fund Account shall accrue to the benefit of the Settlement Class. Any interest shall not be subject to withholding and shall, if required, be reported appropriately to the Internal Revenue Service by the Settlement Administrator. The Settlement Administrator is responsible for the payment of all taxes on interest on the funds in the Settlement Fund Account.

(e) *Time for Depositing Settlement Class Member Cash Payment Checks.* If a Settlement Class Member's Cash Payment check is not deposited (or cashed) within 120 days after the check is mailed, (a) the check will be null and void; and (b) the Settlement Class Member will be barred from receiving a further Settlement Class Member Cash Payment under this Settlement.

(f) *Completion of Debt Reduction Payments.* Within 60 days of the Effective Date, Target shall make the Debt Reduction Payments as described in Section 2.2(b)(6). Within 105 days of the Effective Date, the Administrator shall send notifications of such Debt Reduction Payments to each eligible Settlement Class Member, which notice shall include the amount of the Debt Reduction Payment.

(g) *Deceased Settlement Class Members.* Any Settlement Class Member Cash Payment paid to a deceased Settlement Class Member shall be made payable to the estate of the deceased Settlement Class Member, provided that the Settlement Class Member's estate informs the Administrator of the Settlement Class Member's death at least 30 days before the date that Settlement Class Member Cash Payment checks are mailed and provides a death certificate confirming that the Settlement Class Member is deceased. If the Settlement Class Member's estate does not

inform the Administrator of the Settlement Class Member's death at least 30 days before the Settlement Class Member Cash Payment checks are mailed, the deceased Settlement Class Member will be barred from receiving a Settlement Class Member Cash Payment under this Settlement. In the event of any other complications arising in connection with the issuance or cashing of a refund check, the Administrator shall provide written notice to Class Counsel and Target's Counsel. Absent specific instructions from Class Counsel and Target's Counsel, the Administrator shall proceed to resolve the dispute using its best practices and procedures to ensure that the funds are fairly and properly distributed to the person or persons who are entitled to receive them.

(h) *Tax Obligations.* The Parties shall have no responsibility or liability for any federal, state, or other taxes owed by Settlement Class Members as a result of, or that arise from, any Settlement Class Member Cash Payment, Debt Reduction Payment or any other term or condition of this Agreement.

(i) *Tax Reporting.* The Administrator shall prepare, send, file, and furnish all tax information reporting forms required for payments made from the Settlement Fund Account as required by the Internal Revenue Service pursuant to the Internal Revenue Code and related Treasury Regulations. The Parties hereto agree to cooperate with the Administrator, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions set forth in this section.

Section 3. Service Awards and Class Counsel's Fee & Expense Award

3.1 Class Representative Service Awards. Plaintiffs, through their counsel, shall each be entitled to apply to the Court for an award from the Settlement Fund for their participation in the Actions and their service to the Settlement Class. Based on their respective levels of participation in the Actions, Plaintiff Walters shall be entitled to apply for a Class Representative Service Award in an amount not exceeding \$10,000.00 in recognition of his service to the Settlement Class and Plaintiffs Dixon, Powell, and Polcare shall be entitled to apply for a Class Representative Service Award in an amount not exceeding \$3,000.00 in recognition of their service to the Settlement Class. Target shall not oppose or appeal such applications that do not exceed these amounts. The Class Representative Service Awards shall be paid from the Settlement Fund.

3.2 Fee & Expense Award. The Parties consent to the Court appointing Class Counsel in this Action for purposes of the Settlement. Class Counsel shall be entitled to apply to the Court for an award from the Settlement Fund not to exceed 30% of the Settlement Value to reimburse Class Counsel for attorneys' fees incurred in researching, preparing for, and litigating the Actions, and Class Counsel may also apply for reimbursement for costs and expenses incurred in the Actions. Target agrees not to oppose or appeal any such application that does not exceed 30% of the Settlement Value plus reimbursement for costs and expenses incurred in the Actions.

(a) The Fee & Expense Award shall constitute full satisfaction of any obligation on the part of Target to pay any person, attorney, or law firm for costs,

litigation expenses, attorneys' fees, or any other expense incurred on behalf of Plaintiffs or the Settlement Class in the Actions.

(b) The Settlement Administrator shall pay the Class Representative Service Awards to Plaintiffs and the Fee & Expense Award to Class Counsel from the Settlement Fund within 10 days of the Effective Date.

(c) In the event the Court approves the Settlement, but declines to award Class Representative Service Awards or Class Counsel's attorneys' fees or costs in the amount requested by Class Counsel, the Settlement will nevertheless be binding on the Parties to the extent permissible under applicable law.

3.3 Qualified Settlement Fund. The funds in the Settlement Fund Account shall be deemed a "qualified settlement fund" within the meaning of United States Treasury Reg. § 1.468B-1 at all times since creation of the Settlement Fund Account. All taxes (including any estimated taxes, and any interest or penalties relating to them) arising with respect to the income earned by the Settlement Fund Account or otherwise, including any taxes or tax detriments that may be imposed upon Target, Target's counsel, Plaintiffs and/or Class Counsel with respect to income earned by the Settlement Fund Account for any period during which the Settlement Fund Account does not qualify as a "qualified settlement fund" for the purpose of federal or state income taxes or otherwise (collectively "Taxes"), shall be paid out of the Settlement Fund Account. Target and Target's counsel and Plaintiffs and Class Counsel shall have no liability or responsibility for any of the Taxes. The Settlement Fund Account shall indemnify and hold Target and Target's counsel and Plaintiffs and Class Counsel harmless for all Taxes (including, without limitation, Taxes payable by reason of any such indemnification).

3.4 Residual. In the event that there is any residual in the Settlement Fund Account after the distributions required by this Agreement are completed, said funds shall in no circumstance revert to Target. At the election of Class Counsel and counsel for Target, and subject to the approval of the Court, the funds may be distributed to Settlement Class Members via a secondary distribution if economically feasible or through a residual *cy pres* program, National Endowment for Financial Education. Any residual secondary distribution or *cy pres* distribution shall be paid as soon as reasonably possible following the completion of distribution of funds to the Settlement Class Members.

Section 4. Settlement Approval

4.1 Preliminary Approval. On or before June 28, 2019, Plaintiffs will submit for the Court's consideration a motion seeking Preliminary Approval of the Settlement and apply to the Court for entry of the Preliminary Approval Order. In the event the Court does not enter the Preliminary Approval Order in materially the same form as *Exhibit D*, Target has the right to terminate this Agreement and the Settlement and will have no further obligations under the Agreement unless Target waives in writing its right to terminate the Agreement due to any changes or deviations from the form of the Preliminary Approval Order. In Plaintiffs' motion seeking Preliminary Approval, Plaintiffs

shall request that the Court approve the Settlement Class Notices. The Court will ultimately determine and approve the content and form of the Settlement Class Notices to be distributed to Settlement Class Members.

The Parties further agree that in Plaintiffs' motion seeking Preliminary Approval, Plaintiffs will request that the Court enter the following schedule governing the Settlement:

Event	Days after Entry of Preliminary Approval Order
Notice Complete	70 Days
Filing of Motion for Class Representative Service Awards and Fee & Expense Application	70 Days
Opt-Out Deadline	130 Days
Objection Deadline	130 Days
Filing of Motion for Final Approval	170 Days
Proposed Final Approval Hearing	200 Days (or when convenient for the Court)

4.2 Final Approval. Plaintiffs will submit for the Court's consideration, by the deadline set by the Court, a proposed Final Approval Order. The motion for Final Approval of this Settlement shall include a request that the Court enter the Final Approval Order and, if the Court grants Final Approval of the Settlement and incorporates the Agreement into the final judgment, that the Court dismiss the California Action with prejudice, subject to the Court's continuing jurisdiction to enforce the Agreement.

(a) In the event that the Court does not enter the Final Approval Order in materially the same form as what the Parties propose, Target has the right to terminate this Agreement and the Settlement and will have no further obligations under the Agreement unless Target waives in writing its right to terminate the Agreement due to any material changes or deviations from the form of the Final Approval Order. Notwithstanding the foregoing, changes to the legal reasoning or analysis in the Final Approval Order that does not affect the substance of the Parties' agreement, the scope of the releases given, or any other obligations of the Parties in this Agreement, shall not be considered material changes or deviations permitting Target to terminate this Agreement.

(b) In the event that the Effective Date does not come to pass, the Final Approval Order is vacated or reversed or the Settlement does not become final and binding, the Parties agree that the Court shall vacate any dismissal with prejudice.

4.3 Effect of Disapproval. If the Settlement does not receive Final Approval or the Effective Date does not come to pass, Target shall have the right to terminate this Agreement and the Settlement and will have no further obligations under the Agreement unless Target waives in writing its right to terminate the Agreement under this section. In addition, the Parties agree that if this Agreement becomes null and void, Target shall not be prejudiced in any way from opposing class certification in the Actions, and Plaintiffs and the Settlement Class members shall not use anything in this Agreement, in any terms sheet, or in the Preliminary Approval Order or Final Approval Order to support a motion for class certification or as evidence of any wrongdoing by Target. No Party shall be deemed to have waived any claims, objections, rights or defenses, or legal arguments or positions, including but not limited to, claims or objections to class certification, or claims or defenses on the merits. Additionally, the amended complaint required by Section 2.3 shall be void, and the First Amended Complaint shall be the operative complaint in the California Action. Each Party reserves the right to prosecute or defend the Actions in the event that this Agreement does not become final and binding.

4.4 Termination Based on Percentage of Opt-Outs. Target shall have the right to terminate the Settlement by serving on Class Counsel and filing with the Court a notice of termination within 15 days of the Opt-Out Deadline, if the number of persons in the Settlement Class who timely request exclusion from the Settlement Class equals or exceeds 2.5% of the Settlement Class.

Section 5. General Provisions

5.1 Cooperation. The Parties agree that they will cooperate in good faith to effectuate and implement the terms and conditions of this Settlement.

5.2 Extensions of Time. Unless otherwise ordered by the Court, the Parties may jointly agree to reasonable extensions of time to carry out any of the provisions of this Agreement.

5.3 Judicial Enforcement. If the Court enters the Final Approval Order, then the Court shall have continuing authority and jurisdiction to enforce this Agreement. The Parties shall have the authority to seek enforcement of this Agreement and any of its aspects, terms, or provisions under any appropriate mechanism, including contempt proceedings. The Parties will confer in good faith prior to seeking judicial enforcement of this Agreement.

5.4 Effect of Prior Agreements. This Agreement constitutes the entire agreement and understanding of the Parties with respect to the Settlement of the Actions, contains the final and complete terms of the Settlement of the Actions and supersedes all prior agreements between the Parties regarding Settlement of the Actions. The Parties agree that there are no representations, understandings, or agreements relating to the Settlement of the Actions other than as set forth in this Agreement. Each Party acknowledges that it has not executed this Agreement in reliance upon any

promise, statement, representation, or warranty, written or verbal, not expressly contained herein.

5.5 No Drafting Presumption. All Parties hereto have participated, through their counsel, in the drafting of this Agreement, and this Agreement shall not be construed more strictly against any one Party than the other Parties. Whenever possible, each term of this Agreement shall be interpreted in such a manner as to be valid and enforceable. Headings are for the convenience of the Parties only and are not intended to create substantive rights or obligations.

5.6 Notices. All notices to the Parties or counsel for the Parties required or desired to be given under this Agreement shall be in writing and sent by overnight mail as follows:

To Plaintiffs and the Settlement Class:

Jeff Ostrow
KOPELOWITZ OSTROW
FERGUSON WEISELBERG GILBERT
1 West Las Olas Blvd.
Suite 500
Fort Lauderdale, FL 33301

Jeffrey D. Kaniel
KALIEL PLLC
1875 Connecticut Avenue NW
10th Floor
Washington, DC 20009

Hassan Zavareei
TYCKO & ZAVAREEI LLP
1828 L Street, NW
Suite 1000
Washington, DC 20036

To Target:

James McGuire, Esq.
MORRISON & FOERSTER LLP
425 Market St.
San Francisco, CA 94105

5.7 Modifications. No modifications to this Agreement may be made without written agreement of all Parties and Court approval.

5.8 No Third-Party Beneficiaries. This Agreement shall not inure to the benefit of any third party.

5.9 Execution in Counterparts. This Agreement may be executed in counterparts. Each signed counterpart together with the others shall constitute the full Agreement. Each signatory warrants that the signer has authority to bind his/her party.

5.10 CAFA. The Administrator shall timely send the notices required by 28 U.S.C. § 1715 within 10 days after Plaintiffs file the motion seeking Preliminary Approval of the Settlement.

5.11 Deadlines. If any of the dates or deadlines specified herein falls on a weekend or legal holiday, the applicable date or deadline shall fall on the next business day.

5.12 Governing Law. This Agreement shall be construed in accordance with, and be governed by, the laws of the State of California, without regard to the principles thereof regarding choice of law.

PLAINTIFFS

DocuSigned by:

James Walters

James Walters

6/12/2019

Date

Michelle Dixon

Date

Charles Powell

Date

Deana Polcare

Date

DEFENDANT TARGET CORPORATION

Title: _____

Date

CLASS COUNSEL



Jeff Ostrow, Esq.

KOPELOWITZ OSTROW

FERGUSON WEISELBERG GILBERT

DocuSigned by:

Jeff Kaliel

Jeffrey D. Kaliel, Esq.

KALIEL PLLC

6/13/19

Date

6/13/2019

Date

Hassan Zavareei, Esq.

TYCKO & ZAVAREEI LLP

Date

TARGET'S COUNSEL - APPROVED AS TO FORM

James R. McGuire, Esq.

MORRISON & FOERSTER LLP

Date

PLAINTIFFS

James Walters

Date



Michelle Dixon (Jun 13, 2019)

Jun 13, 2019

Michelle Dixon

Date

Charles Powell

Date

Deana Polcare

Date

DEFENDANT TARGET CORPORATION

Title: _____

Date

CLASS COUNSEL

Jeff Ostrow, Esq.
KOPELOWITZ OSTROW
FERGUSON WEISELBERG GILBERT

Date

Jeffrey D. Kaliel, Esq.
KALIEL PLLC

Date

Hassan Zavareei, Esq.
TYCKO & ZAVAREEI LLP

Date

TARGET'S COUNSEL - APPROVED AS TO FORM

James R. McGuire, Esq.
MORRISON & FOERSTER LLP

Date

PLAINTIFFS

James Walters

Date

Michelle Dixon

Date

Charles Powell

Charles Powell

June 13, 2019
Date

Deana Polcare

Date

DEFENDANT TARGET CORPORATION

Title: _____

Date

CLASS COUNSEL

Jeff Ostrow, Esq.
KOPELOWITZ OSTROW
FERGUSON WEISELBERG GILBERT

Date

Jeffrey D. Kaliel, Esq.
KALIEL PLLC

Date

Hassan Zavareei, Esq.
TYCKO & ZAVAREEI LLP

Date

TARGET'S COUNSEL - APPROVED AS TO FORM

James R. McGuire, Esq.
MORRISON & FOERSTER LLP

Date

PLAINTIFFS

James Walters

Date

Michelle Dixon

Date

Charles Powell

Deana Polcare

Date

6/13/19

Deana Polcare

Date

DEFENDANT TARGET CORPORATION

Title: _____

Date

CLASS COUNSEL

Jeff Ostrow, Esq.
KOPELOWITZ OSTROW
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Date

Jeffrey D. Kaliel, Esq.
KALIEL PLLC

Date

Hassan Zavareei, Esq.
TYCKO & ZAVAREEI LLP

Date

TARGET'S COUNSEL - APPROVED AS TO FORM

James R. McGuire, Esq.
MORRISON & FOERSTER LLP

Date

PLAINTIFFS

James Walters

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DEFENDANT TARGET CORPORATION

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KALIEL PLLC

Date

Hassan Zavareei, Esq.
TYCKO & ZAVAREEI LLP

6/13/2019

Date

TARGET'S COUNSEL - APPROVED AS TO FORM

James R. McGuire, Esq.
MORRISON & FOERSTER LLP

Date

PLAINTIFFS

James Walters

Date

Michelle Dixon

Date

Charles Powell

Date

Deana Polcare

Date

DEFENDANT TARGET CORPORATION

Scott Kennedy

June 18, 2019

Title: *President, Financial + Retail Services*

Date

CLASS COUNSEL

Jeff Ostrow, Esq.
KOPELOWITZ OSTROW
FERGUSON WEISELBERG GILBERT

Date

Jeffrey D. Kaliel, Esq.
KALIEL PLLC

Date

Hassan Zavareei, Esq.
TYCKO & ZAVAREEI LLP

Date

TARGET'S COUNSEL - APPROVED AS TO FORM

James R. McGuire

June 18, 2019

James R. McGuire, Esq.
MORRISON & FOERSTER LLP

Date