

Institute Retirement Plan (the “Plan”).

1.2. On September 15, 2023, Defendant filed a motion to dismiss the Complaint. ECF No. 18. As of the time of this settlement, the Court has not entered an order on Defendant’s motion to dismiss.

1.3. Following initial discovery, which included the production of essential documents and participant data related to the Plan, the Settling Parties engaged in discussions in an attempt to reach an early resolution of this Action.

1.4. On January 17, 2024, the Class Representative and Defendant reached an agreement in principle to resolve this Action. The entire terms of the settlement are memorialized in this Settlement Agreement.

1.5. The Class Representative and Class Counsel consider it desirable and in the Class Members’ best interests that the claims against Defendant be settled on the terms set forth below, and they have concluded that such terms are fair, reasonable, and adequate, and that this Settlement will result in significant benefits to the Class as defined herein.

1.6. Defendant denies all liability to the Class Representative, denies all of the Claims made in the Action, denies all allegations of wrongdoing made in the Complaint in this Action, and denies that the Class Representative, the Plan, or any of the Plan’s Current or Former participants, Class Members, or Beneficiaries suffered any losses. Defendant further maintains that it acted prudently and loyally at all times when acting in any fiduciary capacity with respect to the Plan. This Settlement Agreement, and the discussions between the Settling Parties preceding it, shall in no event be construed as, or be deemed to be evidence of, an admission or concession on Defendant’s part (or the part of any officers, directors, or employees of Defendant with responsibility for the Plan) of any fault or liability whatsoever.

1.7. To avoid the risks and uncertainty of further litigation, and after consulting with their respective counsel and considering the facts and applicable law, the Settling Parties wish to fully and finally resolve this Action upon the terms and conditions set forth in this Settlement Agreement.

1.8. Therefore, the Settling Parties, in consideration of the promises, covenants, and agreements herein described, acknowledged by each of them to be satisfactory and adequate, and intending to be legally bound, do hereby mutually agree to the terms of this Settlement Agreement.

2. ARTICLE 2 – DEFINITIONS

As used in this Settlement Agreement and the Exhibits hereto (as listed in Paragraph 13.16), unless otherwise defined, the following terms have the meanings as specified below:

2.1. “Action” means the action captioned *Mark Drust v. Southwest Research Institute*, No. 5:23-cv-767-XR, pending in the United States District Court for the Western District of Texas.

2.2. “Active Account” means an individual investment account in the Plan with a balance greater than \$0.00 as of the date of the Preliminary Approval Order.

2.3. “Administrative Expenses” means expenses incurred in the administration of this Settlement Agreement, including (1) all fees, expenses, and costs associated with providing the Short Form Settlement Notices to the Class; (2) related tax expenses (including taxes and tax expenses as described in Paragraph 5.3); (3) all expenses and costs associated with the calculations pursuant to the Plan of Allocation and distribution of funds under the Plan of Allocation, including but not limited to the fees of the Plan’s recordkeeper associated with implementing this Settlement Agreement, facilitating the distribution of funds under the Plan of Allocation, and gathering the data necessary to prepare the Plan of Allocation; (4) all fees and expenses associated with the Settlement Website and telephone support line described in Article 12; (5) all other fees and

expenses of the Settlement Administrator, Independent Fiduciary (including the Independent Fiduciary Fees and Costs as defined below), and the Escrow Agent; and (6) all fees, expenses, and costs associated with providing notices required by the Class Action Fairness Act of 2005, 28 U.S.C. §§ 1711–1715 (“CAFA”). Excluded from Administrative Expenses are Defendant’s internal expenses, recordkeeping expenses (other than those described in subparagraph (3) above), and the Settling Parties’ respective legal expenses. Administrative Expenses shall be paid from the Gross Settlement Amount.

2.4. “Alternate Payee” means a person other than a Current Participant, Former Participant, or Beneficiary in the Plan who is entitled to a benefit under the Plan as a result of a Qualified Domestic Relations Order (“QDRO”), where the QDRO relates to a participant’s account balance during the Class Period, and the relevant account was an Active Account in the Plan during the Class Period.

2.5. “Attorneys’ Fees and Costs” means the amount awarded by the Court as compensation for the services provided by Class Counsel and the expenses incurred by Class Counsel in connection with the Action, all of which shall be recovered from the Gross Settlement Amount.

2.6. “Beneficiary” means a person who is entitled to receive a benefit under the Plan that is derivative of a deceased Current Participant’s or Former Participant’s interest in the Plan, other than an Alternate Payee. A Beneficiary includes, but is not limited to, a spouse, surviving spouse, domestic partner, child or other individual, entity, or trust designated by the Current Participant or Former Participant as determined under the terms of the Plan who currently is entitled to a benefit.

2.7. “Business Days” refers to the days between Monday and Friday of each week,

inclusive, and excludes the “Legal Holidays” specified in Federal Rule of Civil Procedure 6(a)(6).

2.8. “CAFA” means the Class Action Fairness Act of 2005, 28 U.S.C. §§ 1711–1715.

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

2.10. “Class” or “Class Members” means each of the individuals in the Settlement Class.

2.11. “Class Counsel” means Nichols Kaster, PLLP, 4700 IDS Center, 80 S. 8th Street, Minneapolis, MN 55402.

2.12. “Class Period” means the period from June 16, 2017, through March 11, 2024.

2.13. “Class Representative” means Mark Drust.

2.14. “Class Representative Compensation” means the amount awarded by the Court as compensation for the services provided by the Class Representative in the Action and the risks assumed by the Class Representative in the Action, all of which shall be recovered from the Gross Settlement Amount.

2.15. “Confidentiality Order” means the stipulated protective order entered by the Court in this Action on December 12, 2023. ECF No. 33.

2.16. “Court” means the United States District Court for the Western District of Texas.

2.17. “Court of Appeals” means the United States Court of Appeals for the Fifth Circuit.

2.18. “Current Participant” means a Class Member who has an Active Account in the Plan.

2.19. “Defendant” means Southwest Research Institute.

2.20. “Defendant’s Counsel” means counsel for Defendant, Morgan Lewis & Bockius LLP.

2.21. “Effective” means with respect to any judicial ruling, order, or judgment that the period for any motions for reconsideration, motions for rehearing, appeals, petitions for certiorari,

or the like (“Review Proceeding”) has expired without the initiation of a Review Proceeding, or, if a Review Proceeding has been timely initiated, that it has been fully and finally resolved, either by court action or by voluntary action of any party, without any possibility of a reversal, vacatur, or modification of any judicial ruling, order, or judgment, including the exhaustion of all proceedings in any remand or subsequent appeal and remand. The Settling Parties agree that absent an appeal or other attempted Review Proceeding, the Final Approval Order becomes Effective thirty-five (35) calendar days after its entry.

2.22. “Effective Approval Order” means the Final Approval Order once it becomes Effective.

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

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

2.25. “Fairness Hearing” means the hearing scheduled by the Court to consider (1) any objections from Class Members to the Settlement Agreement; (2) Class Counsel’s request for Attorneys’ Fees, Costs, and Administrative Expenses; and the Class Representative’s request for Class Representative Compensation; and (3) whether to finally approve the Settlement pursuant to Fed. R. Civ. P. 23.

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

2.27. “Final Approval Order” means the order and final judgment approving the Settlement Agreement, implementing the terms of this Settlement Agreement, and dismissing the Class Action with prejudice, to be proposed by the Settling Parties for approval by the Court, in

substantially the form attached as Exhibit 6 hereto.

2.28. “Former Participant” means a Class Member who participated in the Plan during the Class Period but does not have an Active Account.

2.29. “Gross Settlement Amount” means the sum of five-hundred-thousand dollars (\$500,000), contributed to the Qualified Settlement Fund pursuant to Article 5. The Gross Settlement Amount shall be the full and sole monetary payment made on behalf of Defendant in connection with the Settlement effectuated through this Settlement Agreement, pursuant to Paragraph 5.6.

2.30. “Independent Fiduciary” means the person or entity selected by Defendant to serve as an independent fiduciary to the Plan with respect to the Settlement Agreement for the purpose of rendering the determination described in Article 3 herein.

2.31. “Independent Fiduciary Fees and Costs” means all reasonable fees, costs, and expenses of the Independent Fiduciary, all of which shall be recovered from the Gross Settlement Amount. The Independent Fiduciary Fees and Costs shall be paid from the Settlement Fund after such funds are deposited with the Escrow Agent and upon receipt of an invoice from the Independent Fiduciary.

2.32. “Long Form Settlement Notice” means the long form Notice of Class Action Settlement and Fairness Hearing, in substantially the form attached hereto as Exhibits 3-4, to be posted on the Settlement Website. The Long Form Settlement Notice shall inform Class Members of all information required by Rule of Civil Procedure 23 and due process, including their right to object to the Settlement and to attend the Fairness Hearing to be held before the Court, on a date to be determined by the Court, at which hearing any Class Member satisfying the conditions set forth in the Preliminary Approval Order and the Settlement Notices may be heard regarding: (1)

the terms of the Settlement Agreement; (2) Class Counsel's request for an award of Attorneys' Fees and Costs and Administrative Expenses; and (3) any requested Class Representative Compensation.

2.33. "Net Settlement Amount" means the Gross Settlement Amount minus: (1) all Attorneys' Fees and Costs approved by the Court; (2) all Class Representative Compensation approved by the Court; (3) all Administrative Expenses approved by the Court and all tax-related expenses pursuant to Paragraph 5.3.

2.34. The "Plan" means the Southwest Research Institute Retirement Plan.

2.35. "Plan of Allocation" means the framework for allocating the Settlement Fund that is approved by the Court as set forth below in Paragraph 6.

2.36. "Plan Recordkeeper" means the entity that maintains electronic records of the Plan's participants and their individual accounts.

2.37. "Preliminary Approval Order" means the order proposed by the Settling Parties and approved by the Court in connection with the Motion for Preliminary Approval of the Settlement, as described in Paragraph 3.2 and in substantially the form attached hereto as Exhibit 5.

2.38. "Qualified Settlement Fund" or "Settlement Fund" means the interest-bearing, settlement fund account to be established and maintained by the Escrow Agent pursuant to Article 5 herein as the Qualified Settlement Fund (within the meaning of Treas. Reg. § 1.468B-1).

2.39. "Released Claims" means any and all claims, actions, demands, rights, obligations, liabilities, damages, attorneys' fees, expenses, costs, and causes of action, including both known and unknown claims, whether class, derivative, or individual in nature against any of the Released Parties and Defendant's Counsel from the beginning of the Class Period through the date of the Final Approval Order:

2.39.1 That were asserted in the Action, or that arise out of, relate to, or are based on, or have any connection with any of the allegations, acts, omissions, purported conflicts, representations, misrepresentations, facts, events, matters, transactions, or occurrences that are alleged or asserted in the Action or could have been alleged or asserted based on the same factual predicate, whether or not pleaded in the Complaint, including but not limited to those that arise out of, relate in any way to, are based on, or have any connection with: (a) the selection, oversight, retention, monitoring, compensation, fees, or performance of the Plan's investment options; (b) the fees, costs, or expenses charged to, paid, or reimbursed by the Plan or the Class Members; (c) disclosures or failures to disclose information regarding the Plan's investment options, fees, or service providers; (d) the compensation received by the Plan's service providers; (e) the services provided to the Plan or the costs of those services; (f) the management, oversight or administration of the Plan or its fiduciaries; (g) alleged breach of the duty of loyalty, care, prudence, diversification, or any other fiduciary duties or prohibited transactions under ERISA; and/or (h) any assertions with respect to any fiduciaries of the Plan (or the selection or monitoring of those fiduciaries) in connection with the foregoing; or

2.39.2 That would be barred by res judicata based on entry by the Court of the Final Approval Order; or

2.39.3 That relate to the direction to calculate, the calculation of, and/or the method or manner of allocation of the Qualified Settlement Fund pursuant to the Plan of Allocation or to any action taken or not taken by the Settlement Administrator in the course of administering the Settlement; or

2.39.4 That relate to the approval by the Independent Fiduciary of the Settlement

Agreement, unless brought against the Independent Fiduciary alone.

2.40. “Released Claims” specifically exclude any claims wholly unrelated to this Settlement or this Action that the Class Representative or Class Members have to the value of their respective vested account balances under the terms of the Plan and according to the Plan’s records as of the date of the Effective Approval Order.

2.41. “Released Parties” means (1) each Defendant; (2) each Defendant’s past, present, and future parent corporation(s); (3) each Defendant’s past, present, and future affiliates, subsidiaries, divisions, joint ventures, predecessors, successors, successors-in-interest, and assigns; (4) with respect to (1) through (3) above, all of their employee benefit plan fiduciaries (with the exception of the Independent Fiduciary), administrators, service providers (including their owners and employees), 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; and (5) the Plan and any and all administrators, fiduciaries, advisors, consultants, service providers, parties in interest, and trustees of the Plan.

2.42. “Settlement” or “Settlement Agreement” refers to the agreement embodied in this agreement and its exhibits.

2.43. “Settlement Administrator” means Atticus Administration, LLC, an independent contractor to be retained by Class Counsel and approved by the Court for purposes of providing the Settlement Notices to the Class, preparing and sending notices required by CAFA, establishing the Settlement Website and telephone support line, and administering the Settlement as provided

in this Settlement Agreement.

2.44. “Settlement Agreement Execution Date” means that date on which the final signature is affixed to this Settlement Agreement.

2.45. “Settlement Class” or “Class” means the following class to be certified by the Court:

All participants and beneficiaries of the Southwest Research Institute Retirement Plan at any time from June 16, 2017 through March 11, 2024, excluding the members of the Southwest Research Institute Retirement Plan Committee.

2.46. “Settlement Effective Date” means the date on which the Final Approval Order becomes Effective, provided that by such date the Settlement has not been terminated pursuant to Article 11.

2.47. “Settlement Notices” means the Short Form Notice and Long Form Notice in substantially the form attached hereto as Exhibits 1-4.

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

2.49. “Settlement Website” means the internet website established pursuant to Paragraph 12.1.

2.50. “Settling Parties” means Defendant and the Class Representative, on behalf of themselves, the Plan, and each of the Class Members.

2.51. “Short Form Settlement Notice” means the short form summary Notice of Class Action Settlement and Fairness Hearing to be sent to Class Members following the Court’s issuance of the Preliminary Approval Order, in substantially the same form attached hereto as Exhibits 1-2.

2.52. “TIAA” means the Teachers Insurance and Annuity Association of America-

College Retirement Equities Fund.

3. ARTICLE 3 – REVIEW AND APPROVAL BY INDEPENDENT FIDUCIARY, PRELIMINARY SETTLEMENT APPROVAL, AND NOTICE TO THE CLASS

3.1. The Independent Fiduciary shall be retained by Defendant, on behalf of the Plan, to determine whether to approve and authorize the settlement of Released Claims on behalf of the Plan.

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

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

3.1.3. All fees and expenses associated with the Independent Fiduciary’s retention and determination will constitute Administrative Expenses to be deducted from the Gross Settlement Amount.

3.1.4. Defendant, Defendant’s Counsel, and Class Counsel shall provide the Independent Fiduciary with sufficient information so that the Independent Fiduciary can review and evaluate the Settlement Agreement.

3.2. Promptly upon execution of this Settlement Agreement, the Class Representative, through Class Counsel, shall file with the Court a motion seeking preliminary approval of this Settlement Agreement, and for entry of the Preliminary Approval Order in substantially the form

attached hereto as Exhibit 5. The Preliminary Approval Order to be presented to the Court shall, among other things:

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

3.2.2. Approve the text of the Short Form Settlement Notice for mailing to Class Members and the Long Form Settlement Notice for posting on the Settlement Website;

3.2.3. Order the Settlement Administrator to mail by first class mail a Short Form Settlement Notice to each Class Member identified by the Settlement Administrator based upon the data provided by the Plan's recordkeeper;

3.2.4. Hold that mailing the Short Form Settlement Notice and posting the Long-Form Settlement Notice on the website constitutes the best notice practicable under the circumstances, provides due and sufficient notice of the Fairness Hearing and of the rights of all Class Members, and complies fully with the requirements of Federal Rule of Civil Procedure 23 and due process;

3.2.5. Preliminarily enjoin each Class Member and their respective heirs, beneficiaries, executors, administrators, estates, past and present partners, officers, directors, agents, attorneys, predecessors, successors, and assigns, from suing Defendant, the Plan, or the Released Parties in any action or proceeding alleging any of the Released Claims, even if any Class Member may thereafter discover facts in addition to or different from those which the Class Members or Class Counsel now know or believe to be true with respect to the Action and the Released Claims;

3.2.6. Provide that, pending final determination of whether the Settlement Agreement should be approved, no Class Member may directly, through representatives,

or in any other capacity, commence any action or proceeding in any court or tribunal asserting any of the Released Claims against the Defendant, the Released Parties, or the Plan;

3.2.7. Set the Fairness Hearing for no sooner than one hundred thirty (130) calendar days after the date of the Preliminary Approval Order, in order to determine whether (1) the Court should approve the Settlement as fair, reasonable, and adequate, (2) the Court should enter the Final Approval Order, and (3) the Court should approve the requested Attorneys' Fees and Costs, Administrative Expenses, and Class Representative Compensation;

3.2.8. Provide that any objections to any aspect of the Settlement Agreement shall be heard, and any papers submitted in support of said objections shall be considered, by the Court at the Fairness Hearing if they have been timely sent to Class Counsel and Defendant's Counsel. To be timely, the objection and any supporting documents must be sent to Class Counsel and Defendant's Counsel at least twenty-eight (28) calendar days prior to the scheduled Fairness Hearing;

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

3.2.10. Provide that the Fairness Hearing may, without further direct notice to the Class Members, other than by notice via the Court's docket or the Settlement Website, be adjourned or continued by order of the Court; and

3.2.11. Approve the form of the CAFA notices attached as Exhibit 7 and order that upon mailing of the CAFA notices by the Settlement Administrator, Defendant shall have

fulfilled its obligations under CAFA.

3.3. Within forty-five (45) calendar days of the Preliminary Approval Order, or by such other deadline as specified by the Court, the Settlement Administrator shall:

3.3.1. Cause to be mailed to each Class Member a Short Form Settlement Notice in the form and manner to be approved by the Court, which shall be in substantially the form attached hereto as Exhibit 1 and 2, to Current Participants and Former Participants, respectively, or a form subsequently agreed to by the Settling Parties and the Court. The Short Form Settlement Notice shall be sent by first-class mail, postage prepaid, to the last known address of each Class Member provided by the Plan's recordkeeper (or its designee), unless an updated address is obtained by the Settlement Administrator through its efforts to verify the last known addresses provided by the Plan's recordkeeper (or its designee). The Settlement Administrator also shall post a copy of the Long Form Settlement Notice on the Settlement Website. The Settlement Administrator shall use commercially reasonable efforts to locate any Class Member whose Short Form Settlement Notice is returned and re-mail such documents one additional time.

3.4. The Settlement Administrator shall also, within ten (10) calendar days of the Class Representative's filing of the Settlement Agreement and proposed Preliminary Approval Order, have prepared and provided CAFA notices to the Attorney General of the United States and the Attorneys General of all states in which members of the Class reside, as specified by 28 U.S.C. § 1715. The costs of such notice shall be paid from the Qualified Settlement Fund and shall be considered Administrative Expenses. The Settlement Administrator shall provide the Settling Parties with notice in writing upon completion of the provision of CAFA notices to the above-referenced entities and/or persons.

3.5. Defendant shall cause the Plan's recordkeeper or its designee(s) to provide the Settlement Administrator with all information necessary to send the Short Form Settlement Notices no later than ten (10) Business Days before the Short Form Settlement Notices are to be distributed. Thereafter, Defendant and/or the Plan's recordkeeper shall respond timely to all written requests, including by e-mail, from the Settlement Administrator for readily accessible data that are reasonably necessary to implement the Plan of Allocation and disburse the Net Settlement amount to eligible members of the Settlement Class. The actual and reasonable expenses of any third party, including the Plan's recordkeeper, that are necessary to perform such work shall be Administrative Expenses to be deducted from the Gross Settlement Amount.

3.5.1. The Settlement Administrator shall be bound by the Confidentiality Order and any further non-disclosure or security protocol jointly required by the Settling Parties, set forth in writing to the Settlement Administrator.

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

3.5.3. The Settling Parties shall have the right to approve a written protocol to be provided by the Settlement Administrator concerning how the Settlement Administrator will maintain, store, and dispose of information provided to it in order to ensure that reasonable and necessary precautions are taken to safeguard the privacy and security of such information.

4. ARTICLE 4 – FINAL SETTLEMENT APPROVAL

4.1. No later than fourteen (14) calendar days before the Fairness Hearing, Class Counsel shall submit to the Court a motion for entry of the Final Approval Order (Exhibit 6) in the

form approved by Class Counsel and Defendant, which shall request approval by the Court of the terms of this Settlement Agreement and entry of the Final Approval Order in accordance with this Settlement Agreement. The Final Approval Order as proposed by the Settling Parties shall provide for the following, among other things, as necessary to carry out the Settlement consistent with applicable law and governing Plan documents:

4.1.1. For approval of the Settlement and the release of the Released Claims covered by this Settlement Agreement, adjudging the terms of the Settlement Agreement to be fair, reasonable, and adequate to the Plan and the Class Members and directing the Settling Parties to take all necessary steps to effectuate the terms of the Settlement Agreement;

4.1.2. For a determination that mailing the Short Form Settlement Notice and posting the Long Form Settlement Notice on the Settlement Website constituted the best notice practicable under the circumstances and that due and sufficient notice of the Fairness Hearing and the rights of all Class Members was provided, consistent with Federal Rules of Civil Procedure 23 and the requirements of due process;

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

4.1.4. That the Class Representative and each Class Member and their respective heirs, beneficiaries, executors, administrators, estates, past and present partners, officers, directors, agents, attorneys, predecessors, successors, and assigns, shall be (1) conclusively deemed to have, and by operation of the Effective Approval Order shall have, fully, finally,

and forever settled, released, relinquished, waived, and discharged Defendant, the Plan, and the Released Parties from all Released Claims, and (2) barred and enjoined from suing Defendant, the Plan, or the Released Parties in any action or proceeding alleging any of the Released Claims, even if any Class Member may thereafter discover facts in addition to or different from those which the Class Member or Class Counsel now know or believe to be true with respect to the Action and the Released Claims, whether or not a such Class Members actually received the Short Form Settlement Notice, whether or not such Class Members have filed an objection to the Settlement, and whether or not the objections or claims for distribution of such Class Members have been approved or allowed;

4.1.5. That the Plan and each Class Member (and their respective heirs, beneficiaries, executors, administrators, estates, past and present partners, officers, directors, agents, attorneys, predecessors, successors, and assigns) on behalf of the Plan shall be (1) conclusively deemed to have, and by operation of the Effective Approval Order shall have, fully, finally, and forever settled, released, relinquished, waived, and discharged Defendant and the Released Parties from all Released Claims, and (2) barred and enjoined from suing Defendant or the Released Parties in any action or proceeding alleging any of the Released Claims, even if the Plan or any Class Member on behalf of the Plan may thereafter discover facts in addition to or different from those which the Plan or any Class Member now knows or believes to be true with respect to the Action and the Released Claims;

4.1.6. That the Class Representative and each Class Member shall release Defendant, Defendant's Counsel, Class Counsel, the Released Parties, and the Plan from any claims, liabilities, and attorneys' fees and expenses arising from the allocation of the

Gross Settlement Amount or Net Settlement Amount and for all tax liability and associated penalties and interest as well as related attorneys' fees and expenses;

4.1.7. That all applicable CAFA requirements have been satisfied;

4.1.8. That the Settlement Administrator shall have final authority to determine the share of the Net Settlement Amount to be allocated to each Current Participant and each Former Participant pursuant to the Plan of Allocation;

4.1.9. That, with respect to payments or distributions to Former Participants, all questions not resolved by the Settlement Agreement shall be resolved by the Settlement Administrator in its sole and exclusive discretion; and

4.1.10. That within twenty-eight (28) calendar days following the issuance of all settlement payments to Class Members as provided by the Plan of Allocation, the Settlement Administrator shall prepare and provide to Class Counsel and Defendant's Counsel a list of each person who received a settlement payment or contribution from the Qualified Settlement Fund and the amount of such payment or contribution.

4.1.11. The Court shall retain jurisdiction to enforce and interpret the Settlement Agreement. Such retention of jurisdiction shall not affect the finality of the Court's judgment.

4.2. The Final Approval Order and judgment entered by the Court approving the Settlement Agreement shall provide that upon becoming Effective, all Settling Parties, the Settlement Class, and the Plan shall be bound by the Settlement Agreement and by the Final Approval Order.

5. ARTICLE 5 – ESTABLISHMENT OF QUALIFIED SETTLEMENT FUND

5.1. No later than ten (10) Business Days after entry of the Preliminary Approval Order,

the Escrow Agent shall establish an escrow account. The Settling Parties agree that the escrow account is intended to be, and will be, an interest-bearing Qualified Settlement Fund within the meaning of Treas. Reg. § 1.468B-1. In addition, the Escrow Agent timely shall make such elections as necessary or advisable to carry out the provisions of this Paragraph 5.1, including the “relation-back election” (as defined in Treas. Reg. § 1.468B-1) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Escrow Agent to prepare and deliver, in a timely and proper manner, the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur.

5.2. For the purpose of § 468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the “administrator” shall be the Escrow Agent. The Escrow Agent, or the Settlement Administrator on its behalf, shall timely and properly cause to be filed all informational and other tax returns necessary or advisable with respect to the Gross Settlement Amount (including without limitation applying for a Taxpayer Identification Number for the Settlement Fund and filing the returns described in Treas. Reg. § 1.468B-2(k)). Such returns as well as the election described in Paragraph 5.1 shall be consistent with this Article 5 and, in all events, shall reflect that all taxes (as defined in Paragraph 5.3 below) (including any estimated taxes, interest, or penalties) on the income earned by the Gross Settlement Amount shall be deducted and paid from the Gross Settlement Amount as provided in Paragraph 5.3 hereof.

5.3. Taxes and tax expenses are Administrative Expenses to be deducted and paid from the Gross Settlement Amount, including but not limited to: (1) all taxes (including any estimated taxes, interest, or penalties) arising with respect to the income earned by the Gross Settlement Amount, including any taxes or tax detriments that may be imposed upon Defendant or

Defendant's Counsel with respect to any income earned by the Gross Settlement Amount for any period during which the Gross Settlement Amount does not qualify as a "qualified settlement fund" for federal or state income tax purposes, and (2) all tax expenses and costs incurred in connection with the operation and implementation of this Article 5 (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing (or failing to file) the returns described in this Article 5). Such taxes and tax expenses shall be Administrative Expenses and shall be paid timely by the Escrow Agent out of the Gross Settlement Amount without prior order from the Court. The Escrow Agent shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to any Class Member any funds necessary to pay such amounts, including the establishment of adequate reserves for any taxes and tax expenses (as well as any amounts that may be required to be withheld under Treas. Reg. § 1.468B-2(1)(2)); neither Defendant, Defendant's Counsel, nor Class Counsel is responsible, nor shall they have any liability therefor. The Settling Parties agree to cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this Article 5.

5.4. Within thirty (30) Business Days after the Preliminary Approval Order is entered, Defendant shall deposit one-hundred thousand dollars of the Gross Settlement Amount (\$100,000) into the Qualified Settlement Fund.

5.5. Within thirty (30) Business Days after the Settlement Effective Date, Defendant shall deposit the remainder of the Gross Settlement Amount (\$400,000) into the Qualified Settlement Fund.

5.6. Notwithstanding anything to the contrary in this Settlement Agreement, in no event shall Defendant be required to make any payments or incur any expenses in excess of the Gross

Settlement Amount. The Gross Settlement Amount shall be the only amount paid by Defendant under this Settlement Agreement, and Defendant 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 the Class Representative or Class Members may claim they are entitled to under the Plan as a result of this Settlement or any Class Representative's or Class member's recovery under this Settlement.

5.7. The Escrow Agent shall invest the Qualified Settlement Fund in short-term United States Agency or Treasury Securities or other instruments backed by the Full Faith and Credit of the United States Government or an Agency thereof, or fully insured by the United States Government or an Agency thereof, and shall reinvest the proceeds of these investments as they mature in similar instruments at their then-current market rates.

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

5.9. After the Settlement Effective Date, the Gross Settlement Amount will be distributed from the Qualified Settlement Fund as follows: (a) within thirty-five (35) Business Days of the Settlement Effective Date, all Administrative Expenses approved by the Court shall be paid; (b) within sixty (60) calendar days of the Settlement Effective Date, any Class Representative Compensation ordered by the Court shall be paid, all Attorney's Fees and Costs approved by the Court shall be paid to Class Counsel, and all Administrative Expenses not paid previously shall be paid; and (c) a contingency reserve not to exceed an amount to be mutually

agreed upon by the Settling Parties shall be set aside by the Settlement Administrator for: (1) Administrative Expenses incurred before the Settlement Effective Date but not yet paid, (2) Administrative Expenses estimated to be incurred after the Settlement Effective Date but before the end of the Settlement Period, (3) an amount estimated for adjustments of data or calculation errors.

5.10. The Escrow Agent, or the Settlement Administrator on its behalf, shall be responsible for making provision for the payment from the Qualified Settlement Fund of all taxes and tax expenses, if any, owed with respect to the Qualified Settlement Fund and for all tax reporting, remittance, and/or withholding obligations, if any, for amounts distributed from it. Defendant, Defendant's Counsel, and Class Counsel have no responsibility or any liability for any taxes or tax expenses owed by, or any tax reporting or withholding obligations, if any, of the Qualified Settlement Fund.

5.11. No later than February 15 of the year following the calendar year in which Defendant or its agents make a transfer to the Qualified Settlement Fund pursuant to the terms of this Article 5, Defendant or its agents shall timely furnish a statement to the Escrow Agent, or the Settlement Administrator on its behalf, that complies with Treas. Reg. § 1.468B-3(e)(2), which may be a combined statement under Treas. Reg. § 1.468B3(e)(2)(ii), and shall attach a copy of the statement to their federal income tax returns filed for the taxable year in which Defendant, its insurers, or agents make a transfer to the Qualified Settlement Fund.

6. ARTICLE 6 – PLAN OF ALLOCATION

6.1. After the Settlement Effective Date, the Settlement Administrator shall cause the Net Settlement Amount to be allocated and distributed to the Former Participants as set forth in Paragraph 6.6 below, and to the Plan for distribution to the accounts of Current Participants as set

forth in Paragraph 6.5 below.

6.2. To be eligible for a distribution from the Net Settlement Amount, a person must be a Current Participant or a Former Participant, or a Beneficiary or Alternate Payee of such a person. Current Participants shall receive their settlement payments as contributions to their account in the Plan, as provided for in Paragraph 6.5 below, unless, as of the date of their settlement payments, they no longer have an Active Account in the Plan, in which case they shall be treated as Former Participants. Former Participants shall receive their settlement payments in the form of checks as provided in Paragraph 6.6 below.

6.3. Beneficiaries will receive settlement payments as described in this Article 6 in amounts corresponding to their entitlement as beneficiaries of the Current Participant or of the Former Participant with respect to which the payment is made. This includes settlement payments to Beneficiaries determined by the participant's Plan accounts during the Class Period and/or by the Beneficiary's own Plan accounts during the Class Period if an account was created in the Plan for the Participant's Beneficiary. Alternate Payees will receive settlement payments if and to the extent they are entitled to receive a portion of a Current Participant's or Former Participant's allocation under this Article 6 pursuant to the terms of the applicable Qualified Domestic Relations Order. Beneficiaries and Alternate Payees with Active Accounts as of the date of the Motion for Preliminary Approval will receive payments by the method described in this Article 6 for Current Participants, subject to Paragraph 6.5.6 below. Beneficiaries and Alternate Payees who do not have Active Accounts as of the date of the Motion for Preliminary Approval will receive payments by the method described in this Article 6 for Former Participants. The Settlement Administrator shall have sole and final discretion to determine the amounts to be paid to Beneficiaries and Alternate Payees in accordance with the Plan of Allocation set forth in this Article 6 and as ordered

by the Court.

6.4. Payments to Former Participants and Current Participants (including Beneficiaries and Alternate Payees) shall be calculated by the Settlement Administrator pursuant to the Plan of Allocation as follows:

6.4.1. In order to perform the calculations required under this Settlement Agreement, and pursuant to Paragraph 3.5, the Settlement Administrator shall obtain from the Plan's recordkeeper the quarterly account balances for all Class Members for each quarter of the Class Period. For each such Class Member, the Settlement Administrator shall determine an Average Account Balance, as follows:

Each Class Member's average, aggregate quarter-ending account balance invested in the Plan for the period from June 30, 2017 through March 31, 2024.¹

6.4.2. The Settlement Administrator shall determine the total settlement payment available to each Former Participant and Current Participant by calculating each such Former Participant's and Current Participant's pro-rata share of the Net Settlement Fund based on his or her Average Account Balance compared to the sum of the Average Account Balances for all Former Participants and Current Participants. If the dollar amount of the

¹ Mathematically stated, the Average Account Balance shall be calculated as follows: (Q2 2017 Account Balance * 14/91) + (Q3 2017 Account Balance) + (Q4 2017 Account Balance) + (Q1 2018 Account Balance) + (Q2 2018 Account Balance) + (Q3 2018 Account Balance) + (Q4 2018 Account Balance) + (Q1 2019 Account Balance) + (Q2 2019 Account Balance) + (Q3 2019 Account Balance) + (Q4 2019 Account Balance) + (Q1 2020 Account Balance) + (Q2 2020 Account Balance) + (Q3 2020 Account Balance) + (Q4 2020 Account Balance) + (Q1 2021 Account Balance) + (Q2 2021 Account Balance) + (Q3 2021 Account Balance) + (Q4 2021 Account Balance) + (Q1 2022 Account Balance) + (Q2 2022 Account Balance) + (Q3 2022 Account Balance) + (Q4 2022 Account Balance) + (Q1 2023 Account Balance) + (Q2 2023 Account Balance) + (Q3 2023 Account Balance) + (Q4 2023 Account Balance) + (Q1 2024 Account Balance * 71/91)

Divided by

26.89 quarters during the Class Period.

settlement payment to a Former Participant is calculated by the Settlement Administrator to be less than \$5.00, then that Former Participant's pro-rata share shall be zero for all purposes, and his or her share shall be reallocated amongst the other Class Members.

6.4.3. The Settlement Administrator shall utilize the calculations required to be performed herein for (a) making the required payments to Former Participants under Paragraph 6.6 of the Settlement Agreement; and (b) instructing the Plan's recordkeeper as to the amount of the Net Settlement Fund to be allocated to Current Participants under Paragraph 6.5 of the Settlement Agreement and calculating the total amount to deposit in the Plan to fulfill this instruction.

6.4.4. The total amount of all checks to be written by the Settlement Administrator for Former Participants, plus the total amount of all allocations that the Plan's recordkeeper is instructed to make to Current Participants may not exceed the Net Settlement Amount. In the event that the Settlement Administrator determines that the Plan of Allocation total would otherwise exceed the Net Settlement Amount, the Settlement Administrator is authorized to make such pro-rata changes as are necessary to the Plan of Allocation such that said totals do not exceed the Net Settlement Amount.

6.5. Payments to Current Participants.

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

6.5.2. Within five (5) Business Days after the Settlement Administrator has completed all payment calculations for all Current Participants, the Settlement Administrator will provide Defendant or its designee (*i.e.*, the Plan's recordkeeper), in a format and via a delivery method mutually agreed upon by the Settlement Administrator

and Defendant, with an Excel spreadsheet (or other format acceptable to the Plan's recordkeeper) containing the name, the amount of the settlement payment for each of the Current Participants, and any other information requested by Defendant or the Plan's recordkeeper as necessary to effectuate this provision.

6.5.3. Thereafter, upon giving ten (10) Business Days' written notice to Defendant (or its designee), the Settlement Administrator shall effect a transfer from the Qualified Settlement Fund to the Plan of the aggregate amount of all settlement payments payable to Current Participants, as reflected in a spreadsheet provided by the Settlement Administrator. The Plan's recordkeeper shall thereafter credit the individual Active Account of each Current Participant in an amount equal to that stated on the spreadsheet provided by the Settlement Administrator in relation to such Current Participant.

6.5.4. The settlement payment for each Current Participant will be invested in accordance with and proportionate to such Current Participant's investment elections then on file for new contributions. If the Current Participant does not have an investment election on file, then such Current Participant shall be deemed to have directed such payment to be invested in the Plan's "Qualified Default Investment Alternative," as defined in 29 C.F.R. § 2550.404c-5.

6.5.5. The Plan's recordkeeper shall process all Current Participant transactions as soon as practicable, and not later than within forty-five (45) calendar days of receiving direction, including the completed settlement calculations for Current Participants and the transfer from the Qualified Settlement Fund to the Plan of the aggregate amount of all settlement payments payable to Current Participants, from the Settlement Administrator for any Current Participant.

6.5.6. The Plan may be amended, to the extent necessary, to reflect the settlement allocation to Current Participants' Active Account in accordance with this Article 6.

6.5.7. If, as of the date when distributions pursuant to this Settlement Agreement are made, a Current Participant no longer has an Active Account, they will be treated as a Former Participant for purposes of the settlement distribution only and will receive their payment from the Settlement Administrator in the form of a check as described in Paragraph 6.6.

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

6.6.1. The Settlement Administrator will issue a check from the Qualified Settlement Fund to the Former Participant and mail the check to the address of such Former Participant or, in the case of ambiguity or uncertainty, to the address of such person as determined by the Settlement Administrator using commercially reasonable means.

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

6.6.3. Neither the Defendant, Defendant's Counsel, Class Counsel, the Class Representative, nor the Released Parties shall have any responsibility for or liability

whatsoever with respect to any tax advice given to the Former Participants or the Current Participants.

6.6.4. Class Members who receive a check from the Settlement Administrator must deposit or cash their checks within one-hundred-and-eighty (180) calendar days of issuance. If they do not do so, the checks will be void, and the Settlement Administrator shall be instructed to return any such funds to the Settlement Fund. This limitation shall be printed on the face of each check. Notwithstanding these requirements, the Settlement Administrator shall have the authority to reissue checks to Class Members where it determines there is good cause to do so, provided that doing so will not compromise the Settlement Administrator's ability to implement the Plan of Allocation. The voidance of checks shall have no effect on the Class Members' release of claims, obligations, representations, or warranties as provided herein, which shall remain in full effect.

6.7. Within ten (10) Business Days of completing all aspects of this Plan of Allocation, the Settlement Administrator shall send to Class Counsel, Defendant's Counsel, and Defendant one or more affidavits stating the following: (1) the name of each Class Member to whom the Settlement Administrator sent the Short Form Settlement Notice, and the address of such mailing; (2) the date(s) upon which the Settlement Administrator sent the Short Form Settlement Notice; (3) the name of each Class Member whose Short Form Settlement Notice was returned as undeliverable; (4) the efforts made by the Settlement Administrator to find the correct address and to deliver the Short Form Settlement Notice for each such Class Member; (5) the efforts made by the Settlement Administrator to determine the correct address of each Former Participant and to deliver a check to that address; and (6) the name of each Class Member to whom the Settlement Administrator made a distribution from the Net Settlement Amount, together with the amount and

form of the distribution, the name of the payee, the date of distribution, the amount of tax withholdings, if applicable, and the date of remittance of tax withholdings to the appropriate tax authority, if applicable.

6.8. The Settling Parties acknowledge that any payments to Class Members may be subject to applicable tax laws. Defendant, Defendant's Counsel, Class Counsel, and the Class Representative will provide no tax advice to the Class Members and make no representation regarding the tax consequences of any of the settlement payments described in this Settlement Agreement. To the extent that any portion of any settlement payment is subject to income or other tax, the recipient of the payment shall be responsible for payment of such tax. Deductions will be made, and reporting will be performed by the Settlement Administrator, as required by law in respect of all payments made under the Settlement Agreement.

6.9. Each Class Member who receives a payment under this Settlement Agreement shall be fully and ultimately responsible for payment of any and all federal, state, or local taxes resulting from or attributable to the payment received by such person. Each Class Member shall hold Defendant, the Released Parties, Defendant's Counsel, Class Counsel, the Class Representative, and the Settlement Administrator harmless from any tax liability, including penalties and interest, related in any way to payments under the Settlement Agreement, and shall hold Defendant, the Released Parties, Defendant's Counsel, Class Counsel, the Class Representative, and the Settlement Administrator harmless from the costs (including, for example, attorneys' fees and disbursements) of any proceedings (including, for example, investigation and suit), related to such tax liability.

6.10. Any funds associated with checks that are not cashed within one-hundred-and-eighty (180) calendar days of issuance and any funds that cannot be distributed to Class Members

for any other reason, together with any interest earned on them, and any funds remaining after the payment of any applicable Taxes by the Escrow Agent, shall be returned to the Qualified Settlement Fund by the Settlement Administrator and shall be paid to the Plan for the purpose of defraying administrative fees and expenses of the Plan that would otherwise be charged to the Plan's participants. Under no circumstances shall any portion of the Net Settlement Amount revert to Defendant.

6.11. The Net Settlement Amount to be allocated and distributed to Former Participants and to the Plan for distribution to the Plan for Current Participants in accordance with the Plan of Allocation shall constitute "restorative payments" within the meaning of Revenue Ruling 2002-45 or all purposes.

7. ARTICLE 7 – PROSPECTIVE RELIEF

7.1. No later than twelve (12) months following the Settlement Effective Date, Defendant will engage and utilize the services of an independent consultant or consultants unaffiliated with TIAA to assist with the monitoring of the Plan's investments for a period of three (3) years from the engagement.

8. ARTICLE 8 – ATTORNEYS' FEES AND COSTS, ADMINISTRATIVE EXPENSES, AND CLASS REPRESENTATIVE COMPENSATION

8.1. Class Counsel may file a motion for an award of Attorneys' Fees and Costs, and Administrative Expenses, at least thirty (30) days before the deadline set in the Preliminary Approval Order for objections to the proposed settlement, which may be supplemented thereafter. At the same time, the Class Representative may also seek an award of Class Representative Compensation. Any such awards shall be paid from the Gross Settlement Amount. Defendant shall have no independent responsibility or liability for any amounts awarded by the Court.

8.2. The appropriate amount of any such awards shall be determined by the Court in its

discretion. This Settlement Agreement does not purport to establish a presumptively reasonable amount, and Defendant will take no position with the Court regarding the requested Attorneys' Fees and Costs, Administrative Expenses, or Class Representative Compensation, so long as the requested Attorneys' Fees do not exceed one third of the Gross Settlement Fund and the requested Class Representative Compensation does not exceed \$2,500 for the Class Representative.

8.3. Notwithstanding any other provision of this Settlement Agreement to the contrary, the procedure for and the allowance or disallowance (in whole or in part) by the Court of the Motion for Attorneys' Fees and Costs, Administrative Expenses, or Class Representative Compensation to be paid out of the Gross Settlement Fund shall be considered by the Court separately from its consideration of the fairness, reasonableness, and adequacy of the Settlement, and any order or proceedings relating to the award of Attorneys' Fees and Expenses, or any appeal of any order relating thereto, shall not operate to terminate or cancel this Agreement or be deemed material thereto.

9. ARTICLE 9 – RELEASE AND COVENANT NOT TO SUE

9.1. As of the Settlement Effective Date, the Plan (subject to Independent Fiduciary approval as required by Paragraph 3.1), Class Representative, and all Class Members (and their respective heirs, beneficiaries, executors, administrators, estates, past and present partners, officers, directors, agents, attorneys, predecessors, successors, and assigns) shall be deemed to have fully, finally, and forever settled, released, relinquished, waived, and discharged Defendant, the Plan, and all Released Parties from the Released Claims, whether or not such Class Members have actually received or read the Settlement Notices, whether or not such Class Members have filed an objection to the Settlement or to any application by Class Counsel for an award of Attorneys' Fees and Costs, whether or not Former Participants have actually received checks for

settlement payments following the Settlement Administrator's commercially reasonable efforts to determine each Former Participant's address and deliver a check to that address, and whether or not the objections or claims for distribution of such Class Members have been approved or allowed.

9.2. As of the Settlement Effective Date, the Class Members and the Plan (subject to Independent Fiduciary approval as required by Paragraph 3.1), acting individually or together, or in combination with others, shall not sue or seek to institute, maintain, prosecute, argue, or assert in any action or proceeding (including but not limited to an IRS determination letter proceeding, a Department of Labor proceeding, an arbitration, or a proceeding before any state insurance or other department or commission), any cause of action, demand, or claim adverse to the Released Parties on the basis of, connected with, or arising out of any of the Released Claims. Nothing herein shall preclude any action to enforce the terms of this Settlement Agreement pursuant to the procedures set forth in this Settlement Agreement.

9.3. The Class Representative, Class Counsel, the Plan, or the Class Members may hereafter discover facts in addition to or different from those that they know or believe to be true with respect to the Released Claims. Such facts, if known by them, might have affected the decision to settle with respect to Defendant, the Plan, and the Released Parties, or the decision to release, relinquish, waive, and discharge the Released Claims, or the decision of a Class Member not to object to the Settlement. Notwithstanding the foregoing, each Class Member and the Plan shall expressly, upon the Settlement Effective Date of the Final Approval Order, be deemed to have, and by operation of the Final Approval Order, shall have, fully, finally, and forever settled, released, relinquished, waived, and discharged any and all Released Claims. The Class Members and the Plan acknowledge and shall be deemed by operation of the Effective Approval Order to have acknowledged that the foregoing waiver was bargained for separately and is a key element

of the Settlement embodied in this Settlement Agreement of which this release is a part.

9.4. Upon the Settlement Effective Date, the Class Representative, Class Members, and the Plan shall be conclusively deemed to, and by operation of the Effective Approval Order shall, settle, release, relinquish, waive and discharge any and all rights or benefits they may now have, or in the future may have, under any law relating to the releases of unknown claims pertaining specifically to Section 1542 of the California Civil Code, which provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Also, the Class Representative and Class Members with respect to the Released Claims shall, upon the Effective Approval Order, waive any and all provisions, rights and benefits conferred by any law or of any State or territory within the United States or any foreign country, or any principle of common law, which is similar, comparable or equivalent in substance to Section 1542 of the California Civil Code.

10. ARTICLE 10 – REPRESENTATIONS AND WARRANTIES

10.1. The Settling Parties represent:

10.1.1. That they are voluntarily entering into this Settlement Agreement as a result of arm's length negotiations, and that in executing this Settlement Agreement they are relying solely upon their own judgment, belief, and knowledge, and upon the advice and recommendations of their own counsel, concerning the nature, extent, and duration of their rights and claims hereunder and regarding all matters that relate in any way to the subject matter hereof;

10.1.2. That they assume the risk of mistake as to facts or law;

10.1.3. That they recognize that additional evidence may have come to light, but

that they nevertheless desire to avoid the expense and uncertainty of litigation by entering into the Settlement;

10.1.4. That they have read carefully the contents of this Settlement Agreement, and this Settlement Agreement is signed freely by each individual executing this Settlement Agreement on behalf of each of the Settling Parties; and

10.1.5. That they have made such investigation of the facts pertaining to the Settlement and all matters pertaining thereto, as they deem necessary.

10.2. Each individual executing this Settlement Agreement on behalf of a Settling Party does hereby personally represent and warrant to the other Settling Parties that he/she has the authority to execute this Settlement Agreement on behalf of, and fully bind, each principal that each such individual represents or purports to represent.

11. ARTICLE 11 – TERMINATION, CONDITIONS OF SETTLEMENT, AND EFFECT OF DISAPPROVAL, CANCELLATION, OR TERMINATION

11.1. The Settlement Agreement shall automatically terminate, and thereby become null and void with no further force or effect, if:

11.1.1. Pursuant to Paragraph 3.1, (1) either the Independent Fiduciary does not fully approve the release or the Settlement Agreement, or disapproves the release or the Settlement Agreement for any reason whatsoever, or Defendant reasonably concludes that the Independent Fiduciary's approval does not include the determinations required by PTE 2003-39; and (2) the Settling Parties do not mutually agree to modify the terms of this Settlement Agreement to facilitate an approval by the Independent Fiduciary or the Independent Fiduciary's determinations required by PTE 2003-39;

11.1.2. This Settlement Agreement is disapproved by the Court or fails to become Effective for any reason whatsoever;

11.1.3. The Preliminary Approval Order and the Final Approval Order are not entered by the Court in substantially the form submitted by the Settling Parties or in a form which is otherwise agreed to by the Settling Parties; or

11.1.4. The Settlement Class is not certified as defined herein or in a form which is otherwise agreed to by the Settling Parties;

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

11.2. If the Settlement Agreement is terminated, deemed null and void, or has no further force or effect, the Action and the Released Claims asserted by the Class Representative and Class Members shall for all purposes revert to their status as though the Settling Parties never executed the Settlement Agreement. All funds deposited in the Qualified Settlement Fund, and any interest earned thereon, shall be returned to Defendant, or its agents pro rata based on their contributions to the Qualified Settlement Fund within thirty (30) calendar days after the Settlement Agreement is finally terminated or deemed null and void, except as provided for in Paragraph 11.4.

11.3. The Court's denial, in whole or in part, of Class Counsel's request for Attorneys' Fees and Costs and/or the Class Representative Compensation shall not be deemed a failure to approve the Settlement Agreement and shall not cause the Settlement Agreement to be terminated.

11.4. In the event that the Settlement Agreement is terminated, Administrative Expenses incurred prior to the termination shall be paid first from the interest earned, if any, on the Qualified Settlement Fund. Administrative Expenses in excess of the interest earned on the Qualified Settlement Fund shall be split evenly and paid by Class Counsel, on the one hand, and Defendant, on the other hand.

12. ARTICLE 12 – SETTLEMENT WEBSITE AND OTHER COMMUNICATIONS RELATED TO THE SETTLEMENT

12.1. On or before the date that the Short Form Settlement Notices are mailed, the Settlement Administrator will establish a Settlement Website on which it will post the following documents or links to the following documents: the Complaint, Settlement Agreement and Exhibits thereto, Long Form Settlement Notices, Preliminary Approval Order and any other Court orders related to the Settlement, and any other documents or information mutually agreed upon by the Settling Parties (“Settlement Website Information”) in writing. When filed, the Settlement Administrator will also post or include links to the Motion for Attorneys’ Fees and Costs, Administrative Expenses, and Class Representative Compensation (and any documents submitted in support). No other information or documents will be posted on the Settlement Website unless agreed to in advance by the Settling Parties in writing. The Settlement Administrator will take down the Settlement Website at the conclusion of the Settlement Period.

12.2. On or before the date that the Short Form Settlement Notices are mailed, the Settlement Administrator also shall arrange for a toll-free telephone call center facility to be active during the period that the Settlement Website is active. The toll-free telephone call facility will employ an interactive voice response system (“IVR system”) to answer calls, and will provide callers the option of speaking with a live operator if necessary.

12.3. The Class Representative and Class Counsel agree that they will not at any time publicly disparage or encourage or induce others to publicly disparage Defendant or any of the Released Parties as to the Action or the Settlement.

13. ARTICLE 13 – GENERAL PROVISIONS

13.1. Class Counsel and Defendants’ Counsel, on behalf of themselves and the Settling Parties, agree to cooperate fully with each other in seeking Court approvals of the Preliminary

Approval Order and the Final Approval Order, and to do all things as may reasonably be required to effectuate preliminary and final approval and the implementation of this Settlement Agreement according to its terms.

13.2. Within sixty (60) calendar days after the close of the Settlement Period, the Settling Parties shall either return to the producing parties, or destroy, all documents, communications, or things produced by the opposing party in discovery under a claim of confidentiality pursuant to the Confidentiality Order entered in the Action, including but not limited to documents, communications, or things produced under a claim of privilege. Each Settling Party shall serve a written notice to each producing party certifying that the Settling Party has carried out the obligations imposed by this Paragraph 13.2. The Settling Parties, Class Counsel, and Defendant's Counsel agree that at all times they will honor the requirements of the Confidentiality Order, notwithstanding the settlement of the Action.

13.3. The Class Representative, Class Counsel, and the Class Members agree that this Settlement Agreement, whether or not consummated, and any related negotiations or proceedings, are not, and shall not be construed as, deemed to be, or offered or received as evidence of an admission by or on the part of Defendant or Released Parties of any wrongdoing, fault, or liability whatsoever by any of Defendant or Released Parties, or give rise to any inference of any wrongdoing, fault, or liability or admission of any wrongdoing, fault, or liability in the Action or any other proceeding, and Defendant and Released Parties admit no wrongdoing or liability with respect to any of the allegations or claims in the Action. The Class Representative, Class Counsel, and the Class Members agree that this Settlement Agreement, whether or not consummated, and any related negotiations or proceedings, shall not constitute admissions of any liability of any kind, whether legal or factual.

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

13.5. Only Class Counsel shall have standing to seek enforcement of this Settlement Agreement on behalf of Class Representative, Class Members, or the Plan. Any individual concerned about Defendant's compliance with this Settlement Agreement may so notify Class Counsel and direct any requests for enforcement to them. Class Counsel shall have the full and sole discretion to take whatever action they deem appropriate, or to refrain from taking any action, in response to such request. Any action by Class Counsel to monitor or enforce the Settlement Agreement shall be done without additional fee or reimbursement of expenses beyond the Attorneys' Fees and Costs determined by the Court.

13.6. This Settlement Agreement shall be interpreted, construed, and enforced in accordance with applicable federal law.

13.7. Class Counsel, Defendant's Counsel, and the Settling Parties agree that any and all disputes concerning compliance with the Settlement Agreement shall be exclusively resolved as follows:

13.7.1. If Class Counsel, Defendant's Counsel, or a Settling Party has reason to believe that a legitimate dispute exists concerning compliance with the Settlement Agreement, the party raising the dispute shall first promptly give written notice (also electronic notice by e-mail) under the Settlement Agreement to the other party, including in such notice: (1) a reference to all specific provisions of the Settlement Agreement that are involved; (2) a statement of the alleged non-compliance; (3) a statement of the remedial action sought; and (4) a brief statement of the specific facts, circumstances, and any other arguments supporting the position of the party raising the dispute;

13.7.2. Within ten (10) Business Days after receiving the notice described in Paragraph 13.7.1, the receiving party shall respond in writing with its position and the facts and arguments it relies on in support of its position;

13.7.3. For a period of not more than ten (10) Business Days following mailing and electronic notice of the response described in Paragraph 13.7.2, the Settling Parties shall undertake good-faith negotiations, which may include meeting in person or conferring by telephone, to attempt to resolve the dispute;

13.7.4. If the dispute is not resolved during the period described in Paragraph 13.7.3, either party may request that the Court resolve the dispute;

13.7.5. In connection with any disputes concerning compliance with the Settlement Agreement, the Settling Parties agree that each party shall bear its own fees and costs.

13.8. The Settling Parties agree that the Court has personal jurisdiction over the Class Representative, Class Members, and Defendant, and shall retain that jurisdiction for purposes of enforcing the Settlement Agreement and resolving any disputes concerning compliance with the Settlement Agreement.

13.9. The Settlement Agreement may be executed by exchange of executed signature pages, and any signature transmitted by facsimile or e-mail attachment of scanned signature pages for the purpose of executing this Settlement Agreement shall be deemed an original signature for purposes of this Settlement Agreement. The Settlement Agreement may be executed in any number of counterparts, and each of such counterparts shall for all purposes be deemed an original, and all such counterparts shall together constitute the same instrument.

13.10. Each Settling Party to this Settlement Agreement hereby acknowledges that he, she, they, or it has consulted with and obtained the advice of counsel before executing this Settlement Agreement, and that this Settlement Agreement has been explained to that party by his, her, their, or its counsel.

13.11. Any headings included in this Settlement Agreement are for convenience only and do not in any way limit, alter, or affect the matters contained in this Settlement Agreement or the Articles or Paragraphs they caption. References to a person are also to the person's permitted successors and assigns, except as otherwise provided herein. Whenever the words "include," "includes," or "including" are used in this Settlement Agreement, they shall not be limiting but shall be deemed to be followed by the words "without limitation."

13.12. This Settlement Agreement may be modified or amended only by written agreement signed by or on behalf of all Settling Parties.

13.13. This Settlement Agreement and the exhibits attached hereto constitute the entire agreement among the Settling Parties and no representations, warranties, or inducements have been made to any party concerning the Settlement other than those contained in this Settlement Agreement and the exhibits thereto.

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

13.15. Each of the Settling Parties agrees, without further consideration, and as part of finalizing the Settlement hereunder, that it will in good faith execute and deliver such other documents and take such other actions as may be necessary to consummate and effectuate this Settlement Agreement.

13.16. All of the exhibits attached hereto are incorporated by reference as though fully set forth herein. The exhibits shall be: Exhibit 1 – Short Form Notice of Class Action Settlement and Fairness Hearing to Current Participants; Exhibit 2 – Short Form Notice of Class Action Settlement and Fairness Hearing to Former Participants; Exhibit 3 – Long Form Notice of Class Action Settlement and Fairness Hearing to Current Participants Exhibit 4 – Long Form Notice of Class Action Settlement to Former Participants; Exhibit 5 – Preliminary Approval Order; Exhibit 6 – Final Approval Order; Exhibit 7 – CAFA Notice.

13.17. No provision of the Settlement Agreement or of the exhibits attached hereto shall be construed against or interpreted to the disadvantage of any party to the Settlement Agreement because that party is deemed to have prepared, structured, drafted, or requested the provision.

13.18. Any notice, demand, or other communication under this Settlement Agreement (other than the Settlement Notices, or other notices given at the direction of the Court) shall be in writing and shall be deemed duly given upon receipt if it is addressed to each of the intended recipients as set forth below and personally delivered, sent by registered or certified mail postage prepaid, or delivered by reputable express overnight courier as follows:

IF TO THE CLASS REPRESENTATIVE:

Paul Lukas (lukas@nka.com)
Brock Specht (bspecht@nka.com)
Ben Bauer (bbauer@nka.com)
NICHOLS KASTER, PLLP
4700 IDS Center
80 South 8th Street
Minneapolis, MN 55402

IF TO DEFENDANT:

Jeremy Blumenfeld (jeremy.blumenfeld@morganlewis.com)
Jared Killeen (jared.killeen@morganlewis.com)
MORGAN, LEWIS & BOCKIUS LLP
2222 Market Street
Philadelphia, PA 19103

* * *

SIGNED ON BEHALF OF CLASS REPRESENTATIVE Mark Drust, Individually and as Representative of the Class

Dated: March 11, 2024

/s/ Brock J. Specht

Brock J. Specht
NICHOLS KASTER, PLLP
4700 IDS Center
80 South 8th Street
Minneapolis, MN 55402
Tel: (612) 256-3200
Fax: (612) 338-4878

Attorney for the Class Representative and the Class

SIGNED ON BEHALF OF DEFENDANT Southwest Research Institute.

Dated: March 11, 2024

/s/ *Jeremy P. Blumenfeld*

Jeremy P. Blumenfeld
2222 Market Street
Philadelphia, PA 19103
Phone: 215.963.5000
Fax: 215.963.5001
Jeremy.blumenfeld@morganlewis.com

Attorney for Southwest Research Institute

EXHIBIT 1

Drust v. Southwest Research Institute, et al.
c/o **SETTLEMENT ADMINISTRATOR**

[Postage Prepaid]

COURT-ORDERED LEGAL NOTICE

*This Notice may affect your legal rights.
Please read carefully.*

Important Legal Notice Authorized by the
United States District Court for the Western
District of Texas.

**If you were a participant or beneficiary of the
Southwest Research Institute Retirement
Plan between June 16, 2017 and March 11,
2024 your rights may be impacted by a
proposed settlement of a class action
lawsuit.**

Name
Address
City, State
Zip

THIS CARD PROVIDES ONLY LIMITED INFORMATION ABOUT THE CLASS ACTION.

Please visit www.settlementwebsite.com, or call (xxx) xxx-xxxx for more information. A federal court has authorized this notice. This is not a solicitation from a lawyer. You are receiving this Notice of Class Action Settlement (“Notice”) because the records of the Southwest Research Institute Retirement Plan, and each of its predecessor plans or successor plans, individually and collectively (the “Plan”), indicate that you were a participant in the Plan at some point during the period June 16, 2017, through March 11, 2024 (the “Class Period”). This Settlement Notice advises you of basic information about your options. A Long-Form Settlement Notice with additional information is available at www.settlementwebsite.com.

YOUR LEGAL RIGHTS AND OPTIONS UNDER THE SETTLEMENT:	
WHAT DOES THE SETTLEMENT CALL FOR?	The Settlement will provide for a Gross Settlement Amount of \$500,000 to resolve the alleged claims against the defendant. After deducting any Court-approved attorneys’ fees, costs, and expenses associated with the Settlement, the remaining Net Settlement Amount will be distributed to Settlement Class Members. Additionally, the defendant will hire an independent consultant to assist with monitoring the Plan’s investments for a period of at least three years.
YOU ARE NOT REQUIRED TO FILE A CLAIM IF YOU ARE ENTITLED TO A PAYMENT UNDER THE SETTLEMENT AGREEMENT.	Our records indicate that you are a Current Participant in the Plan and may be entitled to a portion of the Gross Settlement Amount. If you currently have a positive account balance in the Plan and are a Settlement Class Member, any share of the Net Settlement Amount to which you are entitled will automatically be deposited into your Plan account. If you are a Former Participant (i.e., no longer a participant in the Plan), any share of the Net Settlement Amount to which you are entitled will be mailed to you in the form of a check.
YOU MAY OBJECT TO THE SETTLEMENT BY [REDACTED]	If you wish to object to any part of the Settlement, you may write to the attorneys for the Parties about why you object to the Settlement. Address your objection to: Brock Specht Nichols Kaster, PLLP 4700 IDS Center 80 S 8 th St Minneapolis, MN 55402 Jeremy Blumenfeld Morgan, Lewis & Bockius LLP 1701 Market St Philadelphia, PA 19103
YOU MAY ATTEND THE FAIRNESS HEARING TO BE HELD ON [REDACTED]	If you submit a written objection to the Settlement to the attorneys before the Court-approved deadline, you may (but do not have to) attend the Fairness Hearing about the Settlement and present your objections to the Court. You may attend the Fairness Hearing even if you do not file a written objection, but you will only be allowed to speak at the Fairness Hearing if you submit a written objection by the Court-approved deadline in advance of the Fairness Hearing.

Do not contact the Court or Defendant. All questions should be directed to **SETTLEMENT ADMINISTRATOR** or Class Counsel, or visit the website listed herein.

EXHIBIT 2

Drust v. Southwest Research Institute, et al.
c/o **SETTLEMENT ADMINISTRATOR**

[Postage Prepaid]

COURT-ORDERED LEGAL NOTICE

This Notice may affect your legal rights.

Please read carefully.

Important Legal Notice Authorized by the
United States District Court for the Western
District of Texas.

Name
Address
City, State
Zip

**If you were a participant or beneficiary of the
Southwest Research Institute Retirement
Plan between June 16, 2017 and March 11,
2024 your rights may be impacted by a
proposed settlement of a class action
lawsuit.**

THIS CARD PROVIDES ONLY LIMITED INFORMATION ABOUT THE CLASS ACTION.

Please visit www.settlementwebsite.com, or call (xxx) xxx-xxxx for more information. A federal court has authorized this notice. This is not a solicitation from a lawyer. You are receiving this Notice of Class Action Settlement (“Notice”) because the records of the Southwest Research Institute Retirement Plan, and each of its predecessor plans or successor plans, individually and collectively (the “Plan”), indicate that you were a participant in the Plan at some point during the period June 16, 2017, through March 11, 2024 (the “Class Period”). This Settlement Notice advises you of basic information about your options. A Long-Form Settlement Notice with additional information is available at www.settlementwebsite.com.

YOUR LEGAL RIGHTS AND OPTIONS UNDER THE SETTLEMENT:	
WHAT DOES THE SETTLEMENT CALL FOR?	The Settlement will provide for a Gross Settlement Amount of \$500,000 to resolve the alleged claims against the defendant. After deducting any Court-approved attorneys’ fees, costs, and expenses associated with the Settlement, the remaining Net Settlement Amount will be distributed to Settlement Class Members. Additionally, the defendant will hire an independent consultant to assist with monitoring the Plan’s investments for a period of at least three years.
YOU ARE NOT REQUIRED TO FILE A CLAIM IF YOU ARE ENTITLED TO A PAYMENT UNDER THE SETTLEMENT AGREEMENT.	Our records indicate that you are a Former Participant in the Plan and may be entitled to a portion of the Gross Settlement Amount. If you are a Former Participant (i.e., no longer a participant in the Plan), any share of the Net Settlement Amount to which you are entitled will be mailed to you in the form of a check. If you currently have a positive account balance in the Plan and are a Settlement Class Member, any share of the Net Settlement Amount to which you are entitled will automatically be deposited into your Plan account.
YOU MAY OBJECT TO THE SETTLEMENT BY [REDACTED]	If you wish to object to any part of the Settlement, you may write to the attorneys for the Parties about why you object to the Settlement. Address your objection to: Brock Specht Nichols Kaster, PLLP 4700 IDS Center 80 S 8 th St Minneapolis, MN 55402 Jeremy Blumenfeld Morgan, Lewis & Bockius LLP 1701 Market St Philadelphia, PA 19103
YOU MAY ATTEND THE FAIRNESS HEARING TO BE HELD ON [REDACTED]	If you submit a written objection to the Settlement to the attorneys before the Court-approved deadline, you may (but do not have to) attend the Fairness Hearing about the Settlement and present your objections to the Court. You may attend the Fairness Hearing even if you do not file a written objection, but you will only be allowed to speak at the Fairness Hearing if you submit a written objection by the Court-approved deadline in advance of the Fairness Hearing.

Do not contact the Court or Defendant. All questions should be directed to [SETTLEMENT ADMINISTRATOR](#) or Class Counsel, or visit the website listed herein.

EXHIBIT 3

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

<p>Mark Drust individually and as a representative of a class of similarly situated persons, and on behalf of the Southwest Research Institute Retirement Plan</p> <p style="text-align:center">Plaintiff,</p> <p style="text-align:center">v.</p> <p>Southwest Research Institute, and John Does 1-20,</p> <p style="text-align:center">Defendant.</p>	<p style="text-align:center">Civil Case No. 5:23-cv-767-XR</p>
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NOTICE OF CLASS ACTION SETTLEMENT AND FAIRNESS HEARING

PLEASE READ THIS SETTLEMENT NOTICE CAREFULLY.

This is a notice of a proposed class action settlement in the above-referenced lawsuit. Your legal rights may be affected if you are a member of the following Settlement Class:

All participants and beneficiaries of the Southwest Research Institute Retirement Plan at any time on or after June 16, 2017, excluding the members of the Southwest Research Institute Retirement Plan Committee.

- The Court has given its preliminary approval to a proposed class action settlement (“Settlement”), in a lawsuit brought by a participant in the Southwest Research Institute Retirement Plan (“Plan”) against Southwest Research Institute (“Defendant”), alleging violations of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”) in relation to the management of the Plan. Defendant denies all claims, and nothing in the Settlement is an admission or concession on Defendant’s part of any fault or liability whatsoever. Defendant further maintains that it acted prudently and loyally at all times when acting in any fiduciary capacity with respect to the Plan.
- The Settlement will provide, among other things, for payment of a Gross Settlement Amount of \$500,000 (“Gross Settlement Amount”) to resolve the claims against Defendant. Class Members are eligible to receive a *pro rata* share of the Net Settlement Amount remaining after payment of any Attorneys’ Fees and Costs, Administrative Expenses, and Class Representative Compensation to the Class Representative. The Net Settlement Amount will be allocated to Settlement Class Members according to a Plan of Allocation to be approved by the Court and further described below.

- Class Members with a positive balance in the Plan as of March 11, 2024 (“Current Participants”) will automatically receive allocations directly to their Plan accounts so long as they maintain a positive balance through the time Settlement monies are distributed. Class Members who participated in the Plan during the Class Period but who do not have an Active Account in the Plan as of March 11, 2024 (“Former Participants”) will receive their settlement payment via check.
- The terms and conditions of the Settlement are set forth in the Settlement Agreement dated March 11, 2024. Capitalized terms used in this Notice but not defined in this Notice have the meanings assigned to them in the Settlement Agreement. The Settlement Agreement is available at www.settlementwebsite.com. Certain other documents also will be posted on that website. You should visit that website if you would like more information about the Settlement or the lawsuit. All papers filed in this lawsuit are also available for review via the Public Access to Court Electronic Records System (PACER), at <http://www.pacer.gov>, or by appearing in person during regular business hours at the Office of the Clerk of the United States District Court for the Western District of Texas, United States Courthouse, located at 262 West Nueva Street, San Antonio, Texas 78207.
- Your rights and the choices available to you—and the applicable deadlines to act—are explained in this Notice. Please note that neither the Defendant nor any employees, attorneys, or representatives of the Defendant may advise you as to what the best choice is for you or how you should proceed.
- The Court still has to decide whether to give its final approval to the Settlement. Payments under the Settlement will be made only if the Court finally approves the Settlement, and that final approval is upheld in the event of any appeal.
- A Fairness Hearing will take place on [DATE], at [TIME], before the Honorable Xavier Rodriguez, in Courtroom 1 of the United States Courthouse located at 262 West Nueva Street, San Antonio, Texas 78207, to determine whether to grant final approval of the Settlement and approve the requested Attorneys’ Fees and Costs, Administrative Expenses, and Class Representative Compensation. If the Fairness Hearing is rescheduled, or if it is held by video conference or telephone, a notice will be posted on the Settlement Website at www.settlementwebsite.com.
- Any objections to the Settlement, or to the requested Attorneys’ Fees and Costs, Administrative Expenses, or Class Representative Compensation, must be served in writing on Class Counsel and the Defendant’ Counsel, as identified on page 7 of this Settlement Notice, at least 28 calendar days before the Fairness Hearing.

YOUR LEGAL RIGHTS AND OPTIONS UNDER THE SETTLEMENT:	
OUR RECORDS INDICATE YOU ARE A <u>CURRENT PARTICIPANT</u>. IF SO, YOU DO NOT NEED TO DO ANYTHING TO RECEIVE YOUR SHARE OF THE SETTLEMENT.	Our records indicate that you are a Current Participant. You do not need to do anything to receive your share of the Net Settlement Amount. If, however, you are a Former Participant who no longer has a Plan account with a positive balance, or are the Beneficiary or Alternate Payee of a Former Participant, then the Settlement Administrator will mail you a check for your share of the Net Settlement Amount to your last known address. You may contact the Settlement Administrator to confirm or update your mailing address. The Settlement Administrator may be contacted by phone at [telephone number] or by mail at [mailing address].
YOU CAN OBJECT (NO LATER THAN [DATE])	You cannot opt out of this Settlement. But, if you wish to object to any part of the Settlement, or to the requested Attorneys' Fees and Costs, Administrative Expenses, or Class Representative Compensation, you may do so. You must submit your objection and any supporting documents to Class Counsel and the Defendant's Counsel (as identified on page 7 below) at least 28 calendar days before the Fairness Hearing.
YOU CAN ATTEND A HEARING ON [DATE]	You may also attend the Fairness Hearing and speak at the Fairness Hearing on [DATE]. Please note that you will not be permitted to make an objection to the Settlement at the hearing if you do not comply with the requirements for making objections.

The Class Action

The above-referenced lawsuit, *Drust v. Southwest Research Institute, et al.*, No. 5:23-cv-767 (W.D. TX) (the "Action" or "lawsuit"), has been pending since June 16, 2023. The Court supervising the case is the United States District Court for the Western District of Texas. The individual who brought this lawsuit is called the Class Representative, and the person that was sued is called the Defendant. The Class Representative (Mark Drust) is a current participant in the Plan. The Defendant is Southwest Research Institute. The claims in the lawsuit are described below on page 4, and additional information about them, including a copy of the operative Complaint, is available at [www.settlementwebsite.com].

The Settlement

The Settlement will provide, among other things, for a combined Gross Settlement Amount of \$500,000 to be paid to resolve the claims against the Defendant. Class Members are eligible to receive a *pro rata* share of the Net Settlement Amount remaining after payment of any Administrative Expenses, any Attorneys' Fees and Costs that the Court awards to Class Counsel, and any compensation that the Court awards to the Class Representatives. The Net Settlement Amount will be allocated to Settlement Class Members according to a Plan of Allocation to be approved by the Court and further described below.

In addition, the Settlement provides that no later than twelve months following the Settlement Effective Date, Defendant will engage and utilize the services of an independent consultant or consultants to assist with the monitoring of the Plan's investments for a period of three years from the engagement.

Statement of Attorneys' Fees and Costs, Administrative Expenses, and Class Representative Compensation Sought in the Class Action

Class Counsel has devoted substantial time and effort to investigating the facts, prosecuting the lawsuit, reviewing documents obtained from Defendant, and negotiating the Settlement. During that time, they also have advanced costs necessary to pursue the case. Class Counsel took the risk of litigation and have not been paid for any of their time or for any of these costs throughout the time this case has been pending.

Class Counsel will apply to the Court for payment of Attorneys' Fees for their work in the case. The amount of fees that Class Counsel will request will not exceed one-third of the Gross Settlement Amount (\$500,000). In addition, Class Counsel also will seek to recover their litigation costs and recoverable administrative expenses associated with the Settlement. Any Attorneys' Fees and Costs and Administrative Expenses awarded by the Court will be paid from the Gross Settlement Amount. Class Counsel also will ask the Court to approve a payment, not to exceed \$2,500, for the Class Representative who took on the risk of litigation and committed to spend the time necessary to bring the case against the Defendant to a conclusion. Any Class Representative Compensation approved by the Court will also be paid from the Gross Settlement Amount.

A full and formal application for Attorneys' Fees and Costs, Administrative Expenses, and Class Representative Compensation will be filed with the Court on or before [DATE]. This application will be made available at [www.settlementwebsite.com]. You may also obtain a copy of this application through the Public Access to Court Electronic Records System (PACER) at <http://www.pacer.gov>, or by appearing in person during regular business hours at the Office of the Clerk of the United States District Court for the Western District of Texas, United States Courthouse, located at 262 West Nueva Street, San Antonio, Texas 78207.

1. Why Did I Receive This Settlement Notice?

The Settlement Administrator has caused this Notice to be sent to you because its records indicate that you may be a Current Participant Class Member. If you fall within the definition of the Settlement Class, you have a right to know about the Settlement and about all the options available to you before the Court decides whether to give its final approval to the Settlement.

2. What Is the Class Action About?

In the Class Action, the Class Representative claims that the Defendant breached the duty of prudence by failing to prudently select and monitor the Plan's investments and remove imprudent investments. A more complete description of Plaintiff's allegations is in the Complaint, which is available on the Settlement Website at [www.settlementwebsite.com].

Defendant has denied and continues to deny liability as to all claims and asserts that it has always acted prudently and in keeping with its fiduciary duties under ERISA.

3. Why Is There A Settlement?

The Court has not reached a final decision as to the claims. Instead, the Class Representative and the Defendant have agreed to the Settlement. The Settlement is the product of arm's-length negotiations between the Class Representative, the Defendant, and their counsel. The parties to the Settlement have taken into account the uncertainty, risks, and costs of litigation, and have concluded that it is desirable to settle on the terms and conditions set forth in the Settlement

Agreement. The Class Representative and Class Counsel believe that the Settlement is best for the Settlement Class. Nothing in the Settlement Agreement is an admission or concession on the Defendant's part of any fault or liability whatsoever. They have entered into the Settlement Agreement to avoid the uncertainty, expense, and burden of additional litigation.

4. What Does the Settlement Provide?

As part of the Settlement, a Gross Settlement Amount of \$500,000 is being paid to resolve the claims in the Action. Class Members are eligible to receive a *pro rata* share of the Net Settlement Amount remaining after payment of Administrative Expenses, any Attorneys' Fees and Costs that the Court awards to Class Counsel, and any compensation that the Court awards to the Class Representative. Allocations to Current Participants who are entitled to a distribution under the Plan of Allocation will be made into their existing accounts in the Plan. Former Participants who are entitled to a distribution will receive their distribution as a check sent to their last known address.

In addition, the Settlement provides that no later than twelve months following the Settlement Effective Date, Defendant will engage and utilize the services of an independent consultant or consultants to assist with the monitoring of the Plan's investments for a period of three years from the engagement.

In exchange for the foregoing monetary and prospective relief, all Settlement Class Members and anyone claiming through them will fully release the Defendant and other Released Parties from the Released Claims, as defined in the Settlement Agreement, which is available at www.settlementwebsite.com. Generally, the release means that Class Members will not have the right to sue the Plan, Defendant, or related parties for conduct during the Class Period arising out of or related to the allegations in the Action.

5. How Much Will My Distribution Be?

The amount, if any, that will be allocated to you will be based upon records maintained by the Plan's recordkeeper. Calculations regarding individual distributions will be performed by the Settlement Administrator, whose determinations will be final and binding, pursuant to the Court-approved Plan of Allocation.

To receive a distribution from the Net Settlement Amount, you must either be a (1) "Current Participant" as described on page 2; or (2) a "Former Participant" as described on page 2; or (3) a Beneficiary or Alternate Payee of a person identified in (1) or (2).

There are approximately 7,840 Settlement Class Members. The Net Settlement Amount will be divided *pro rata* among Settlement Class Members (and eligible Beneficiaries and Alternate Payees) based on their Average Account Balance during the Class Period in relation to other Class Members. To calculate the Average Account Balance, the Settlement Administrator will review Class Members' account balances in the Plan for each quarter during the Class Period. A Class Member's Average Account Balance shall be the average of the quarterly scores during the Class Period, weighted to account for partial quarters.

A more complete description regarding the Plan of Allocation can be found in Article 6 of the Settlement Agreement, available at www.settlementwebsite.com.

6. How Can I Receive My Distribution?

According to our records, you are a Current Participant. Therefore, you do not need to do anything to receive your share of the Net Settlement Amount. You will automatically receive your distribution directly to your Plan account so long as you maintain a positive balance through

the time Settlement monies are distributed.

If you are considered a Current Participant because you had a Plan account with a balance greater than \$0.00 as of March 11, 2024, but it is determined that you no longer have a Plan account balance greater than \$0.00 when the Settlement proceeds are distributed to Settlement Class Members, the Settlement Administrator will mail you a check for your share of the Net Settlement Amount to your last known address. You may contact the Settlement Administrator to confirm or update your mailing address. The Settlement Administrator may be contacted by phone at [telephone number] or by mail at [mailing address].

7. When Will I Receive My Distribution?

The timing of the distribution of the Net Settlement Amount is conditioned on several matters, including the Court's final approval of the Settlement and any approval becoming final and no longer subject to any appeals in any court. An appeal of the final approval order may take several years. If the Settlement is approved by the Court and there are no appeals, the Settlement distribution likely will occur within approximately six months of the Court's Final Approval Order, unless there are unforeseen circumstances. There will be no payments under the Settlement if the Settlement Agreement is terminated.

8. Can I Get Out of The Settlement?

No. The Settlement Class has been certified for settlement purposes under Federal Rule of Civil Procedure 23(b)(1). Therefore, as a Settlement Class Member, you are bound by the Settlement (if it receives final Court approval) and any judgments or orders that are entered in the Action. If you wish to object to any part of the Settlement, you may write to Class Counsel and the Defendant's Counsel about why you object to the Settlement, as discussed below.

9. Who Represents the Settlement Class?

For purposes of the Settlement, the Court has appointed Nichols Kaster, PLLP as Class Counsel in the Class Action. If you want to be represented by your own lawyer, you may hire one at your own expense. In addition, the Court appointed Mark Drust (the named Plaintiff) to serve as the Class Representative. He is also a Class Member.

10. How Will the Lawyers Be Paid?

Class Counsel will file a motion for an award of Attorneys' Fees and Costs, Administrative Expenses, and Class Representative Compensation at least 30 days prior to the objection deadline. This motion will be considered at the Fairness Hearing. Class Counsel will limit their application for attorneys' fees to not more than one-third of the Gross Settlement Amount. Class Counsel also will seek to recover all actual and anticipated litigation costs and recoverable administrative expenses associated with the Settlement. In addition, Class Counsel will seek compensation for the Class Representative of no more than \$2,500. The Court will determine the amount of Attorneys' Fees and Costs, Administrative Expenses, and Class Representative Compensation that will be awarded, if any. Class Counsel's motion for Attorneys' Fees and Costs, Administrative Expenses, and Class Representative Compensation, will be posted on the Settlement Website at www.settlementwebsite.com, will also be available for review via the Public Access to Court Electronic Records System (PACER), at <http://www.pacer.gov>, and can be obtained in person during regular business hours at the Office of the Clerk of the United States District Court for the Western District of Texas, United States Courthouse, located at 262 West Nueva Street, San Antonio, Texas 78207.

11. How Do I Tell the Court If I Don't Like the Settlement?

If you are a Settlement Class Member, you can object to the Settlement by mailing a written objection to Class Counsel and to the Defendant's Counsel (as identified below) that explains why you object.

Your written objection must: (1) clearly identify the case name and number: *Drust v. Southwest Research Institute, et al.*, No. 5:23-cv-767 (W.D. TX); (2) include your full name, current address, and telephone number; (3) describe the basis for your objection; and (4) include your signature.

Your written objection and supporting documents must be personally delivered, or sent by U.S. mail or courier, to Class Counsel and the Defendant's Counsel as set forth below **no later than 28 days prior to Fairness Hearing** to be considered. Class Counsel and the Defendant will have an opportunity to respond to your objection.

CLASS COUNSEL	DEFENDANT'S COUNSEL
Brock Specht Paul Lukas Ben Bauer NICHOLS KASTER, PLLP 4700 IDS Center 80 South 8th Street Minneapolis, MN 55402	Jeremy Blumenfeld MORGAN, LEWIS & BOCKIUS LLP 1701 Market Street Philadelphia, PA 19103

12. When and Where Will the Court Decide Whether to Approve the Settlement?

The Court will hold a Fairness Hearing at [TIME] on [DATE], at the United States District Court for the Western District of Texas, United States Courthouse, located at 262 West Nueva Street, San Antonio, Texas 78207, in Courtroom 1. At the Fairness Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court also will consider the motion for Attorneys' Fees and Costs, Administrative Expenses, and Class Representative Compensation. If there are objections, the Court will consider them then. Please note that if the Fairness Hearing is rescheduled, or if it is held by video conference or telephone, a notice will be posted on the Settlement Website at www.settlementwebsite.com.

13. Do I Have to Attend the Fairness Hearing?

No, but you are welcome to come at your own expense. You may also make an appearance through an attorney. If you send an objection, you do not have to come to the Court to talk about it. As long as you mailed your written objection on time, the Court will consider it.

14. May I Speak at The Fairness Hearing?

Yes, but you must comply with the requirements for making an objection (described above) if you wish to object to the Settlement. If you do not comply with the requirements for making an objection, you will not be permitted to object at the Fairness Hearing.

15. What Happens If I Do Nothing at All?

If you are a "Current Participant" as described on page 2, and you do nothing, you will receive your *pro rata* share of the Net Settlement Amount as a deposit to your Plan account

if the Settlement is finally approved. If you are a “Former Participant” as described on page 2, and you do nothing, and the Settlement is finally approved, you will receive your *pro rata* share of the Net Settlement Amount via check.

16. How Do I Get More Information?

If you have questions regarding the Settlement, you can visit [www.settlementwebsite.com], call [[phone number](#)], or write to the Settlement Administrator at [[mailing address](#)]. All papers filed in this lawsuit are also available for review via the Public Access to Court Electronic Records System (PACER), at <http://www.pacer.gov>, or by appearing in person during regular business hours at the Office of the Clerk of the United States District Court for the Western District of Texas, United States Courthouse, located at 262 West Nueva Street, San Antonio, Texas 78207. Please note that neither the Defendant nor any employees, attorneys, or representatives of the Defendant may advise you regarding the Settlement or how you should proceed.

EXHIBIT 4

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

<p>Mark Drust individually and as a representative of a class of similarly situated persons, and on behalf of the Southwest Research Institute Retirement Plan</p> <p style="text-align:center">Plaintiff,</p> <p style="text-align:center">v.</p> <p>Southwest Research Institute, and John Does 1-20,</p> <p style="text-align:center">Defendant.</p>	<p style="text-align:center">Civil Case No. 5:23-cv-767-XR</p>
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NOTICE OF CLASS ACTION SETTLEMENT AND FAIRNESS HEARING

PLEASE READ THIS SETTLEMENT NOTICE CAREFULLY.

This is a notice of a proposed class action settlement in the above-referenced lawsuit. Your legal rights may be affected if you are a member of the following Settlement Class:

All participants and beneficiaries of the Southwest Research Institute Retirement Plan at any time on or after June 16, 2017, excluding the members of the Southwest Research Institute Retirement Plan Committee.

- The Court has given its preliminary approval to a proposed class action settlement (“Settlement”), in a lawsuit brought by certain participants in the Southwest Research Institute Retirement Plan (“Plan”) against Southwest Research Institute (“Defendant”), alleging violations of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”) in relation to the management of the Plan. Defendant denies all claims, and nothing in the Settlement is an admission or concession on Defendant’s part of any fault or liability whatsoever. Defendant further maintains that it acted prudently and loyally at all times when acting in any fiduciary capacity with respect to the Plan.
- The Settlement will provide, among other things, for payment of a Gross Settlement Amount of \$500,000 (“Gross Settlement Amount”) to resolve the claims against Defendant. Class Members are eligible to receive a *pro rata* share of the Net Settlement Amount remaining after payment of any Attorneys’ Fees and Costs, Administrative Expenses, and Class Representative Compensation to the Class Representative. The Net Settlement Amount will be allocated to Settlement Class Members according to a Plan of Allocation to be approved by the Court and further described below.

- Class Members with a positive balance in the Plan as of March 11, 2024 (“Current Participants”) will automatically receive allocations directly to their Plan accounts so long as they maintain a positive balance through the time Settlement monies are distributed. Class Members who participated in the Plan during the Class Period but who do not have an Active Account in the Plan as of March 11, 2024 (“Former Participants”) will receive their settlement payment via check.
- The terms and conditions of the Settlement are set forth in the Settlement Agreement dated March 11, 2024. Capitalized terms used in this Notice but not defined in this Notice have the meanings assigned to them in the Settlement Agreement. The Settlement Agreement is available at [\[www.settlementwebsite.com\]](http://www.settlementwebsite.com). Certain other documents also will be posted on that website. You should visit that website if you would like more information about the Settlement or the lawsuit. All papers filed in this lawsuit are also available for review via the Public Access to Court Electronic Records System (PACER), at <http://www.pacer.gov>, or by appearing in person during regular business hours at the Office of the Clerk of the United States District Court for the Western District of Texas, United States Courthouse, located at 262 West Nueva Street, San Antonio, Texas 78207.
- Your rights and the choices available to you—and the applicable deadlines to act—are explained in this Notice. Please note that neither the Defendant nor any employees, attorneys, or representatives of the Defendant may advise you as to what the best choice is for you or how you should proceed.
- The Court still has to decide whether to give its final approval to the Settlement. Payments under the Settlement will be made only if the Court finally approves the Settlement, and that final approval is upheld in the event of any appeal.
- A Fairness Hearing will take place on [\[DATE\]](#), at [\[TIME\]](#), before the Honorable Xavier Rodriguez, in [Courtroom 1](#) of the United States Courthouse located at 262 West Nueva Street, San Antonio, Texas 78207, to determine whether to grant final approval of the Settlement and approve the requested Attorneys’ Fees and Costs, Administrative Expenses, and Class Representative Compensation. If the Fairness Hearing is rescheduled, or if it is held by video conference or telephone, a notice will be posted on the Settlement Website at [\[www.settlementwebsite.com\]](http://www.settlementwebsite.com).
- Any objections to the Settlement, or to the requested Attorneys’ Fees and Costs, Administrative Expenses, or Class Representative Compensation, must be served in writing on Class Counsel and the Defendant’ Counsel, as identified on page 7 of this Settlement Notice, at least 28 calendar days before the Fairness Hearing.

YOUR LEGAL RIGHTS AND OPTIONS UNDER THE SETTLEMENT:	
OUR RECORDS INDICATE YOU ARE A <u>FORMER PARTICIPANT</u>. IF SO, YOU DO NOT NEED TO DO ANYTHING TO RECEIVE YOUR SHARE OF THE SETTLEMENT.	Our records indicate that you are a Former Participant. You do not need to do anything to receive your share of the Net Settlement Amount. The Settlement Administrator will mail you a check for your share of the Net Settlement Amount to your last known address. You may contact the Settlement Administrator to confirm or update your mailing address. The Settlement Administrator may be contacted by phone at [telephone number] or by mail at [mailing address] .
YOU CAN OBJECT (NO LATER THAN [DATE])	You cannot opt out of this Settlement. But, if you wish to object to any part of the Settlement, or to the requested Attorneys' Fees and Costs, Administrative Expenses, or Class Representative Compensation, you may do so. You must submit your objection and any supporting documents to Class Counsel and the Defendant's Counsel (as identified on page 7 below) at least 28 calendar days before the Fairness Hearing.
YOU CAN ATTEND A HEARING ON [DATE]	You may also attend the Fairness Hearing and speak at the Fairness Hearing on [DATE] . Please note that you will not be permitted to make an objection to the Settlement at the hearing if you do not comply with the requirements for making objections.

The Class Action

The above-referenced lawsuit, *Drust v. Southwest Research Institute, et al.*, No. 5:23-cv-767 (W.D. TX) (the "Action" or "lawsuit"), has been pending since June 16, 2023. The Court supervising the case is the United States District Court for the Western District of Texas. The individual who brought this lawsuit is called the Class Representative, and the person that was sued is called the Defendant. The Class Representative (Mark Drust) is a current participant in the Plan. The Defendant is Southwest Research Institute. The claims in the lawsuit are described below on page 4, and additional information about them, including a copy of the operative Amended Complaint, is available at **[www.settlementwebsite.com]**.

The Settlement

The Settlement will provide, among other things, for a combined Gross Settlement Amount of \$500,000 to be paid to resolve the claims against the Defendant. Class Members are eligible to receive a *pro rata* share of the Net Settlement Amount remaining after payment of any Administrative Expenses, any Attorneys' Fees and Costs that the Court awards to Class Counsel, and any compensation that the Court awards to the Class Representative. The Net Settlement Amount will be allocated to Settlement Class Members according to a Plan of Allocation to be approved by the Court and further described below.

In addition, the Settlement provides that no later than twelve months following the Settlement Effective Date, Defendant will engage and utilize the services of an independent consultant or consultants to assist with the monitoring of the Plan's investments for a period of three years from the engagement.

Statement of Attorneys' Fees and Costs, Administrative Expenses, and Class Representative Compensation Sought in the Class Action

Class Counsel has devoted substantial time and effort to investigating the facts, prosecuting the lawsuit, reviewing documents obtained from Defendant, and negotiating the Settlement. During that time, they also have advanced costs necessary to pursue the case. Class Counsel took the risk of litigation and have not been paid for any of their time or for any of these costs throughout the time this case has been pending.

Class Counsel will apply to the Court for payment of Attorneys' Fees for their work in the case. The amount of fees that Class Counsel will request will not exceed one-third of the Gross Settlement Amount (\$500,000). In addition, Class Counsel also will seek to recover their litigation costs and recoverable administrative expenses associated with the Settlement. Any Attorneys' Fees and Costs and Administrative Expenses awarded by the Court will be paid from the Gross Settlement Amount. Class Counsel also will ask the Court to approve a payment, not to exceed \$2,500, for the Class Representatives who took on the risk of litigation and committed to spend the time necessary to bring the case against the Defendant to a conclusion. Any Class Representative Compensation approved by the Court will also be paid from the Gross Settlement Amount.

A full and formal application for Attorneys' Fees and Costs, Administrative Expenses, and Class Representative Compensation will be filed with the Court on or before [DATE]. This application will be made available at [www.settlementwebsite.com]. You may also obtain a copy of this application through the Public Access to Court Electronic Records System (PACER) at <http://www.pacer.gov>, or by appearing in person during regular business hours at the Office of the Clerk of the United States District Court for the Western District of Texas, United States Courthouse, located at 262 West Nueva Street, San Antonio, Texas 78207.

1. Why Did I Receive This Settlement Notice?

The Settlement Administrator has caused this Notice to be sent to you because its records indicate that you may be a Former Participant Class Member. If you fall within the definition of the Settlement Class, you have a right to know about the Settlement and about all of the options available to you before the Court decides whether to give its final approval to the Settlement.

2. What Is the Class Action About?

In the Class Action, the Class Representative claims that the Defendant breached the duty of prudence by failing to prudently select and monitor the Plan's investments and remove imprudent investments. A more complete description of Plaintiff's allegations is in the Complaint, which is available on the Settlement Website at [www.settlementwebsite.com].

Defendant has denied and continues to deny liability as to all claims and asserts that it has always acted prudently and in keeping with its fiduciary duties under ERISA.

3. Why Is There A Settlement?

The Court has not reached a final decision as to the claims. Instead, the Class Representative and the Defendant have agreed to the Settlement. The Settlement is the product of arm's-length negotiations between the Class Representative, the Defendant, and their counsel. The parties to the Settlement have taken into account the uncertainty, risks, and costs of litigation, and have concluded that it is desirable to settle on the terms and conditions set forth in the Settlement Agreement. The Class Representative and Class Counsel believe that the Settlement is best for the

Settlement Class. Nothing in the Settlement Agreement is an admission or concession on the Defendant's part of any fault or liability whatsoever. They have entered into the Settlement Agreement to avoid the uncertainty, expense, and burden of additional litigation.

4. What Does the Settlement Provide?

As part of the Settlement, a Gross Settlement Amount of \$500,000 is being paid to resolve the claims in the Action. Class Members are eligible to receive a *pro rata* share of the Net Settlement Amount remaining after payment of Administrative Expenses, any Attorneys' Fees and Costs that the Court awards to Class Counsel, and any compensation that the Court awards to the Class Representative. Allocations to Current Participants who are entitled to a distribution under the Plan of Allocation will be made into their existing accounts in the Plan. Former Participants who are entitled to a distribution will receive their distribution as a check sent to their last known address.

In addition, the Settlement provides that no later than twelve months following the Settlement Effective Date, Defendant will engage and utilize the services of an independent consultant or consultants to assist with the monitoring of the Plan's investments for a period of three years from the engagement.

In exchange for the foregoing monetary and prospective relief, all Settlement Class Members and anyone claiming through them will fully release the Defendant and other Released Parties from the Released Claims, as defined in the Settlement Agreement, which is available at www.settlementwebsite.com. Generally, the release means that Class Members will not have the right to sue the Plan, Defendant, or related parties for conduct during the Class Period arising out of or related to the allegations in the Action.

5. How Much Will My Distribution Be?

The amount, if any, that will be allocated to you will be based upon records maintained by the Plan's recordkeeper. Calculations regarding individual distributions will be performed by the Settlement Administrator, whose determinations will be final and binding, pursuant to the Court-approved Plan of Allocation.

To receive a distribution from the Net Settlement Amount, you must either be a (1) "Current Participant" as described on page 2; or (2) a "Former Participant" as described on page 2; or (3) a Beneficiary or Alternate Payee of a person identified in (1) or (2).

There are approximately 7,840 Settlement Class Members. The Net Settlement Amount will be divided *pro rata* among Settlement Class Members (and eligible Beneficiaries and Alternate Payees) based on their Average Account Balance during the Class Period in relation to other Class Members. To calculate the Average Account Balance, the Settlement Administrator will review Class Members' account balances in the Plan for each quarter during the Class Period. A Class Member's Average Account Balance shall be the average of the quarterly scores during the Class Period, weighted to account for partial quarters.

A more complete description regarding the Plan of Allocation can be found in Article 6 of the Settlement Agreement, available at www.settlementwebsite.com.

6. How Can I Receive My Distribution?

According to our records, you are a Former Participant. Therefore, you do not need to do anything to receive your share of the Net Settlement Amount. The Settlement Administrator will mail you a check for your share of the Net Settlement Amount to your last known address.

You may contact the Settlement Administrator to confirm or update your mailing address. The Settlement Administrator may be contacted by phone at [telephone number] or by mail at [mailing address].

7. When Will I Receive My Distribution?

The timing of the distribution of the Net Settlement Amount is conditioned on several matters, including the Court's final approval of the Settlement and any approval becoming final and no longer subject to any appeals in any court. An appeal of the final approval order may take several years. If the Settlement is approved by the Court and there are no appeals, the Settlement distribution likely will occur within approximately six months of the Court's Final Approval Order, unless there are unforeseen circumstances. There will be no payments under the Settlement if the Settlement Agreement is terminated.

8. Can I Get Out of The Settlement?

No. The Settlement Class has been certified for settlement purposes under Federal Rule of Civil Procedure 23(b)(1). Therefore, as a Settlement Class Member, you are bound by the Settlement (if it receives final Court approval) and any judgments or orders that are entered in the Action. If you wish to object to any part of the Settlement, you may write to Class Counsel and the Defendant's Counsel about why you object to the Settlement, as discussed below.

9. Who Represents the Settlement Class?

For purposes of the Settlement, the Court has appointed Nichols Kaster, PLLP as Class Counsel in the Class Action. If you want to be represented by your own lawyer, you may hire one at your own expense. In addition, the Court appointed Mark Drust (the named Plaintiff) to serve as the Class Representative. He is also a Class Member.

10. How Will the Lawyers Be Paid?

Class Counsel will file a motion for an award of Attorneys' Fees and Costs, Administrative Expenses, and Class Representative Compensation at least 30 days prior to the objection deadline. This motion will be considered at the Fairness Hearing. Class Counsel will limit their application for attorneys' fees to not more than one-third of the Gross Settlement Amount. Class Counsel also will seek to recover all actual and anticipated litigation costs and recoverable administrative expenses associated with the Settlement. In addition, Class Counsel will seek compensation for the Class Representative of no more than \$2,500. The Court will determine the amount of Attorneys' Fees and Costs, Administrative Expenses, and Class Representative Compensation that will be awarded, if any. Class Counsel's motion for Attorneys' Fees and Costs, Administrative Expenses, and Class Representative Compensation, will be posted on the Settlement Website at www.settlementwebsite.com, will also be available for review via the Public Access to Court Electronic Records System (PACER), at <http://www.pacer.gov>, and can be obtained in person during regular business hours at the Office of the Clerk of the United States District Court for the Western District of Texas, United States Courthouse, located at 262 West Nueva Street, San Antonio, Texas 78207.

11. How Do I Tell the Court If I Don't Like the Settlement?

If you are a Settlement Class Member, you can object to the Settlement by mailing a written objection to Class Counsel and to the Defendant's Counsel (as identified below) that explains why you object.

Your written objection must: (1) clearly identify the case name and number: *Drust v. Southwest Research Institute, et al.*, No. 5:23-cv-767 (W.D. TX); (2) include your full name, current address, and telephone number; (3) describe the basis for your objection; and (4) include your signature.

Your written objection and supporting documents must be personally delivered, or sent by U.S. mail or courier, to Class Counsel and the Defendant’s Counsel as set forth below **no later than [28 days prior to Fairness Hearing]** to be considered. Class Counsel and the Defendant will have an opportunity to respond to your objection.

CLASS COUNSEL	DEFENDANT’S COUNSEL
<p style="text-align: center;">Brock Specht Paul Lukas Ben Bauer NICHOLS KASTER, PLLP 4700 IDS Center 80 South 8th Street Minneapolis, MN 55402</p>	<p style="text-align: center;">Jeremy Blumenfeld MORGAN, LEWIS & BOCKIUS LLP 1701 Market Street Philadelphia, PA 19103</p>

12. When and Where Will the Court Decide Whether to Approve the Settlement?

The Court will hold a Fairness Hearing at [TIME] on [DATE], at the United States District Court for the Western District of Texas, United States Courthouse, located at 262 West Nueva Street, San Antonio, Texas 78207, in **Courtroom 1**. At the Fairness Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court also will consider the motion for Attorneys’ Fees and Costs, Administrative Expenses, and Class Representative Compensation. If there are objections, the Court will consider them then. Please note that if the Fairness Hearing is rescheduled, or if it is held by video conference or telephone, a notice will be posted on the Settlement Website at www.settlementwebsite.com.

13. Do I Have to Attend the Fairness Hearing?

No, but you are welcome to come at your own expense. You may also make an appearance through an attorney. If you send an objection, you do not have to come to the Court to talk about it. As long as you mailed your written objection on time, the Court will consider it.

14. May I Speak at The Fairness Hearing?

Yes, but you must comply with the requirements for making an objection (described above) if you wish to object to the Settlement. If you do not comply with the requirements for making an objection, you will not be permitted to object at the Fairness Hearing.

15. What Happens If I Do Nothing at All?

If you are a “Former Participant” as described on page 2, and you do nothing, and the Settlement is finally approved, you will receive your *pro rata* share of the Net Settlement Amount via check. If you are a “Current Participant” as described on page 2, and you do nothing, you will receive your *pro rata* share of the Net Settlement Amount as a deposit to your Plan account if the Settlement is finally approved.

16. How Do I Get More Information?

If you have questions regarding the Settlement, you can visit [www.settlementwebsite.com], call [[phone number](#)], or write to the Settlement Administrator at [[mailing address](#)]. All papers filed in this lawsuit are also available for review via the Public Access to Court Electronic Records System (PACER), at <http://www.pacer.gov>, or by appearing in person during regular business hours at the Office of the Clerk of the United States District Court for the Western District of Texas, United States Courthouse, located at 262 West Nueva Street, San Antonio, Texas 78207. Please note that neither the Defendant nor any employees, attorneys, or representatives of the Defendant may advise you regarding the Settlement or how you should proceed.

EXHIBIT 5

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

Mark Drust individually and as a
representative of a class of similarly situated
persons, and on behalf of the Southwest
Research Institute Retirement Plan

Plaintiff,

v.

Southwest Research Institute, and John Does
1-20,

Defendants.

Civil Case No. 5:23-cv-767-XR

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

This litigation arose out of claims of alleged breaches of fiduciary duties in violation of the Employee Retirement Income Security Act of 1974 (“ERISA”), asserted against Defendant Southwest Research Institute in connection with the management of the Southwest Research Institute Retirement Plan (“Plan”).

Presented to the Court for preliminary approval is a settlement of the litigation as against Defendant. The terms of the Settlement are set out in a Class Action Settlement Agreement dated March 11, 2024, executed by Class Counsel and Defendant’s Counsel. Except as otherwise defined herein, all capitalized terms used herein shall have the same meaning as ascribed to them in the Settlement Agreement.

Upon reviewing the Settlement Agreement and the papers submitted in connection with the Motion for Preliminary Approval, and good cause appearing therefore,

It is hereby ORDERED as follows:

1. Preliminary Findings Regarding Proposed Settlement: The Court preliminarily finds that it will likely be able to approve the proposal under Federal Rule of Civil Procedure 23(e)(2) and certify the class for purposes of judgment on the proposal. See Fed. R. Civ. P. 23(e)(1)(B).

- a. The Court preliminarily finds that the proposed Settlement is sufficiently fair, reasonable, and adequate to warrant sending notice of the Settlement to the Settlement Class. Specifically, it preliminarily finds that the class representative and class counsel have thus far adequately represented the class; that the proposed Settlement resulted from arm's-length negotiations by experienced and competent counsel; that the relief provided for the class is adequate, taking into account the costs, risks, and delay or trial and appeal, the effectiveness of the proposed method of distributing relief to the class, including the method of processing class-member claims, the terms of the proposed award of attorney's fees (including Class Counsels' representation that the request for fees will be no higher than one-third of the recovery), and the proposed Settlement Agreement provided to the Court, see ECF No. X, which is the only agreement among the parties; and that the proposal treats class members equitably relative to each other. Therefore, the Court finds, preliminarily, that the requirements of Rule 23(e)(2) have been met.
- b. The Court also preliminary finds that it will likely be able to certify a Settlement Class defined as: All participants and beneficiaries of the Southwest Research Institute Retirement Plan at any time from June 16, 2017, through March 11, 2024, excluding the members of the Southwest Research Institute Retirement Plan Committee. The Court preliminarily finds that proposed Settlement Class is

ascertainable from records kept by Defendant, and the class consists of more than 7,800 members, making it sufficiently numerous; that there are one or more questions of fact and/or law common to the class; that the claims of the named plaintiff are typical of the claims of the class; and that the named plaintiff will fairly and adequately protect the interests of the class. *See* Fed. R. Civ. P. 23(a). In addition, the Court preliminarily finds that prosecuting separate actions by or against individual class members would create a risk of inconsistent or varying adjudications with respect to individual class members that would establish incompatible standards of conduct for Defendant, *see* Fed. R. Civ. P. 23(b)(1)(A), or adjudications with respect to individual class members that, as a practical matter, would be dispositive of the interests of other members not parties to the individual adjudications or would substantially impair or impede their ability to protect their interests, *see* Fed. R. Civ. P. 23(b)(1)(B). The Court also preliminarily finds that Class Counsel are capable of fairly and adequately representing the interests of the Settlement Class. *See* Fed. R. Civ. P. 23(g). The Court preliminarily appoints Mark Drust as the class representative for the proposed Settlement Class, and Nichols Kaster PLLP as Class Counsel for the proposed Settlement Class.

- 2. Fairness Hearing:** A hearing will be held on [DATE/TIME] (130 days after this Order), in the United States District Court for the Western District of Texas before the undersigned United States District Judge, to determine, among other issues:
- a. Whether the Court should approve the Settlement as fair, reasonable, and adequate;
 - b. Whether the Court should enter the Final Approval Order, and

- c. Whether the Court should approve any motion for Attorneys' Fees and Costs, Administrative Expenses, and Class Representative Compensation.
3. **Settlement Administrator:** The Court approves and orders that the Settlement Administrator selected through Plaintiff's competitive bidding process will be responsible for carrying out the responsibilities set forth in the Settlement Agreement.
 - a. The Settlement Administrator shall be bound by the Confidentiality Order and any further non-disclosure or security protocol jointly required by the Settling Parties, set forth in writing to the Settlement Administrator.
 - b. The Settlement Administrator shall use the data provided by Defendant and the Plan's recordkeeper solely for the purpose of meeting its obligations as Settlement Administrator, and for no other purpose.
 - c. The Settling Parties shall have the right to approve a written protocol to be provided by the Settlement Administrator concerning how the Settlement Administrator will maintain, store, and dispose of information provided to it in order to ensure that reasonable and necessary precautions are taken to safeguard the privacy and security of such information.
4. **Class Notice:** The Settling Parties have presented to the Court the Settlement Notices, which are the proposed forms of notice regarding the Settlement for mailing to Class Members.
 - a. The Court approves the text of the Settlement Notices (the Short Form Settlement Notice and the Long Form Settlement Notice) and finds that the proposed forms and content therein fairly and adequately:
 - i. Summarize the claims asserted;

- ii. Describe the terms and effect of the Settlement;
 - iii. Notify the Settlement Class that Class Counsel will seek compensation from the Qualified Settlement Fund for Attorneys' Fees and Costs, Administrative Expenses, and Class Representative Compensation;
 - iv. Give notice to the Settlement Class of the time and place of the Fairness Hearing, and Class Members' right to appear; and
 - v. Describe how the recipients of the Class Notice may object to the Settlement, or any requested Attorneys' Fees and Costs, Administrative Expenses, or Class Representative Compensation.
- b. Under Rules 23(c)(2) and (e) of the Federal Rules of Civil Procedure, the contents of the Settlement Notices constitute the best notice practicable under the circumstances, provides due and sufficient notice of the Fairness Hearing and of the rights of all Class Members, and complies fully with the requirements of Federal Rule of Civil Procedure 23 and due process.
- c. Within forty-five (45) calendar days of the Preliminary Approval Order, the Settlement Administrator shall cause to be mailed to each Class Member a Short Form Settlement Notice to Current Participants and Former Participants. The Short Form Settlement Notice shall be sent by first-class mail, postage prepaid, to the last known address of each Class Member provided by the Plan's recordkeeper (or its designee), unless an updated address is obtained by the Settlement Administrator through its efforts to verify the last known addresses provided by the Plan's recordkeeper (or its designee).

- d. On or before the date that Short Form Settlement Notices are sent to the Settlement Class, the Settlement Administrator shall establish a Settlement Website as provided by the Settlement Agreement. The Settlement Administrator shall post a copy of the Long Form Settlement Notice on the Settlement Website.
5. **Preliminary Injunction:** A preliminary injunction appears appropriate, particularly given that the injunction would be in effect for only the limited period of time between preliminary and final approval.. Therefore, each Class Member and their respective heirs, beneficiaries, executors, administrators, estates, past and present partners, officers, directors, agents, attorneys, predecessors, successors, and assigns, is preliminarily enjoined from suing Defendant, the Plan, or the Released Parties in any action or proceeding alleging any of the Released Claims, even if any Class Member may thereafter discover facts in addition to or different from those which the Class Members or Class Counsel now know or believe to be true with respect to the Action and the Released Claims. Further, pending final determination of whether the Settlement Agreement should be approved, no Class Member may directly, through representatives, or in any other capacity, commence any action or proceeding in any court or tribunal asserting any of the Released Claims against the Defendants, the Plan, or the Released Parties.
6. **Petition for Attorneys' Fees and Costs, Administrative Expenses, or Class Representative Compensation:** Any petition by Class Counsel for attorneys' fees and costs, administrative expenses, or Class Representative compensation, and all briefs in support thereof, shall be filed at least thirty (30) days before the deadline set in the Preliminary Approval Order for objections to the proposed settlement, which may be supplemented thereafter.

7. **Objections to Settlement:** Any objections to any aspect of the Settlement shall be heard, and any papers submitted in support of said objections shall be considered, by the Court at the Fairness Hearing if they have been timely sent to Class Counsel and Defendant's Counsel. To be timely, the objection and any supporting documents must be sent to Class Counsel and Defendant's Counsel at least twenty-eight (28) calendar days prior to the scheduled Fairness Hearing.
8. **Responses to Objections and Final Approval Motion:** Any party may file a response to an objection by a Class Member at least fourteen (14) calendar days before the Fairness Hearing, and Plaintiff shall file their Final Approval Motion at least fourteen (14) calendar days before the Fairness Hearing.
9. **Continuance of Hearing:** The Court may adjourn, modify, or continue the Fairness Hearing without further direct notice to the Class Members, other than by notice via the Court's docket or the Settlement Website.
10. **CAFA Notices:** The Court approves the form of the CAFA notices attached as Exhibit 7 to the Settlement Agreement and orders that upon the mailing of the CAFA notices, Defendant shall have fulfilled its obligations under the Class Action Fairness Act, 28 U.S.C. §§1711, et seq.

IT IS SO ORDERED.

Dated: _____

Hon. Xavier Rodriguez
United States District Judge

EXHIBIT 6

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

Mark Drust individually and as a
representative of a class of similarly situated
persons, and on behalf of the Southwest
Research Institute Retirement Plan

Plaintiff,

v.

Southwest Research Institute, and John Does
1-20,

Defendants.

Civil Case No. 5:23-cv-767-XR

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

Wherefore, this ___ day of _____ 2024, upon consideration of Plaintiff’s Motion for Final Approval of the Class Action Settlement Agreement dated March 11, 2024, in the above matter, the Court hereby orders and adjudges as follows:

1. For purposes of this Final Approval Order and Judgment, except as otherwise defined herein, all capitalized terms used herein shall have the same meaning as are ascribed to them in the Settlement Agreement.

2. The Court has jurisdiction over the subject matter of this action and personal jurisdiction over all parties to the action, including all members of the Settlement Class.

3. The following Settlement Class is certified under Rule 23(b)(1) of the Federal Rules of Civil Procedure for purposes of the Settlement only:

All participants and beneficiaries of the Southwest Research Institute Retirement Plan at any time from June 16, 2017, through March 11, 2024, excluding the members of the Southwest Research Institute Retirement Plan Committee.

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

4. Under Rules 23(e)(1)(A) and (C), the Court hereby approves and confirms the Settlement and the terms therein as being fair, reasonable, and adequate to the Plan and the Class Members.

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

6. In accordance with the Court's Orders, and as reflected in the information from the Settlement Administrator, the Short Form Settlement Notices were timely distributed by first-class mail to all Class Members who could be identified with reasonable effort. The Settlement Administrator searched for updated address information for those returned as undeliverable, and re-mailed notices to those Class Members. The Settlement Administrator also timely established a Settlement Website as provided by the Settlement Agreement, and posted a copy of the Long Form Settlement Notice on the Settlement Website.

7. In addition, under the Class Action Fairness Act, 28 U.S.C. § 1711, et seq. ("CAFA"), notice was provided to the Attorneys General for each of the states in which a Class Member resides and the Attorney General of the United States.

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

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

- a. The Settlement resulted from arm's-length negotiations by experienced and competent counsel overseen by a neutral mediator.
- b. The Settlement was negotiated only after Class Counsel had received pertinent information and documents from Defendant.
- c. The Settling Parties were well positioned to evaluate the value of the Class Action.
- d. If the Settlement had not been achieved, both Plaintiff and Defendant faced the expense, risk, and uncertainty of extended litigation.
- e. The amount of the Settlement (\$500,000.00) is fair, reasonable, and adequate. The Settlement amount is within the range of reasonable settlements that would have been appropriate in this case, based on the nature of the claims, the potential recovery, the risks of litigation, and settlements that have been approved in other similar cases.
- f. The Class Representative and Class Counsel have concluded that the Settlement Agreement is fair, reasonable, and adequate.
- g. The Settlement was reviewed by an independent fiduciary, Gallagher Fiduciary Advisors, LLC, who has approved the Settlement.
- h. Class Members had the opportunity to be heard on all issues regarding the Settlement and release of claims by submitting objections to the Settlement Agreement to the Court.
- i. Out of nearly [NUMBER] Class Members, only [NUMBER] have objected to the Settlement. The relatively miniscule number of objections relative to the size of the Class supports approval of the Settlement.

10. The Motion for Final Approval of the Settlement Agreement is hereby GRANTED, the Settlement of the Class Action is APPROVED as fair, reasonable, and adequate to the Plan and the Settlement Class.
11. This Action and all Released Claims asserted therein, whether asserted by the Class Representatives on their own behalf or on behalf of the Class Members, or derivatively to secure relief for the Plan, are dismissed with prejudice, without costs to any of the Settling Parties other than as provided for in the Settlement Agreement.
12. The Plan, the Class Representative, and each Class Member and their respective heirs, beneficiaries, executors, administrators, estates, past and present partners, officers, directors, agents, attorneys, predecessors, successors, and assigns, shall be (1) conclusively deemed to have, and by operation of the Effective Approval Order shall have, fully, finally, and forever settled, released, relinquished, waived, and discharged Defendant, the Plan, and the Released Parties from all Released Claims, and (2) barred and enjoined from suing Defendant, the Plan, or the Released Parties in any action or proceeding alleging any of the Released Claims, even if any Class Member may thereafter discover facts in addition to or different from those which the Class Member or Class Counsel now know or believe to be true with respect to the Action and the Released Claims, whether or not a such Class Members actually received the Short Form Settlement Notice, whether or not such Class Members have filed an objection to the Settlement, and whether or not the objections or claims for distribution of such Class Members have been approved or allowed.
13. The Plan and each Class Member (and their respective heirs, beneficiaries, executors, administrators, estates, past and present partners, officers, directors,

agents, attorneys, predecessors, successors, and assigns) on behalf of the Plan shall be (1) conclusively deemed to have, and by operation of the Effective Approval Order shall have, fully, finally, and forever settled, released, relinquished, waived, and discharged Defendant, the Plan, and the Released Parties from all Released Claims, and (2) barred and enjoined from suing Defendant or the Released Parties in any action or proceeding alleging any of the Released Claims, even if the Plan or any Class Member on behalf of the Plan may thereafter discover facts in addition to or different from those which the Plan or Class Member now know or believe to be true with respect to the Action and the Released Claims.

14. The Class Representative and each Class Member shall release Defendant, Defendant's Counsel, Class Counsel, the Released Parties, and the Plan from any claims, liabilities, and attorneys' fees and expenses arising from the allocation of the Gross Settlement Amount or Net Settlement Amount and from all tax liability and associated penalties and interest as well as related attorneys' fees and expenses.
15. The Court finds that it has subject matter jurisdiction over the claims herein and personal jurisdiction over the Defendant and the Class Members pursuant to the provisions of ERISA, and expressly retains that jurisdiction for purposes of enforcing and interpreting this Final Approval Order and/or the Settlement Agreement.
16. The Court finds that all applicable CAFA requirements have been satisfied.
17. The Settlement Administrator shall have final authority to determine the share of the Net Settlement Amount to be allocated to each eligible Current Participant and Former Participant under the Plan of Allocation approved by the Court.

18. With respect to payments or distributions to Former Participants, all questions not resolved by the Settlement Agreement shall be resolved by the Settlement Administrator in its sole and exclusive discretion.
19. Within twenty-eight (28) calendar days following the issuance of all Settlement payments to Class Members as provided by the Plan of Allocation approved by the Court, the Settlement Administrator shall prepare and provide to Class Counsel and Defendant's Counsel a list of each person who received a Settlement payment or contribution from the Qualified Settlement Fund and the amount of such payment or contribution.
20. Upon the Settlement Effective Date, all Settling Parties, the Settlement Class, and the Plan shall be bound by the Settlement Agreement and by this Final Approval Order.

IT IS SO ORDERED.

Dated: _____

Hon. Xavier Rodriguez
United States District Judge

EXHIBIT 7

March __, 2024

VIA U.S. PRIORITY MAIL

[Name]
[Department]
[Address]

Re: *Drust, et al. v. Southwest Research Institute et al.*, Case No. 5:23-cv-00767-XR (W.D. Tex.)

Notice Pursuant to 28 U.S.C. § 1715

Dear Sir/Madam:

Pursuant to the Class Action Fairness Act of 2005 ("CAFA"), 28 U.S.C. § 1715, Defendant Southwest Research Institute "Defendant" hereby provides this Notice of a Proposed Class Action Settlement in the above matter, in keeping with the terms of a settlement agreement that was filed with the Court on March 11, 2024.

In accordance with their obligations under CAFA, Defendant encloses the following:

(1) The Complaint, any materials filed with the Complaint, and any Amended Complaints.

The Complaint filed in *Drust, et al. v. Southwest Research Institute et al.*, Case No. 5:23-cv-00767-XR (W.D. Tex.), can be found on the enclosed CD as "Exhibit A – Complaint."

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

The Court has not yet scheduled a hearing to consider preliminary approval of the settlement or a final fairness hearing regarding the settlement. If and when the Court schedules any such hearing(s), the dates of the hearing(s) and other relevant information can be found via PACER as follows: (1) enter PACER through <https://ecf.txwd.uscourts.gov/cgi-bin/ShowIndex.pl>, (2) click on "Query," (3) enter the civil case number, 5:23-cv-00767, (4) click on "Run Query," and (5) click on the link "Docket Report." Information regarding any such hearings will be found on the docket.

(3) Any proposed or final notification to class members.

The proposed class action settlement notices submitted to the Court can be found on the enclosed CD as "Exhibit B– Short Form Settlement Notice to Current Participants, Exhibit C – Short Form Settlement Notice to Former Participants, Exhibit D – Long Form Settlement Notice to Current Participants, Exhibit E – Long Form Settlement Notice to Former Participants."

(4) Any proposed or final class action settlement.

The Settlement Agreement entered into by the parties (and the accompanying exhibits) as submitted to the Court can be found on the enclosed CD as "Exhibit F – Settlement Agreement." There are no other agreements contemporaneously made between Class Counsel and Defendant's counsel.

(5) A final judgment or notice of dismissal.

Final judgment has not yet been entered. Upon entry, a copy will be available through PACER and can be accessed online through the process described in section (2) above.

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

On the enclosed CD is a list of the names of Class Members who resided in your state during the Class Period and a table providing a reasonable estimate of the number of Class Members residing in each state. The specific settlement allocation to each Class Member will be determined by the Settlement Administrator pursuant to the Plan of Allocation to be approved by the Court. The proposed Plan of Allocation is set forth in the Settlement Agreement. We do not yet know which Class Members will receive settlement proceeds or how much each Class Member will receive, and it is not feasible to determine the estimated proportionate share of the entire settlement of the claims of the Class Members who reside in each state. Upon final approval of the settlement by the court, settlement proceeds will be distributed among the Class Members according to the Plan of Allocation as set forth in the Settlement Agreement.

(7) Any written judicial opinion relating to the materials described in (3) through (5).

The Court has not yet entered an order granting preliminary approval to the settlement and has not issued any other decisions relating to the materials described in this correspondence. Upon entry, a copy of any such order or decision can be accessed via PACER using the process described in section (3) above.

Final judgment has not yet been entered. Upon entry, a copy of said judgment can be accessed via PACER using the process described in section (2) above.

If you have questions about this notice, the lawsuit, or the enclosed materials, please do not hesitate to contact me at XXX-XXX-XXX or X@morganlewis.com.

Sincerely,

Enclosures