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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

KELLY ROGERS, KATHRYN DEISINGER O'FLAHERTY, and WYNDHAM HASLER, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

ADVOCATE AURORA HEALTH, INC., the COMPENSATION COMMITTEE OF THE BOARD OF DIRECTORS OF ADVOCATE AURORA HEALTH, INC., and the ADVOCATE AURORA HEALTH, INC. NON-CHURCH BENEFIT PLAN ADMINISTRATIVE COMMITTEE,

Defendants.

Case No. 1:24-cv-8864

District Judge LaShonda A. Hunt

CLASS ACTION SETTLEMENT AND RELEASE AGREEMENT

This Class Action Settlement and Release Agreement (the "Settlement Agreement") is entered into between and among Plaintiffs, all Class Members, and Defendants (as defined below).

WHEREAS, Plaintiffs Kelly Rogers, Kathryn Deisinger O'Flaherty, and Wyndham Hasler (the "Class Representatives"), on behalf of themselves and all others similarly situated, bring this suit (the "Class Action") asserting claims under the Employee Retirement Income Security Act ("ERISA"), seeking, among other remedies, equitable and compensatory relief pursuant to 29 U.S.C. §§ 1132(a)(2) and (a)(3), including damages based on all tobacco surcharges paid by Class Members, and declaratory and injunctive relief requiring Defendants to reform their wellness program to comply with federal law, and other relief determined by the Court to be just and proper;

WHEREAS, the Third Amended Complaint alleges that Defendants imposed a discriminatory tobacco surcharge of up to $50 per paycheck (up to $1,300 annually) on participants and their dependents who use tobacco, without administering a compliant wellness program as required by ERISA and its implementing regulations, that the "Healthy Breathe" program failed to provide adequate notice of a reasonable alternative standard, denied participants the "full reward" that they claim is required by 29 C.F.R. § 2590.702(f)(4), and operated as a mechanism for Defendants to reduce their own Plan contributions at the expense of Plan participants and that these deficiencies constituted breaches of Defendants' fiduciary duties;

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WHEREAS, Defendants deny each and every allegation of wrongdoing made in the Class Action and contend that they have no liability in the Class Action, specifically deny the allegations that the Wellness Program fails to comply with ERISA, deny that they breached any fiduciary duty or any other provisions of ERISA in connection with the administration of the Plan (defined below), and further deny that they in any way failed to act prudently or loyally as to the Plan's participants and beneficiaries;

WHEREAS, Defendants maintain, among other defenses, that: (a) Plaintiffs lack Article III standing because their injuries are not traceable to the alleged deficiencies in the Wellness Program; (b) the Wellness Program complies with ERISA because it provides the "full reward" at least once per year to participants who timely enroll in the Healthy Breathe Program; (c) the Plan's disclosure of the reasonable alternative standard satisfies ERISA's notice requirements; (d) Advocate acted as a settlor, not a fiduciary, in designing the Wellness Program and setting premiums and surcharges; (e) under *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), the Department of Labor regulations requiring participation rewards for those who continue to use tobacco conflict with ERISA's statutory "adherence" requirement and are therefore invalid; and (f) the Department of Labor had issued a no-action letter to Defendants after auditing the Wellness Program;

WHEREAS, Class Counsel and Defense Counsel have thoroughly investigated the facts and analyzed legal principles applicable to the Class Action and the claims;

WHEREAS, based on their investigation of the merits of the Class Action, the course of the litigation to date, and their knowledge and experience with respect to similar ERISA litigations, include those involving tobacco cessation programs, Class Counsel believe that the Settlement will provide substantial benefits to the Settlement Class. When the benefits conferred by the Settlement are weighed against the attendant risks of continuing to prosecute the Class Action, Class Counsel believe that the Settlement represents a reasonable and fair resolution of the claims of the Settlement Class. In reaching this conclusion, Class Counsel have considered, among other things, the risks of litigation (including the risks of establishing both liability and loss to the Plan), the time necessary to achieve a final resolution through litigation and any appeals, the complexity of the claims set forth in the Class Action, the ability of Defendant to withstand judgment, and the benefits accruing to the Plan's participants under the Settlement;

WHEREAS, although Defendants have denied and continue to deny all liability with respect to the claims alleged in the Class Action, Defendants nevertheless consider it desirable that any and all possible controversies and disputes arising out of or during the Class Period that relate to the matters, transactions, and occurrences referenced in the Class Action be conclusively resolved and terminated on the terms and conditions set forth below because the Settlement and the attendant final dismissal of the Class Action will avoid the substantial expense, inconvenience, and risk of continued litigation and will bring Plaintiffs' claims and potential claims to an end;

WHEREAS, through counsel, the Parties conducted extensive arm's-length negotiations concerning a possible compromise and settlement of the Class Action, engaged in an all-day, in-person mediation with the assistance of Hon. Wayne R. Andersen (Ret.) on June 15, 2026, exchanged written and oral proposals, which included argument and analysis, and have now reached agreement on all remaining terms of the Settlement, as set forth herein, and the Settlement

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is the product of informed, good-faith, arm's-length negotiations between the Parties' experienced counsel;

NOW, THEREFORE, without any admission or concession on the part of the Class Representatives of any lack of merit of the Class Action whatsoever, and without any admission or concession on the part of Defendants as to the merits of the allegations or claims asserted in the Class Action, it is hereby STIPULATED AND AGREED, by and among the Settling Parties to this Settlement Agreement, through their respective attorneys, subject to approval of the Court pursuant to Federal Rule of Civil Procedure 23(e), in consideration of the benefits flowing to the Settling Parties hereto from the Settlement Agreement, that all Released Claims as against the Released Parties shall be compromised, settled, released, and dismissed with prejudice, upon and subject to the following terms and conditions:

ARTICLE 1 – DEFINITIONS

As used in this Settlement Agreement and the Exhibits hereto, unless otherwise defined, the following terms have the meanings specified below:

1.1. "Administrative Expenses" means expenses incurred in the administration of this Settlement Agreement, including (a) all fees, expenses, and costs associated with providing the Settlement Notice to the Class Members; (b) related tax expenses (including taxes and tax expenses as described in Section 4.4); (c) all expenses and costs associated with the distribution of funds under the Plan of Allocation; (d) all fees and expenses of the Settlement Administrator and Escrow Agent; and (e) all fees and expenses of the Independent Fiduciary. Excluded from Administrative Expenses are Defendants' internal expenses and the Settling Parties' respective legal fees and expenses. All Administrative Expenses shall be paid from the Gross Settlement Amount.

1.2. "Affiliate" means, with respect to a Person, any other Person that, directly or indirectly through one or more intermediaries, (a) Controls, is Controlled by, or is under common Control with such Person, (b) is a parent company, subsidiary, or sister entity of such Person, or (c) is or was at any relevant time an Affiliate of such Person under any of the foregoing clauses. For purposes of this definition, "Control" (including, with correlative meanings, "Controlled by" and "under common Control with") means (i) the direct or indirect ownership of more than fifty percent (50%) of the voting securities, membership interests, partnership interests, or other equity interests of a Person, (ii) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, through board composition, through the ability to appoint or remove a majority of directors or managers, or otherwise, or (iii) the power to appoint or elect a majority of the members of the governing body of a Person. The term "Affiliate" shall include both current and future Affiliates, and shall apply to all entities that have at any time satisfied the foregoing criteria, regardless of whether such relationship exists at the time any claim is asserted or any release becomes effective. "Affiliate" with respect to Advocate Aurora Health, Inc. includes but is not limited to Advocate Health, Inc., Atrium Health, Inc., The Charlotte-Mecklenburg Hospital Authority, Wake Forest University Baptist Medical Center, Navicent Health, Inc., and Floyd Healthcare Management, Inc.

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1.3. "Attorneys' Fees and Costs" means the amount awarded by the Court as compensation for (i) the services provided by Class Counsel and (ii) reimbursement of Class Counsel's reasonable, out-of-pocket litigation expenses. The amount of Attorneys' Fees and Costs for Class Counsel shall not exceed one-third of the Gross Settlement Amount and shall be recovered and deducted from the Gross Settlement Amount.

1.4. "Beneficiary" means any individual, trust, estate, or other recipient entitled to receive death benefits payable under the Plan, on either a primary or contingent basis

1.5. "CAFA" means the Class Action Fairness Act of 2005, 28 U.S.C. §§ 1711–1715.

1.6. "CAFA Notice" means notice of this proposed Settlement to the appropriate federal and state officials pursuant to CAFA, to be issued by Defendants.

1.7. "Case Contribution Awards" means the monetary amount awarded by the Court to each Class Representative in recognition of the Class Representative's assistance in the prosecution of this Class Action, for which Class Counsel may seek an amount not exceeding $7,500 per Class Representative payable from the Gross Settlement Amount. Any such Case Contribution Award shall be subject to the approval of the Court.

1.8. "Class Action" or "Action" means *Rogers v. Advocate Aurora Health, Inc.*, Case No. 1:24-cv-8864 (N.D. Ill.), including the operative Third Amended Class Action Complaint filed on October 22, 2025 (ECF No. 65).

1.9. "Class Counsel" means Oren Faircloth and Mason A. Barney of Siri & Glimstad LLP.

1.10. "Class Members" means all individuals in the Settlement Class, including the Class Representatives.

1.11. "Class Member List" includes names, dates of birth, the final four digits of social security numbers, last known primary address, and the net charges paid by each Class Member (for themselves and/or their covered spouse or covered domestic partner, as applicable) during the Class Period (the period of September 25, 2018 through December 31, 2025), for purposes of effectuating the administration of the Plan of Allocation. The information provided pursuant to this paragraph is the information as last known to Defendants at the time the data for the Class Member List was provided. The Released Parties are not responsible for the accuracy of the data provided.

1.12. "Class Period" means the period from September 25, 2018 through the December 31, 2025.

1.13. "Class Representatives" means Plaintiffs Kelly Rogers, Kathryn Deisinger O'Flaherty, and Wyndham Hasler.

1.14. "Court" means the United States District Court for the Northern District of Illinois.

1.15. "Defendants" means Advocate Aurora Health, Inc., the Compensation Committee of the Board of Directors of Advocate Aurora Health, Inc., and the Advocate Aurora Health, Inc. Non-Church Benefit Plan Administrative Committee.

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1.16. "Defense Counsel" means Gary Feinerman and Joseph B. Farrell of Latham & Watkins LLP.

1.17. "Escrow Agent" means the entity approved by the Settling Parties to act as escrow agent for any portion of the Gross Settlement Amount deposited in or accruing in the Qualified Settlement Fund pursuant to this Agreement.

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

1.19. "Final Fairness Hearing" means the hearing scheduled by the Court to consider (a) any objections by Class Members to the Settlement; (b) Class Counsel's petition for Attorneys' Fees and Costs and Class Representatives' Case Contribution Awards; and (c) whether to grant final approval of the Settlement under Fed. R. Civ. P. 23(e).

1.20. "Final" 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 initiated timely, that it has been fully and finally resolved, either by court action or by voluntary action of any party, 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 Final thirty (30) calendar days after its entry by the Court.

1.21. "Final Approval Order and Judgment" means the entry of 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 D hereto. The Parties may agree to additions or modifications to the form of the Final Approval Order and Judgment as they agree are appropriate at the time that it is submitted to the Court for final approval of the Settlement.

1.22. "Gross Settlement Amount" means the sum of $8,950,000, contributed to the Qualified Settlement Fund in accordance with Article 4. The Gross Settlement Amount shall be the full and sole monetary payment to the Settlement Class, Plaintiffs, and Class Counsel, made by or on behalf of Defendants in connection with the Settlement, effectuated through this Settlement Agreement. Neither Defendants (nor any agent or insurer thereof) will make any additional payment in connection with the Settlement of the Class Action.

1.23. "Independent Fiduciary" means the person or entity that has no relationship to any of the Settling Parties and will serve as an independent fiduciary to the Plan to approve and authorize the settlement of Released Claims on behalf of the Plan in accordance with Section 2.1.

1.24. "Mediator" means Hon. Wayne R. Andersen (Ret.) of JAMS.

1.25. "Net Settlement Amount" means the Gross Settlement Amount minus: (a) all Attorneys' Fees and Costs paid to Class Counsel as authorized by the Court; (b) all Case Contribution

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Awards as authorized by the Court; (c) all Administrative Expenses; and (d) a contingency reserve not to exceed an amount to be mutually agreed upon by the Settling Parties that is 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; and (3) an amount estimated for adjustments of data or calculation errors.

1.26. "Person" means an individual, partnership, corporation, governmental entity or any other form of entity or organization.

1.27. "Plaintiffs" means the Class Representatives and each member of the Settlement Class.

1.28. "Plan" means the Advocate Aurora Health Welfare Benefit Plan (also known as the Advocate Aurora Health Welfare Plan) and any predecessor plans, successor plans, and any trust created and attendant to all such plans.

1.29. "Plan of Allocation" means the method of allocating settlement funds to Class Members. A proposed form of the Plan of Allocation is attached hereto as Exhibit B.

1.30. "Preliminary Approval Order" means the Court Order in substantially the form attached hereto as Exhibit C, whereby the Court preliminarily approves this Settlement.

1.31. "Qualified Settlement Fund" means the interest-bearing settlement fund account to be established and maintained by the Escrow Agent in accordance with Article 4 herein and referred to as the Qualified Settlement Fund (within the meaning of Treas. Reg. § 1.468B-1).

1.32. "Released Claims" means any and all losses, damages, unjust enrichment, attorneys' fees, disgorgement, litigation costs, restitution, injunctive relief, declaration, contribution, indemnification or any other type or nature of legal or equitable relief, actions, demands, rights, obligations, liabilities, expenses, costs, and causes of action, accrued or not, whether arising under federal, state, or local law, whether by statute, contract, or equity, whether brought in an individual or representative capacity, whether accrued or not, whether known or unknown, suspected or unsuspected, foreseen or unforeseen based in whole or in part on:

1.32.1. Acts or failures to act occurring during the Class Period that arise out of or relate to the allegations, acts, omissions, facts, matters, transactions, or occurrences that gave rise to the claims in this Class Action;

1.32.2. With respect to conduct occurring during the Class Period: (i) the framework, process, implementation or collection of any tobacco surcharges by Defendants and/or by the Plan, (ii) all disclosures (or alleged lack of disclosures) related to the same, (iii) the design, administration, and operation of the Wellness Program, and (iv) alleged breaches of any fiduciary duty or the duty of care, prudence, loyalty, or any other duties under ERISA arising out of or relating to any of the foregoing;

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

1.32.4. That relate to the direction to calculate and/or the method or manner of allocation of the Qualified Settlement Fund to the Plan or any Class Member in accordance with the Plan of Allocation.

1.32.5. In addition to the Released Claims applicable to all Class Members, the Class Representatives, for themselves, their representatives, executors, administrators, trustees, successors and assigns, but not for the Class Members, hereby release and forever discharge, to the fullest extent permitted by applicable law, Released Parties from all claims of every kind (including without limitation Attorneys' fees and costs) which Class Representatives had or now may have against the Released Parties arising out of or in any way related to their employment with Advocate Aurora Health or any of its Affiliates. These claims include, but are not limited to, all claims for breach of express or implied contract or covenant of good faith and fair dealing, negligent hiring, negligent supervision, fraud, negligent misrepresentation, promissory estoppel, unjust enrichment, quantum meruit, all claims for retaliation or violation of public policy, all claims for discrimination and harassment, all claims for defamation, all claims arising under federal or state statutes, including but not limited to, Title VII of the Civil Rights Act of 1964 ("Title VII"), as amended, the Fair Labor Standards Act ("FLSA"), the Equal Pay Act, the Family and Medical Leave Act ("FMLA"), the Americans with Disabilities Act ("ADA"), the Employee Retirement Income Security Act ("ERISA"), or any other federal, state or local laws (statutory or common law) relating to employment or benefits associated with employment, claims for punitive damages, liquidated damages, emotional distress, mental anguish, and/or personal injury. To the fullest extent permitted by law, Class Representatives acknowledge and agree that included among the claims released in this Paragraph are any and all claims that have been, or may be, asserted by Class Representatives or by any other person or entity on their behalf in any class, collective, or representative action relating to Class Representatives' employment with and/or termination of employment with Advocate Aurora Health or any of its affiliates. Class Representatives further acknowledge that Advocate Aurora Health has satisfied all obligations to each of them as a matter of law, and pursuant to any policies, and that they have no additional claims against the Released Parties related to employment with and/or termination from Advocate Aurora Health or any of its affiliates. This release in this Paragraph does not apply to: (a) claims that may not be released as a matter of law; (b) claims that may arise after the date Class Representatives sign this Agreement; and (c) Class Members other than the Class Representatives.

1.32.6. The Class Representatives, Class Members, and the Plan expressly waive and relinquish, to the fullest extent permitted by law, any and all provisions, rights, and benefits conferred by Section 1542 of the California Civil Code, or any similar provision under the law of any applicable jurisdiction, which provides that: "A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release

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and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

1.33. "Released Parties" means (a) Advocate Aurora Health, Inc., the Compensation Committee of the Board of Directors of Advocate Aurora Health, Inc., the Advocate Aurora Health, Inc. Non-Church Benefit Plan Administrative Committee, the Advocate Health, Inc. Benefits Administration Committee, and any successor committee to any of the foregoing, and all of their past, present and future directors, officers, partners, members, trustees, shareholders, owners, employees, administrators, fiduciaries, representatives, agents, attorneys, insurers, assigns and Affiliates; and (b) Advocate Aurora Health, Inc.'s past and present parents, subsidiaries, predecessors, successors, and assigns and Affiliates and all of their respective past, present and future directors, officers, partners, members, trustees, shareholders, owners, employees, administrators, fiduciaries, representatives, agents, attorneys, insurers, and assigns.

1.34. "Review Proceeding" shall have the meaning set forth in Section 1.20.

1.35. "Settlement" means the settlement to be consummated under this Settlement Agreement and its exhibits, including any modifications or amendments.

1.36. "Settlement Administrator" means the entity selected and retained by Class Counsel to administer the Settlement, Plan of Allocation, and Settlement Notice.

1.37. "Settlement Agreement" means this agreement embodying the terms of the Settlement, including any modifications or amendments hereto.

1.38. "Settlement Agreement Execution Date" is the date the final signature is applied to this Settlement Agreement.

1.39. "Settlement Class" means all individuals residing in the United States who paid a tobacco or nicotine surcharge in connection with their participation in the Plan, whether for themselves and/or a dependent, including a covered spouse or covered domestic partner, during the Class Period. Excluded from the Settlement Class are Defendant's named officers and directors, named fiduciaries of the Plan, counsel for the parties, and any members of the federal judiciary assigned to the Action.

1.40. "Settlement Effective Date" means the date on which the Final Approval Order is Final, provided that by such date the Settlement has not been terminated in accordance with Article 12.

1.41. "Settlement Notice" means the Notice of Class Action Settlement and Final Fairness Hearing to be sent to Class Members identified by the Settlement Administrator following the Court's issuance of the Preliminary Approval Order, in substantially the form attached hereto as Exhibit A.

1.42. "Settlement Website" means the internet website established in accordance with Section 13.2.

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1.43. "Settling Parties" means the Defendants and the Class Representatives, on behalf of themselves and each of the Class Members.

1.44. "Transferor" means Defendants, as the "transferor" within the meaning of Treas. Reg. § 1.468B-1(d)(1).

1.45. "Wellness Program" means the Tobacco Cessation Wellness Program, the Healthy Breathe Program, and all related programs, policies, or components of Advocate Aurora Health's Healthy Living Wellness Program that impose or administer the tobacco surcharge under the Plan.

ARTICLE 2 – REVIEW AND APPROVAL BY INDEPENDENT FIDUCIARY, PRELIMINARY SETTLEMENT APPROVAL, AND NOTICE TO THE CLASS

2.1. Independent Fiduciary. Defendants shall retain, subject to Class Counsel's approval, which shall not be unreasonably withheld, an Independent Fiduciary to review and consider the Settlement on behalf of the Plan and its current fiduciary or fiduciaries and determine whether the Settlement is reasonable and fair. The Independent Fiduciary shall have the following responsibilities, including whether to approve and authorize the settlement of Released Claims on behalf of the Plan.

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

2.1.2. The Independent Fiduciary shall notify Defendants directly of its determination, in writing (with copies to Class Counsel and Defense Counsel), which notification shall be delivered no later than thirty (30) days before the Final Fairness Hearing.

2.1.3. All fees and expenses associated with the Independent Fiduciary's determination and performance of its other obligations in connection with the Settlement will constitute Administrative Expenses to be deducted from the Gross Settlement Amount and will be paid by the Settlement Administrator.

2.1.4. Defendants, Defense Counsel, and Class Counsel shall respond to reasonable requests from the Independent Fiduciary for information so that the Independent Fiduciary can review and evaluate the Settlement Agreement.

2.1.5. If Defendants conclude that the Independent Fiduciary's determination does not comply with PTE 2003-39 or is otherwise deficient, Defendants shall so inform the Independent Fiduciary within five (5) calendar days of receipt of the determination.

2.1.6. A copy of the Independent Fiduciary's determination letter and report shall be provided to Class Counsel, who may file it with the Court in support of final approval of the Settlement along with their motion for Attorneys' fees and costs.

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2.2. Preliminary Approval. As soon as reasonably practicable, and after the full execution of this Settlement Agreement by the Settling Parties, the Class Representatives, 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 C. While Defendants may not agree with all the averments of Plaintiffs' motion for preliminary approval of settlement, Defendants will support the relief sought in Plaintiffs' motion provided it is consistent with the terms and conditions of this Settlement. Class Counsel shall provide Defense Counsel the opportunity to review and comment on the motion seeking preliminary approval and any supporting memorandum before such papers are filed, and shall consider Defense Counsel's comments in good faith. The Preliminary Approval Order to be presented to the Court shall, among other things:

2.2.1. Grant the motion to certify the Settlement Class for settlement purposes only as a mandatory non-opt-out class under Fed. R. Civ. P. 23(b)(1);

2.2.2. Approve the text of the Settlement Notice for mailing to Class Members;

2.2.3. Determine that under Fed. R. Civ. P. 23(c)(2), the Settlement Notices constitute the best notice practicable under the circumstances, provide due and sufficient notice of the Final Fairness Hearing and of the rights of all Class Members, and comply fully with the requirements of Fed. R. Civ. P. 23, the Constitution of the United States, and any other applicable law;

2.2.4. Cause the Settlement Administrator to send by email and/or first-class mail the Settlement Notice to each Class Member identified by the Settlement Administrator based upon the Class Member List provided by Defendants;

2.2.5. 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 Defendants, the Released Parties, and/or the Plan;

2.2.6. Provide that the Settlement Class is certified as mandatory and that no Class Member shall have the right to opt out of the Settlement Class, and that the Settlement Notice shall not include any exclusion procedure;

2.2.7. Set the Final Fairness Hearing for no sooner than one hundred and twenty (120) days after the date the Preliminary Approval Order is filed, in order to determine whether: (a) the Court should approve the Settlement as fair, reasonable, and adequate; (b) the Court should enter the Final Approval Order; and (c) the Court should approve the application for Attorneys' Fees and Costs, Class Representatives' Case Contribution Awards, Administrative Expenses incurred to date, and a reserve for anticipated future Administrative Expenses;

2.2.8. 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 Final Fairness Hearing.

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2.2.9. Provide that no appearance is necessary at the Final Fairness Hearing if the objection is submitted in writing, is postmarked twenty-eight (28) days before the Final Fairness Hearing, and includes the following information: (1) his/her/its full name, current address, and current telephone number, and, if represented by counsel, any of his/her/its counsel's name and contact information; (2) whether the objection applies only to the objecting Class Member, to a specific subset of the Class, or to the entire Class; (3) a statement of the position(s) the objector wishes to assert; (4) copies of any other documents that the objector wishes to submit in support of his/her/its position; and (5) a list of any other objections to any class action settlements submitted in any court, whether state, federal, or otherwise, in the United States in the previous five (5) years.

2.2.10. Provide that any Class Member who files and serves a written comment or objection may also appear at the Final Fairness Hearing either in person or through qualified counsel retained at their own expense. Any comment or objection that is timely filed or postmarked will be considered by the Court even in the absence of a personal appearance by the Class Member or that Class Member's counsel.

2.2.11. Provide that the Parties may file written responses to any objections not later than five (5) business days before the Final Fairness Hearing or submit an oral response at the Final Fairness Hearing; and

2.2.12. Provide that the Final Fairness Hearing will be held in person and/or be adjourned or continued by order of the Court and that notice of the date, time, and location of the Final Fairness Hearing will be provided on the Settlement Administration Website.

2.3. Settlement Administration. Class Counsel shall retain the Settlement Administrator to assist with Class Notice and administration of the Settlement, subject to the agreement of Defendants, which agreement shall not unreasonably be withheld. Defendants and Defense Counsel shall use reasonable efforts to respond timely to written requests, including by email, from the Settlement Administrator for readily accessible data that is reasonably necessary to determine the feasibility of administering the Plan of Allocation or to implement the Plan of Allocation.

2.3.1. The Settlement Administrator must agree to be bound by any stipulated protective order regarding confidentiality agreed to by the Settling Parties and any further non-disclosure or security protocol required by the Settling Parties.

2.3.2. The Settlement Administrator shall use the data provided by Defendants solely for the purpose of meeting its obligations as Settlement Administrator, and for no other purpose.

2.3.3. At the request of the Settling Parties, the Settlement Administrator shall provide a written protocol addressing how the Settlement Administrator will maintain and store information provided to it in order to ensure that reasonable and necessary precautions are taken to safeguard the privacy and security of such information.

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2.4. Class Data for Distribution of Notice and Plan of Allocation.

2.4.1. Calculations. Defendants will use their best efforts to provide the Settlement Administrator the last known email and residential addresses of Class Members for purposes of communications contemplated by this Settlement Agreement and the net tobacco surcharges paid by each Class Member during the Class Period.

2.4.2. No later than fourteen (14) calendar days after the entry of the Preliminary Approval Order, Defendants will provide the Settlement Administrator the participant data specified in Section 1.11 of this Settlement Agreement ("Class Member List") sufficient to effectuate the Notice, implement the Plan of Allocation, and distribute the Settlement Fund.

2.5. Settlement Notice. No later than ten (10) days after receipt of the Class Member List from Defendants, the Settlement Administrator shall cause to be sent via email and/or U.S. Mail to each Class Member identified on the Class Member List a Settlement Notice in the form and manner to be approved by the Court, which shall be in substantially the form attached hereto as Exhibit A or a form subsequently agreed to by the Settling Parties and approved by the Court. The Settlement Administrator shall use commercially reasonable efforts to locate any Class Member whose Settlement Notice is returned and re-send such documents one additional time.

2.6. CAFA Notice. No later than ten (10) calendar days after the filing of the motion for preliminary approval of the Settlement, Defendants will send the CAFA Notice to the Attorney General of the United States, the Secretary of the Department of Labor, and the Attorneys General of all States and Territories in which Class Members reside, as specified by 28 U.S.C. § 1715.

ARTICLE 3 – FINAL SETTLEMENT APPROVAL

3.1. No later than forty-five (45) calendar days before the Final Fairness Hearing, Class Counsel shall submit to the Court a motion for entry of the Final Approval Order (Exhibit D) in the form approved by Class Counsel and Defense Counsel, 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 is necessary to carry out the Settlement consistent with applicable law and governing Plan documents:

3.1.1. Approval of the Settlement 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 the necessary steps to effectuate the terms of the Settlement Agreement;

3.1.2. A determination under Fed. R. Civ. P. 23(c)(2) that the Settlement Notice constitutes the best notice practicable under the circumstances and that due and sufficient notice of the Final Fairness Hearing and the rights of all Class Members has been provided;

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3.1.3. Dismissal with prejudice of the Class Action and all Released Claims asserted therein whether asserted by Class Representatives on their own behalf or on behalf of the Class Members, or on behalf of the Plan, without costs to any of the Settling Parties other than as provided for in this Settlement Agreement;

3.1.4. 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) shall be: (a) conclusively deemed to have, and by operation of the Final Approval Order shall have, fully, finally, and forever settled, released, relinquished, waived, and discharged the Released Parties from all Released Claims; and (b) barred and enjoined from suing the Released Parties in any action or proceeding alleging any of the Released Claims;

3.1.5. That each Class Member shall release the Released Parties, Defendants, Defense Counsel, and Class Counsel for 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;

3.1.6. That the foregoing releases shall apply 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 Class Action and the Released Claims, whether or not such Class Members receive a monetary benefit from the Settlement, whether or not such Class Members actually received the Settlement Notice, 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 the Class Member has timely cashed the Class Member's settlement payment, and whether or not the objections or claims for distribution of such Class Members have been approved or allowed;

3.1.7. That all applicable CAFA requirements have been satisfied;

3.1.8. That the Settlement Administrator shall have final authority to determine the share of the Net Settlement Amount to be allocated to each Class Member in accordance with the Plan of Allocation, as approved by the Court, and as administered by the Settlement Administrator;

3.1.9. That, with respect to any matters that arise concerning the implementation of distributions to Class Members who are Participants in the Plan (after allocation decisions have been made by the Settlement Administrator in its sole discretion), all questions not resolved by the Settlement Agreement shall be resolved by the Plan Administrator or other fiduciaries of the Plan, in accordance with applicable law and the governing terms of the Plan; and

3.1.10. That within thirty (30) calendar days following the issuance of all settlement payments to Class Members as provided by the Plan of Allocation approved by the

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Court, the Settlement Administrator shall prepare and provide to Class Counsel and Defense 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.

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

ARTICLE 4 – ESTABLISHMENT OF QUALIFIED SETTLEMENT FUND

4.1. No later than ten (10) business days after the Preliminary Approval Order is issued, the Settlement Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund under U.S. Treasury Regulation § 468B-1 and as described in the Internal Revenue Code of 1986, as amended ("QSF"). The Settlement Administrator shall serve as Trustee of the QSF and shall act as a fiduciary with respect to the handling, management, and distribution of the QSF. The Settlement Administrator shall be liable and responsible for compliance with all applicable laws concerning the handling, management, and distribution of the QSF.

4.2. The Settlement Administrator shall timely make such elections as necessary or advisable to carry out the provisions of this subsection, 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 Settlement Administrator to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur.

4.3. For the purpose of Treasury Regulation § 1.468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the "administrator" shall be the Settlement Administrator. The Settlement Administrator shall timely and properly file all informational and other tax returns necessary or advisable with respect to the Settlement Fund (including, without limitation, the returns described in Treas. Reg. § 1.468B-2(k)). Such returns shall be consistent with this Subsection and in all events shall reflect that all Taxes (including any estimated Taxes, interest or penalties) on the income earned by the Settlement Fund shall be paid out of the respective settlement fund as provided herein.

4.4. All (a) Taxes (including any estimated Taxes, interest or penalties) arising with respect to the income earned by the Settlement Fund, including any Taxes or tax detriments that may be imposed upon the Released Parties with respect to any income earned by the Settlement Fund for any period during which the Settlement Fund does not qualify as a "qualified settlement fund" for federal or state income tax purposes ("Taxes"), and (b) expenses and costs incurred in connection with the operation and implementation of this Subsection, 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 ("Tax Expenses"), shall be paid out of the respective settlement fund for which the income was earned or expense or cost incurred; in no event shall the Released Parties, Defense Counsel,

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and/or Class Counsel have any responsibility for or liability with respect to the Taxes or the Tax Expenses. The Settlement Administrator shall indemnify and hold the Released Parties, Defense Counsel, and/or Class Counsel harmless for Taxes and Tax Expenses (including, without limitation, Taxes payable by reason of any such indemnification). Further, Taxes and Tax Expenses shall be timely paid by the Settlement Administrator out of the QSF without prior order from the Court, and the Settlement Administrator shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution 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(l)); the Released Parties are not responsible therefore nor shall they have any liability with respect thereto. The Parties hereto agree to cooperate with the Settlement Administrator, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out this Section.

4.5. All interest or other economic benefits derived from the Settlement Fund shall be included in the definition of the QSF and shall not be used to provide benefits or income to any third parties.

4.6. No later than three (3) calendar days after the QSF is established, the Settlement Administrator or Class Counsel shall furnish to Defendants and/or Defense Counsel in writing the QSF name, IRS W-9 Form, and all necessary instructions for furnishing payment by check or wire transfer.

4.7. Within ten (10) business days after the later of (a) entry of the Preliminary Approval Order and (b) the date the Settlement Administrator has furnished to Defendants and/or Defense Counsel in writing the QSF name, IRS W-9 Form, and all necessary instructions for furnishing payment by check or wire transfer, the Transferor and/or its insurer will deposit into the QSF the greater of (i) $150,000 or (ii) the Settlement Administrator's good-faith estimate of all Administrative Expenses reasonably anticipated to be incurred through the Final Fairness Hearing, including the fees and expenses of the Independent Fiduciary, as the first installment of the Gross Settlement Amount.

4.8. Within thirty (30) calendar days after the Settlement Effective Date, the Transferor and/or any agent or representative thereof shall deposit the remainder of the Gross Settlement Amount into the QSF.

4.9. The Settlement Administrator shall not disburse the Gross Settlement Amount or any portion thereof from the QSF except as provided in this Settlement Agreement, in an order of the Court, or in a subsequent written stipulation between Class Counsel and Defense Counsel. Subject to the orders of the Court, the Settlement Administrator is authorized to execute such transactions as are consistent with the terms of this Settlement Agreement.

4.10. The Settlement Administrator shall be responsible for making provision for the payment from the QSF of all taxes and tax expenses, if any, owed with respect to the QSF, and for all tax reporting, remittance, and/or withholding obligations, if any, for amounts distributed from it. The Released Parties, Defense Counsel, and/or Class Counsel have no

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responsibility or any liability for any taxes or tax expenses owed by, or any tax reporting or withholding obligations, if any, of the QSF.

ARTICLE 5 – PAYMENTS FROM THE QUALIFIED SETTLEMENT FUND

5.1. Disbursements from Qualified Settlement Fund prior to Settlement Effective Date. Class Counsel, subject to the approval of Defendants, which approval shall not be unreasonably withheld, shall direct the Escrow Agent to disburse money from the QSF as follows before the Settlement Effective Date:

5.1.1. After entry of the Preliminary Approval Order, the Escrow Agent shall be directed to disburse from the QSF an amount sufficient for the payment of costs of the Settlement Notice, implementing the Plan of Allocation and otherwise administering the Settlement. Any costs, expenses, or fees incurred in connection with the administration of this Settlement shall be paid out of the QSF. Neither Defendants nor Defense Counsel are responsible for the Settlement Administrator's work, nor may they be held liable for any act or omission by the Settlement Administrator.

5.1.2. For Taxes and Tax Expenses of the QSF as provided in Section 4.4.

5.1.3. For fees and expenses of the Independent Fiduciary, not to exceed $30,000, The Escrow Agent shall be directed to disburse money from the QSF to pay the reasonable fees and expenses of the Independent Fiduciary (which shall include any Attorneys' Fees of the Independent Fiduciary) retained pursuant to Article 2. To the extent Defendants pay any costs, fees or expenses to the Independent Fiduciary before proceeds from the Qualified Settlement Fund are available for distribution, the Escrow Agent shall be directed to reimburse Defendants for such amounts.

5.2. Following the payment of the second installment of the Gross Settlement Amount as set forth in Section 4.8, Class Counsel shall direct the Escrow Agent to disburse money from the QSF as follows:

5.2.1. For Attorneys' Fees and Costs, as approved by the Court, and no earlier than thirty-five (35) calendar days following the Settlement Effective Date.

5.2.2. For Class Representatives' Case Contribution Awards, as approved by the Court, and no earlier than thirty-five (35) calendar days following the Settlement Effective Date.

5.2.3. For costs and expenses of the Settlement Administrator in distributing the notice, implementing the Plan of Allocation and otherwise administering the Settlement that were not previously paid.

5.2.4. The Net Settlement Amount will be distributed in accordance with the Plan of Allocation. Pending final distribution of the Net Settlement Amount in accordance with the Plan of Allocation, the Escrow Agent will maintain the QSF.

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5.3. Plan of Allocation. Class Counsel shall propose to the Court a Plan of Allocation, in substantial conformity to the one attached hereto as Exhibit B. The Settlement Administrator shall be exclusively responsible and liable for calculating the amounts payable to the Class Members pursuant to the Plan of Allocation. After the Settlement Effective Date, and after the amounts identified in subparts (a), (b), and (c) of Section 1.25 have been disbursed and the contingency reserve described in Section 1.25(d) has been set aside, Class Counsel shall direct the Escrow Agent to disburse the Net Settlement Amount as provided by this Settlement Agreement and the Plan of Allocation. The Settlement Administrator shall be responsible for sending checks constituting each Class Member's share of the Net Settlement Amount as provided by the Plan of Allocation, as well as complying with all tax laws, rules, and regulations. Defendants shall have no liability related to the structure or taxability of such payments. Nothing herein shall constitute approval or disapproval of the Plan of Allocation by Defendants, and Defendants shall have no responsibility or liability for the Plan of Allocation and shall take no position for or against the Plan of Allocation.

5.4. Final List of Class Members. Prior to the disbursement of the Net Settlement Amount, and 30 calendar days after the Settlement Effective Date, the Settlement Administrator shall provide to Defense Counsel a final list of Class Members, in electronic format, to whom the Net Settlement Amount will be distributed in accordance with the Plan of Allocation. Such list shall be final, and only persons on the list or their Beneficiaries shall be eligible to receive any recovery from this Settlement.

5.5. After the distribution of the Net Settlement Amount and allocation of the Net Settlement Amount pursuant to the Plan of Allocation, amounts allocable to Class Members who cannot be located or otherwise cannot receive their Settlement payment or did not cash their checks after 180 calendar days shall be contributed half to Advocate Charitable Foundation and half to Aurora Health Care Foundation, Inc.

5.6. If a Class Member is deceased at the time of distribution, the Settlement Administrator shall make reasonable efforts to locate the estate or lawful representative of the deceased Class Member, and payment shall be made to the estate or lawful representative where practicable. If, after reasonable efforts, the estate or lawful representative cannot be located or payment cannot practicably be made, no further distribution shall be required as to that Class Member. Any amount allocable to deceased Class Members for whom, after reasonable efforts, the estate or lawful representative cannot be located or payment cannot practicably be made within 180 calendar days shall be contributed half to Advocate Charitable Foundation and half to Aurora Health Care Foundation, Inc.

ARTICLE 6 – ATTORNEYS' FEES AND EXPENSES

6.1. Application for Attorneys' Fees and Expenses and Class Representatives' Case Contribution Awards. Class Counsel intends to seek to recover their Attorneys' Fees and Costs, including reimbursement of Class Counsel's reasonable, out-of-pocket litigation expenses, not to exceed one-third of the Gross Settlement Amount, which shall be recovered from the Gross Settlement Amount.

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6.2. Class Counsel will file a motion for an award of Attorneys' Fees and Costs no later than forty-five (45) calendar days before the date of the Final Fairness Hearing specified in the Preliminary Approval Order, and at least fifteen (15) days prior to any objection deadline.

6.3. It shall not be deemed a failure to approve the Settlement Agreement if the Court denies, in whole or in part, Class Counsel's request for Attorneys' Fees and Costs and/or Class Representatives' Case Contribution Awards and/or modifies any of the proposed orders relating to Attorneys' Fees and Costs and/or Class Representatives' Case Contribution Awards.

6.4. Defendants will take no position with respect to Class Counsel's application for Attorney's Fees and Expenses and Case Contribution Awards so long as consistent with the terms of the Settlement Agreement.

ARTICLE 7 – RELEASE AND COVENANT NOT TO SUE

7.1. As of the Settlement Effective Date, the Plan (subject to Independent Fiduciary approval as required by Section 2.1) and the Class Members (and their respective heirs, beneficiaries, executors, administrators, estates, predecessors, successors, and assigns claiming through them), on their own behalf and on behalf of the Plan, shall fully, finally, and forever settle, release, relinquish, waive, and discharge all Released Parties from the Released Claims, whether or not such Class Members have received or will receive a monetary benefit from the Settlement, whether or not such Class Members have actually received the Settlement Notice, whether or not such Class Members have filed an objection to the Settlement or to any application by Class Counsel for an award of Attorneys' Fees and Costs, and whether or not the objections or claims for distribution of such Class Members have been approved or allowed.

7.2. As of the Settlement Effective Date, the Class Representatives, the Class Members, and the Plan (subject to Independent Fiduciary approval as required by Section 2.1) expressly agree that they, 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 agency or other department or commission), any cause of action, demand, or claim 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 in accordance with the procedures set forth in this Settlement Agreement. Nor shall anything herein preclude or restrict the Class Representatives, the Class Members, or the Plan from (a) cooperating with, providing information to, or participating in any investigation or proceeding conducted by any governmental or regulatory entity, or (b) complying with any legally compelled obligation, including responding to a valid subpoena, court order, or other legal process.

7.3. Class Counsel, the Class Representatives, Class Members, or the Plan 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, had they been known, might have affected

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the decision to settle with 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 entry 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 Representatives, Class Members and the Plan acknowledge and shall be deemed by operation of the Final Approval Order to have acknowledged that the foregoing waiver was bargained for separately and is a key element of the Settlement embodied in this Settlement Agreement of which this release is a part.

7.4. As to the claims released in this Settlement Agreement, each Class Representative, each Class Member, and the Plan hereby stipulate and agree with respect to any and all Released Claims that, upon entry of the Final Approval Order, the Class Members and Plan shall be conclusively deemed to, and by operation of the Final Approval Order shall settle, release, relinquish, waive, and discharge any and all rights or benefits they may now have, or in the future may have, under any law relating to the releases of unknown claims 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.

7.5. Also, the Class Representatives, Class Members, and the Plan hereby stipulate and agree with respect to any and all Released Claims that, upon entry of the Final Approval Order, that the Class Members and the Plan shall be conclusively deemed to, and by operation of the Final Approval Order shall 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.

7.6. Dismissal With Prejudice. The Class Action and all Released Claims shall be dismissed with prejudice.

7.7. No Impact on Prior Releases. The Released Claims in the Class Action shall not invalidate or impair any prior release of claims by any Class Members against any of the Released Parties.

ARTICLE 8 – COVENANTS

The Settling Parties covenant and agree as follows:

8.1. Taxation. Plaintiffs acknowledge that the Released Parties have no responsibility for any taxes due on funds deposited in or distributed from the Qualified Settlement Fund or that the Plaintiffs or Class Counsel receive from the Gross Settlement Amount. Plaintiffs further

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acknowledge that any such tax payments, and any professional, administrative, or other expenses associated with such tax payments, shall be paid out of the Qualified Settlement Fund. Nothing herein shall constitute an admission or representation that any such taxes will or will not be due.

8.2. Cooperation. Defendants shall cooperate with Class Counsel by using reasonable efforts to provide, to the extent reasonably accessible, information to identify Class Members and to implement the Plan of Allocation.

8.2.1 Defendants or Defense Counsel shall provide to the Settlement Administrator available data regarding Class Members (including names, the final four digits of social security numbers, dates of employment, last known primary address, and relevant Plan data including net charges paid by each Class Member for themselves and/or their spouse or domestic partner (as applicable)), for purposes of effecting the administration of the Plan of Allocation. Defendants and Defense Counsel make no representations or warranties concerning the completeness or accuracy of this data.

8.2.2 The Settlement Administrator shall use the information provided by Defendants to compile a preliminary list of Class Members for purposes of sending the Class Notice and calculating payments pursuant to the Plan of Allocation.

8.2.3 The Settlement Administrator will use any information provided by Defendants or Defense Counsel solely and for no other purpose than providing notice and administering this Settlement and will take all reasonable and necessary steps as required by law to maintain the security and confidentiality of this information.

8.3. The Settling Parties shall reasonably cooperate with each other to effectuate this Settlement, including with respect to the Plan of Allocation, and shall not do anything or take any position inconsistent with obtaining a prompt Final Approval Order approving the Settlement unless expressly permitted by this Settlement Agreement. The Settling Parties shall suspend any and all efforts to prosecute and to defend the Class Action pending entry of the Final Approval Order or, if earlier, termination of the Settlement Agreement.

ARTICLE 9 – REPRESENTATIONS AND WARRANTIES

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

9.1.1. That they have diligently prepared the case pursuant to the Court's orders; that they are voluntarily entering into this Settlement Agreement as a result of arm's-length negotiations under the auspices of the Mediator; that in executing this Settlement Agreement they are relying solely upon their own judgment, belief and knowledge, and the advice and recommendations of their own independently selected counsel, concerning the nature, extent, and duration of their rights and claims hereunder and regarding all matters which relate in any way to the subject matter hereof; and that,

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except as provided herein, they have not been influenced to any extent whatsoever in executing this Settlement Agreement by any representations, statements, or omissions pertaining to any of the foregoing matters by any Settling Party or by any Person representing any Settling Party to this Settlement Agreement. Each Settling Party assumes the risk of mistake as to facts or law.

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

9.2. Signatories' Representations and Warranties. Each Person executing this Settlement Agreement on behalf of any other Person does hereby personally represent and warrant to the other Settling Parties that he, she, they, or it has the authority to execute this Settlement Agreement on behalf of, and fully bind, each principal whom such individual represents or purports to represent.

9.3. Class Counsel's Representations and Warranties. Class Counsel represents and warrants as follows, and acknowledges that Defendants are relying on these representations and warranties in entering into this Settlement Agreement:

9.3.1. Class Counsel does not currently represent any client or potential client (other than the Class Representatives and Class Members in this Class Action) who has any claim against Defendants or any of the Released Parties, including but not limited to any claim that is the same as or similar to any claim asserted in the Class Action or that relates to the Wellness Program, the Plan, the imposition, calculation, disclosure, or collection of any tobacco or nicotine surcharge, or any alleged breach of fiduciary duty or other violation of ERISA arising out of or relating to any of the foregoing;

9.3.2. Class Counsel does not currently represent any client or potential client (other than the Class Representatives and Class Members in this Class Action) who has expressed an interest in, or an intention of, filing any action of any kind against Defendants or any of the Released Parties, including but not limited to any action asserting a claim that is the same as or similar to any claim asserted in the Class Action or that relates to the Wellness Program, the Plan, the imposition, calculation, disclosure, or collection of any tobacco or nicotine surcharge, or any alleged breach of fiduciary duty or other violation of ERISA arising out of or relating to any of the foregoing;

9.3.3. Class Counsel has no present intention to represent any person (other than the Class Representatives and Class Members in this Class Action) who could assert any claim against Defendants or any of the Released Parties that is the same as or similar to any claim asserted in the Class Action or that relates to the Wellness Program,

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the Plan, the imposition, calculation, disclosure, or collection of any tobacco or nicotine surcharge, or any alleged breach of fiduciary duty or other violation of ERISA arising out of or relating to any of the foregoing;

9.3.4. Class Counsel does not currently have an opportunity to participate or assist in any matter against Defendants or any of the Released Parties, including but not limited to any representation in which a claim would be asserted that is the same as or similar to any claim asserted in the Class Action or that relates to the Wellness Program, the Plan, the imposition, calculation, disclosure, or collection of any tobacco or nicotine surcharge, or any alleged breach of fiduciary duty or other violation of ERISA arising out of or relating to any of the foregoing; and

9.3.5. Class Counsel has no present intention to advertise or otherwise solicit for any client or potential client to assert any claim against Defendants or any of the Released Parties that is the same as or similar to any claim asserted in the Class Action or that relates to the Wellness Program, the Plan, the imposition, calculation, disclosure, or collection of any tobacco or nicotine surcharge, or any alleged breach of fiduciary duty or other violation of ERISA arising out of or relating to any of the foregoing.

9.3.6. Class Counsel agrees and acknowledges that this Section 9.3 is a material term of, and essential consideration for, Defendants' entry into this Settlement Agreement. A breach of this Section 9.3 will entitle Defendants to seek appropriate relief from Class Counsel, including but not limited to the costs incurred in defending any claim brought in violation of this Section and in establishing that this Section has been violated. Nothing in this Section 9.3 shall be construed to require Class Counsel to breach any professional, ethical, or fiduciary duty, and the representations in this Section 9.3 address Class Counsel's clients, engagements, opportunities, and intentions as of the Settlement Agreement Execution Date.

ARTICLE 10 – NO ADMISSION OF LIABILITY

10.1. The Settling Parties understand and agree that this Settlement Agreement embodies a compromise settlement of disputed claims, and that nothing in this Settlement Agreement, including the furnishing of consideration for this Settlement Agreement, shall be deemed to constitute any finding, admission, or suggestion of any wrongdoing or liability by Defendants, or give rise to any inference of wrongdoing or admission of wrongdoing or liability in this or any other proceeding.

10.2. This Settlement Agreement and the payments made hereunder are made in compromise of disputed claims and are not admissions of any liability of any kind, whether legal or factual. Defendants specifically deny any such liability or wrongdoing and state that they are entering into this Settlement Agreement to eliminate the burden and expense of further litigation. Further, the Class Representatives, while believing that the claims brought in the Class Action have merit, have concluded that the terms of this Settlement Agreement are fair, reasonable, and adequate to the Plan, themselves, and members of the Settlement Class given, among other things, the inherent risks, difficulties, and delays in complex ERISA

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litigation such as this Class Action. Neither the fact nor the terms of this Settlement Agreement shall be used, offered, or received in evidence in any action or proceeding for any purpose, except in an action or proceeding to enforce this Settlement Agreement or arising out of or relating to the Final Approval Order.

ARTICLE 11 – CONDITIONS TO FINALITY OF SETTLEMENT

This Settlement shall be contingent upon each of the following conditions in this Article 11 being satisfied. The Settling Parties agree that if any of these conditions is not satisfied, then this Settlement Agreement is terminated (subject to Defendants' right to waive the condition set forth in Section 11.5) and the Class Action will, for all purposes with respect to the Settling Parties, revert to its status as of the Settlement Agreement Execution Date.

11.1. Court Approval and Class Certification for Settlement Purposes. The Court shall have certified the Settlement Class for settlement purposes only as a mandatory, non-opt-out class under Fed. R. Civ. P. 23(b)(1) (and Defendants will not object to this certification for settlement purposes only), the Settlement shall have been approved by the Court, the Court shall have entered the Final Approval Order substantially in the form attached as Exhibit D hereto, and the Settlement Effective Date shall have occurred.

11.2. Finality of Settlement. The Settlement shall have become Final.

11.3. Resolution of CAFA Objections (If Any). Any objections by government officials in response to the CAFA Notice shall have been resolved. Class Representatives and Class Counsel agree to cooperate and work with Defendants and Defense Counsel to overcome such objection(s) and requested modification(s). In the event such objection(s) or requested modification(s) are not overcome, Defendants shall have the right to terminate the Settlement Agreement pursuant to Article 12.

11.4. At least seven (7) calendar days before the Final Fairness Hearing, the United States Department of Labor, another government entity, or a plaintiff in any other suit against Advocate does not file an objection to the Agreement or Settlement in any court, file a separate class action that raises comparable claims against the same Released Parties during some part of the same Class Period addressed by the Class Action, nor notify any Released Party of intent to file such a Claim. The absence of a Department of Labor objection or related proceeding shall not be a condition precedent to final approval. In the event the Department of Labor, another government entity, or a plaintiff files a related action before the Final Fairness Hearing, the Parties shall promptly confer and may jointly seek a continuance to address the development. Such a filing shall not automatically terminate this Settlement unless Defendants elect to withdraw within thirty (30) days after such filing.

11.5. Settlement Authorized by Independent Fiduciary. At least thirty (30) calendar days before the Final Fairness Hearing, the Independent Fiduciary shall have approved and authorized in writing the Settlement and given a release to all of the Released Parties in its capacity as fiduciary of the Plan for and on behalf of the Plan in accordance with PTE 2003-39. If the Independent Fiduciary disapproves or otherwise does not authorize the Settlement or

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refuses to execute the release on behalf of the Plan, then the Settling Parties may mutually agree to modify the terms of this Settlement Agreement as necessary to facilitate an approval by the Independent Fiduciary and/or the Independent Fiduciary's release on behalf of the Plan. Otherwise, Defendants shall have the option (but not the obligation) to waive this condition, in which case such option is to be exercised in writing within five (5) business days after the Settling Parties' receipt of the Independent Fiduciary's written determination, unless otherwise agreed by the Settling Parties.

ARTICLE 12 – TERMINATION, CONDITIONS OF SETTLEMENT, AND EFFECT OF DISAPPROVAL, CANCELLATION, OR TERMINATION

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

12.1.1. Under Section 2.1, (a) either the Independent Fiduciary does not approve the Settlement Agreement or disapproves the Settlement Agreement for any reason whatsoever, or Defendants reasonably conclude that the Independent Fiduciary's approval does not include the determinations required by the PTE 2003-39; and (b) 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; and (c) Defendants do not exercise their option to waive this condition as provided in Section 11.5;

12.1.2. The Preliminary Approval Order or the Final Approval Order is 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;

12.1.3. The Settlement Class is not certified under Fed. R. Civ. P. 23(b)(1) as defined herein or in a form which is otherwise agreed to by the Settling Parties;

12.1.4. This Settlement Agreement is disapproved by the Court or fails to become effective, and the Settling Parties do not mutually agree to modify the Settlement Agreement in order to obtain the Court's approval or otherwise effectuate the Settlement; or

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

12.2. If the Settlement Agreement is terminated, deemed null and void, or has no further force or effect, the Class Action and the Released Claims asserted by the Class Representatives shall for all purposes with respect to the Settling Parties revert to their status as though the Settling Parties never executed the Settlement Agreement. No Settlement Class will be deemed to have been certified. All funds remaining in the QSF, including any interest earned thereon, shall be returned to Defendants and/or their insurer within thirty (30) calendar days after the Settlement Agreement is finally terminated or deemed null and void. Class Counsel shall use reasonable efforts to facilitate the return of any undisbursed funds held by the Settlement Administrator or any other third-party. If Class Counsel terminates

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the Settlement Agreement in bad faith, Class Counsel shall, within thirty (30) calendar days after such termination, reimburse Defendants for fifty percent (50%) of any amounts, including but not limited to Administrative Expenses, that were disbursed from the QSF prior to termination. Additionally, Class Counsel shall reimburse Defendants for (50%) of any amounts disbursed from the QSF after termination of the Settlement Agreement.

12.3. It shall not be deemed a failure to approve the Settlement Agreement if the Court denies, in whole or in part, Class Counsel's request for Attorneys' Fees and Costs and/or Class Representatives' Case Contribution Awards and/or modifies any of the proposed orders relating to Attorneys' Fees and Costs and/or Class Representatives' Case Contribution Awards.

ARTICLE 13 – CONFIDENTIALITY OF THE SETTLEMENT NEGOTIATIONS AND PERMITTED SETTLEMENT-RELATED COMMUNICATIONS

13.1. Except as set forth explicitly below, the Settling Parties, Class Counsel, and Defense Counsel agree to keep confidential all positions, assertions, and offers made during settlement negotiations relating to the Class Action and the Settlement Agreement, except that they may discuss the negotiations and statements made to and shared with the Mediator, with Class Members, the Independent Fiduciary, and the Settling Parties' tax, legal, and regulatory advisors, provided in each case that they comply with this Article 13 in all other respects.

13.2. The Settlement Administrator, at the direction of Class Counsel, will establish a Settlement Website on which it will post the following documents or links to the following documents following the date of the Preliminary Approval Order: the Third Amended Class Action Complaint (ECF No. 65), the Settlement Agreement and its Exhibits, Settlement Notice, Plaintiffs' Motion for Attorneys' Fees and Costs and Class Representative Case Contribution Awards, any Court orders related to the Settlement, any amendments or revisions to these documents, and any other documents or information mutually agreed upon by the Settling Parties.

13.3. Defendants, Class Representatives, Class Counsel, and Defense Counsel agree that they will not at any time make (or encourage or induce others to make) any public statement regarding the Class Action or the Settlement that disparages any Released Party. However, Defendants are free to make non-disparaging statements to their employees about the conclusion of this matter, including but not limited to their potential receipt of a notice. Class Counsel may restate the allegations made in the Class Action for purposes of the motion for Preliminary Approval of the Settlement, motion for Final Approval of the Settlement, or the request for Attorneys' Fees and Costs, Administrative Expenses, and Class Representative Compensation, or as necessary to provide notice to the Settlement Class. This prohibition does not prohibit any Settling Party from making any statements pursuant to a valid legal process, a request by a regulatory agency, or as required by law. Nothing in this Section shall be construed to require Class Counsel to breach any professional, ethical, or fiduciary duty, to limit Class Counsel's communications with the Court or with Class Members in furtherance of their obligations under this Settlement

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Agreement, or to restrict Class Counsel's ability to practice law, including in matters involving similar claims, parties, or facts.

13.4. Defendants, Class Representatives, Class Counsel, and Defense Counsel agree that they will not issue any press release regarding the Settlement, affirmatively contact any media sources regarding the Settlement, or respond to any request for comment on the Settlement by the media. Nothing in this Section shall prevent Class Counsel from maintaining non-confidential information related to the Settlement on their websites, blogs, or social media accounts, or firm resumés or biographies, nor shall this Section prevent notice as otherwise agreed upon by the Settling Parties.

13.5. Defendants, Class Representatives, Class Counsel, and Defense Counsel agree that they will not publicly disclose the terms of the Settlement until after the motion for preliminary approval of the Settlement has been filed with the Court, other than as necessary to administer the Settlement, or unless such disclosure is pursuant to a valid legal process, a request by a regulatory agency, or as otherwise required by law, government regulations, or order of the Court.

13.6. The parties agree that the class notice, settlement website, and approval papers shall reflect only that (1) Plaintiffs alleged that the tobacco/nicotine surcharge violated ERISA's nondiscrimination and fiduciary provisions; (2) Defendant denies all allegations and maintains it acted in full compliance with ERISA; and (3) the Settlement is a compromise reached to avoid the cost and uncertainty of continued litigation. This Section does not apply to the documents filed on the public docket and posted to the Settlement Website under Section 13.2, or to anything otherwise required by Fed. R. Civ. P. 23 or ordered by the Court.

ARTICLE 14 – GENERAL PROVISIONS

14.1. 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 undertake all tasks as may reasonably be required to effectuate preliminary and final approval and the implementation of this Settlement Agreement according to its terms. The Settling Parties agree to provide each other with copies of any filings necessary to effectuate this Settlement reasonably in advance of filing.

14.2. This Settlement Agreement, whether or not consummated, and any negotiations or proceedings hereunder 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 any Released Party of any wrongdoing, fault, or liability whatsoever by any Released Party, or give rise to any inference of any wrongdoing, fault, or liability or admission of any wrongdoing, fault, or liability in the Class Action or any other proceeding.

14.3. Defendant and Released Parties admit no wrongdoing, fault, or liability with respect to any of the allegations or claims in the Class Action. This Settlement Agreement, whether or not consummated, and any negotiations or proceedings hereunder, shall not constitute admissions of any liability of any kind, whether legal or factual. Subject to Federal Rule of

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Evidence 408, the Settlement and the negotiations related to it are not admissible as substantive evidence, for purposes of impeachment, or for any other purpose.

14.4. Defendant denies all allegations of wrongdoing and denies that certification of a class would be appropriate for any purpose other than for settlement. Defendant believes that the Plan has been managed, operated, and administered at all relevant times reasonably and prudently, in the best interest of the Plan's participants, and in accordance with ERISA, including the fiduciary duty and prohibited transaction provisions of ERISA.

14.5. Neither the Settling Parties, Class Counsel, nor Defense Counsel shall have any responsibility for or liability whatsoever with respect to (a) any act, omission, or determination of the Settlement Administrator, or any of their respective designees or agents, in connection with the administration of the Gross Settlement Amount or otherwise; (b) the determination of the Independent Fiduciary; (c) the management, investment, or distribution of the Qualified Settlement Fund; (d) the Plan of Allocation as approved by the Court; (e) the determination, administration, calculation, or payment of any claims asserted against the Qualified Settlement Fund; (f) any losses suffered by, or fluctuations in the value of, the Qualified Settlement Fund; or (g) 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 Defense 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.

14.6. The Released Parties shall not have any responsibility for or liability whatsoever with respect to the Plan of Allocation, including but not limited to the determination of the Plan of Allocation or the reasonableness of the Plan of Allocation.

14.7. The Settling Parties acknowledge that any payments to Class Members or their attorneys may be subject to applicable taxes. Defendant, Defense Counsel, Class Counsel, and Class Representatives will not provide any tax advice to Class Members and make no representation regarding the tax consequences of any of the settlement payments described in the Settlement Agreement. To the extent that any portion of any Settlement payment is subject to 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. While the Settling Parties take no position on the tax characterization of such payments, for purposes of distribution, the Settlement Administrator shall treat all payments from the QSF to Class Members (except those representing surcharges paid to a covered domestic partner) as wages, and shall withhold and report accordingly. The Settlement Administrator shall pay out of the QSF all required payroll taxes owed by Defendants. For avoidance of doubt, nothing in this section shall cause Defendants to make any additional payment in connection with the Settlement of the Class , including tax payments, beyond the Gross Settlement Amount.

14.8. 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

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resulting from or attributable to the payment received by such person. Each such Class Member shall hold the Released Parties, Defense Counsel, Class Counsel, 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 the Released Parties, Defense Counsel, Class Counsel, 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.

14.9. Only Class Counsel may seek enforcement of this Settlement Agreement on behalf of Plaintiffs and Class Members. Any individual concerned about Defendant's compliance with this Settlement Agreement must first 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 that is not in contravention to this Agreement, 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 from the Qualified Settlement Fund beyond the Attorneys' Fees and Costs determined by the Court.

14.10. This Settlement Agreement shall be interpreted, construed, and enforced in accordance with applicable federal law and, to the extent that federal law does not govern, Illinois law, without regard to conflicts of laws rules.

14.11. The Settling Parties agree that the Court has personal jurisdiction over the Settlement Class and Defendants and shall maintain personal and subject-matter jurisdiction for purposes of resolving any disputes between the Settling Parties concerning compliance with this Settlement Agreement. Any motion or action to enforce this Settlement Agreement—including by way of injunction—shall be filed in the U.S. District Court for the Northern District of Illinois or asserted by way of an affirmative defense or counterclaim in response to any action asserting a violation of the Settlement Agreement.

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

14.13. Before entry of the Preliminary Approval Order and approval of the Independent Fiduciary, this Settlement Agreement may be modified or amended only by written agreement signed by or on behalf of all Settling Parties. Following approval by the Independent Fiduciary, this Settlement Agreement may be modified or amended only if such modification or amendment is set forth in a written agreement signed by or on behalf of all Settling Parties and only if the Independent Fiduciary approves such modification or amendment in writing. Following entry of the Preliminary Approval Order, this Settlement Agreement may be modified or amended only by written agreement signed on behalf of all Settling Parties, and only if the modification or amendment is approved by the Independent Fiduciary in writing and approved by the Court.

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14.14. 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 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.

14.15. 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 the subject matter of this Settlement Agreement.

14.16. All of the exhibits attached hereto are incorporated by reference as though fully set forth herein. The exhibits shall be Exhibit A – Notice of Class Action Settlement and Fairness Hearing; Exhibit B – Plan of Allocation; Exhibit C – Preliminary Approval Order; Exhibit D – Final Approval Order.

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

14.18. Principles of Interpretation. The following principles of interpretation apply to this Settlement Agreement:

14.18.1. Headings. 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 Sections they caption.

14.18.2. Singular and Plural. Definitions apply to the singular and plural forms of each term defined.

14.18.3. Gender. Definitions apply to the masculine, feminine, non-binary, and neuter genders of each term defined.

14.18.4. References to a Person. References to a Person are also to the Person's permitted successors and assigns, except as otherwise provided herein.

14.18.5. Terms of Inclusion. Whenever the words "include," "includes," or "including" are used in this Settlement Agreement, they shall not be limiting but rather shall be deemed to be followed by the words "without limitation."

14.19. Survival. All of the covenants, representations, and warranties, express or implied, oral or written, concerning the subject matter of this Settlement Agreement are contained in this Settlement Agreement. No Party is relying on any oral representations or oral agreements. All such covenants, representations, and warranties set forth in this Settlement Agreement shall be deemed continuing and shall survive the Settlement Effective Date.

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14.20. Notices. Any notice, demand, or other communication under this Settlement Agreement (other than the Settlement Notice, 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 or via e-mail:

IF TO CLASS REPRESENTATIVES:

Oren Faircloth
Siri & Glimstad LLP
100 Pearl Street
14th Floor - #16946876
Hartford, CT 06103
Email: ofaircloth@sirillp.com

IF TO DEFENDANT:
Gary Feinerman
Latham & Watkins LLP
330 North Wabash Avenue
Suite 2800
Chicago, IL 60611
Gary.Feinerman@lw.com

Joe Farrell
Latham & Watkins LLP
355 S. Grand Ave.
Suite 400
Los Angeles, CA 90067
Joe.Farrell@lw.com

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

14.21. Entire Agreement. This Settlement Agreement and the exhibits attached hereto constitute the entire agreement among the Settling Parties. 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. It specifically supersedes any settlement terms or settlement agreements relating to the Defendants that were previously agreed upon orally or in writing by any of the Settling Parties.

14.22. Counterparts. The Settlement Agreement may be executed by exchange of executed signature pages, and any signature transmitted by facsimile, DocuSign or similar electronic signature service, 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

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counterparts, and each of such counterparts shall for all purposes be deemed an original, and all such counterparts shall together constitute the same instrument.

14.23. Binding Effect. This Settlement Agreement binds and inures to the benefit of the Settling Parties hereto, their assigns, heirs, administrators, executors, and successors.

14.24. Destruction/Return of Confidential Information. The Settling Parties agree that the preliminary and final lists of Class Members are deemed confidential and may not be used or disclosed other than as necessary to effectuate this Settlement Agreement. The Settling Parties shall cooperate in good faith to agree on confidentiality and security protocols to protect the confidentiality of the Class Member lists.

[SIGNATURES FOLLOW ON FOLLOWING PAGES]

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

On behalf of Plaintiffs Kelly Rogers, Kathryn Deisinger O'Flaherty, and Wyndham Hasler, Individually and as Representatives of the Class and the Class Members:

Oren Faircloth

Oren Faircloth
William H. Payne, IV
SIRI & GLIMSTAD LLP
745 Fifth Avenue, Suite 500
New York, New York 10151
Tel: (929) 677-5181
E: ofaircloth@sirillp.com
E: wpayne@sirillp.com

On behalf of Defendants: Advocate Aurora Health, Inc.:

Signed by:
Brett Denton
2CCD836C68C04CE...

DS

Brett J. Denton
Senior Executive Vice President, Chief Legal Officer

By Defendants' Counsel:

/s/ Gary Feinerman

Gary Feinerman
Joe Farrell
LATHAM & WATKINS LLP
330 North Wabash Avenue
Suite 2800
Chicago, IL 60611
E: Gary.Feinerman@lw.com
E: Joe.Farrell@lw.com

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EXHIBIT A

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

NOTICE OF CLASS ACTION SETTLEMENT, SETTLEMENT APPROVAL HEARING, AND MOTION FOR ATTORNEYS' FEES AND COSTS

READ THIS NOTICE CAREFULLY. YOUR LEGAL RIGHTS WILL BE AFFECTED WHETHER OR NOT YOU TAKE ANY ACTION.

This notice advises you of the Settlement of Rogers v. Advocate Aurora Health, Inc., Case No. 1:24-cv-8864 (N.D. Ill.), a class action lawsuit brought by Kelly Rogers, Kathryn Deisinger O'Flaherty, and Wyndham Hasler (the "Class Representatives") on behalf of themselves and the Settlement Class described below, and Advocate Aurora Health, Inc., the Compensation Committee of the Board of Directors of Advocate Aurora Health, Inc., and the Advocate Aurora Health, Inc. Non-Church Benefit Plan Administrative Committee (collectively, "Defendants" and, together with the Class Representatives, the "Settling Parties"). The Settling Parties have agreed to settle this case for $8,950,000 (the "Gross Settlement Amount"). The Court has preliminarily approved the Settlement, which provides for allocation of Settlement funds to the Settlement Class. The Action was brought under the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), concerning Defendants' Wellness Program, including the Healthy Breathe program, the imposition and administration of tobacco or nicotine surcharges, alleged notice and reasonable alternative standard deficiencies, the alleged failure to provide the full reward required by applicable law, and alleged breaches of fiduciary duties. The Settlement would release Defendants and related parties from all claims that were or could have been asserted against Defendants in the Action. The terms and conditions of the Settlement are set forth in the Settlement Agreement. 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 and additional information with respect to the Action and the Settlement are available at www.____.com or by contacting Class Counsel as described below.

The Court has scheduled a hearing concerning final approval of the Settlement and Class Counsel's motion for attorneys' fees and costs and for Case Contribution Awards to the Class Representatives. That hearing, before the Honorable LaShonda A. Hunt, is scheduled on _____, 2026, at _____ at the Everett McKinley Dirksen United States Courthouse, 219 South Dearborn Street, Chicago, Illinois 60604. If the Court grants final approval of the Settlement, the Settlement will bind the Settlement Class. You may appear at this hearing and/or object to the Settlement, but only if you follow the instructions below. More information about the hearing and how to object is explained below.

PLEASE DO NOT CONTACT DEFENDANTS, DEFENSE COUNSEL, OR THE COURT. THEY WILL NOT BE ABLE TO ANSWER YOUR QUESTIONS.

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QUESTIONS? CALL [SETTLEMENT ADMINISTRATOR HOTLINE NUMBER] TOLL FREE, OR VISIT www.____.com.

THIS TABLE CONTAINS A SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
OBJECT BY [ ], 2026	You may write to the Court and counsel if you don't like the Settlement to explain why you object or wish to make comments about the settlement. More information is provided below. If the Court approves the Settlement, you will get a share of the Settlement benefits to which you are entitled, regardless of whether you objected to or commented about the Settlement.
ATTEND A HEARING	You may attend the hearing and ask to speak in Court about the fairness of the Settlement at the Final Approval Hearing. More information on when and where to attend is provided below. You should check the settlement website at www.____.com before the hearing date stated in this notice to get updated information as to the hearing date. If the Court approves the Settlement, you will get a share of the Settlement benefits to which you are entitled, regardless of whether you spoke in Court about the fairness of the Settlement.
DO NOTHING	If the Court approves the Settlement, you will get a share of the Settlement benefits to which you are entitled.

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BASIC INFORMATION

What is this notice and why should I read it?

A court authorized this notice to let you know about a proposed settlement of the class action lawsuit called *Rogers v. Advocate Aurora Health, Inc*., Case No. 1:24-cv-8864 (N.D. Ill.), filed in the United States District Court for the Northern District of Illinois, Eastern Division (the "Action"). The Court ordered this notice to be sent to you because you have a right to know about the Settlement and the options available to you regarding the Settlement before the Court decides whether to approve the Settlement. If the Court approves the Settlement, and after any objections and appeals are resolved, the Net Settlement Amount will be allocated among the Settlement Class according to a Court-approved Plan of Allocation.

This notice describes the Settlement. Please read this notice carefully. Your rights and options—and the deadlines to exercise them—are explained in this notice. Please understand that if you are a Class Member, your legal rights are affected regardless of whether you act.

What is a class action lawsuit?

In a class action, one or more Plaintiff called "Class Representatives" sue on behalf of many people who have similar claims. All the individuals on whose behalf the Class Representatives are suing are "Class Members." One court resolves the issues for all Class Members. In its order setting the Final Approval Hearing, the Court preliminarily certified the Settlement Class in the Action.

What is this lawsuit about?

Class Representatives filed a class action complaint against Defendants on behalf of a class of Plan participants and beneficiaries alleging that Defendants violated ERISA in connection with the Wellness Program, including the Healthy Breathe program, the imposition and administration of tobacco or nicotine surcharges, the notice of a reasonable alternative standard, the full reward required by applicable law, and fiduciary duties. A complete description of Plaintiffs' allegations is in the Complaint and is available on the Settlement Website at www.____.com. Defendants have denied and continue to deny Plaintiffs' claims and allegations in their entirety, deny that they are liable to Plaintiffs or the Class Members, and deny that Plaintiffs, Class Members, or the Plan have suffered any harm or damage. Defendants deny all allegations of wrongdoing and assert that their conduct was lawful. Defendants are settling the Action solely to avoid the expense, inconvenience, and inherent risk and disruption of litigation.

Why is there a Settlement?

The Court has not reached any final decision in connection with Plaintiffs' claims against Defendants. Instead, the Settling Parties have agreed to a Settlement. In reaching the Settlement, they have avoided the cost, risks, time, and disruption of prolonged litigation and trial. Class Counsel believe that the Settlement is the best option for the Settlement Class.

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WHO'S INCLUDED IN THE SETTLEMENT?

How do I know if I am a Class Member and included in the Settlement?

The Court decided that everyone who fits this description is a **Class Member**:

(1) The individual resides in the United States;

(2) The individual paid a tobacco or nicotine surcharge in connection with participation in the Advocate Aurora Health Welfare Benefit Plan, whether for the individual and/or a dependent, including a covered spouse or covered domestic partner, during the Class Period; and

(3) The Class Period is September 25, 2018 through December 31, 2025.

Excluded from the Settlement Class are Defendants' named officers and directors, named fiduciaries of the Plan, counsel for the parties, and any members of the federal judiciary assigned to the Action.

THE SETTLEMENT BENEFITS

What does the Settlement provide?

Defendants have agreed to pay $8,950,000 into a Qualified Settlement Fund, which will be used to pay expenses associated with administering the Settlement, the fees and expenses of the Independent Fiduciary, Class Counsel's attorneys' fees and costs not to exceed one-third (33.33%) of the Gross Settlement Amount, Case Contribution Awards of up to $7,500 per Class Representative, and benefits to Class Members. The Net Settlement Amount will be distributed to Class Members in proportion to the net tobacco or nicotine surcharges each paid during the Class Period.

The amount of each Class Member's payment will be determined according to a Plan of Allocation set forth in the Settlement Agreement, which will be available on the Settlement Website at www.____.com prior to the Final Approval Hearing. Each Class Member will receive payment under the Settlement directly in the form of a check.

How do I get benefits?

If the Settlement is given final approval, you will not have to do anything to get a payment from the Settlement if you are entitled to one under the Plan of Allocation. Checks will be mailed automatically to the last known address of each Class Member after the Settlement becomes final.

Checks will be valid for 180 calendar days from the date of issue. If a check is not cashed within 180 calendar days, the Settlement Administrator will handle the remaining funds in accordance with the Settlement Agreement and the Plan of Allocation. Amounts allocable to Class Members who cannot be located or otherwise cannot receive their Settlement payment or did not cash their checks after 180 calendar days shall be contributed half to Advocate Charitable Foundation and half to Aurora Health Care Foundation, Inc. No such funds shall revert to or be returned to Defendants or any insurer.

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When will I get my payment?

The hearing to consider whether to finally approve the Settlement is scheduled for _____, 2026. The balance of the Net Settlement Amount will be allocated to Class Members pursuant to the Plan of Allocation as soon as possible after final approval has been obtained for the Settlement, including any appeals. Any appeal of the final approval may take a year or more. Please be patient.

These payments may have certain tax consequences; you should consult your tax advisor. Defendant, Defense Counsel, and Class Counsel cannot provide tax advice concerning the settlement.

There will be no payments if the Settlement is terminated.

The Settlement may be terminated for several reasons, which are described in the Settlement Agreement. In the event any of these conditions occur, there will be no settlement payment made, and the litigation will resume.

THE LAWYERS REPRESENTING YOU

Who represents the Class Members?

The Court has appointed Oren Faircloth and Mason A. Barney of Siri & Glimstad LLP to represent the Class Members as Class Counsel. If you want to be represented by your own lawyer, you may hire one at your own expense.

In addition, the Court appointed Kelly Rogers, Kathryn Deisinger O'Flaherty, and Wyndham Hasler to serve as the Class Representatives. They are also Class Members. Subject to approval by the Court, Class Counsel has proposed that up to $7,500 may be paid to each Class Representative in recognition of the time and effort expended on behalf of the Class Members. The Court will determine the proper amount of any such award. The Court may award less than the requested amount.

How will the lawyers be paid?

Class Counsel have not received any payment for their services in prosecuting the Action or obtaining the Settlement, nor have they been reimbursed for any out-of-pocket expenses they have incurred. Class Counsel will apply to the Court for an award of attorneys' fees and costs not to exceed one-third (33.33%) of the $8,950,000 settlement. The Court will determine the proper amount of attorneys' fees and costs to award Class Counsel. Any attorneys' fees and costs awarded by the Court will be paid to Class Counsel from the Gross Settlement Amount out of the Qualified Settlement Fund.

What is the effect of final approval of the Settlement?

If the Court grants final approval of the Settlement, a final order and judgment dismissing the Action will be entered. Once the appeal period expires or any appeal is resolved, payments under the Settlement will then be processed and distributed, and the Release outlined in the Settlement Agreement will also take effect. All Class Members will release and forever discharge Defendants and the Released Parties, as defined in the Settlement Agreement, from any and all Released Claims, as defined in the Settlement Agreement. Please refer to the Settlement Agreement for a

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full description of the claims and persons and entities that will be released upon final approval. No Class Member will be permitted to continue to assert Released Claims in any other litigation against Defendants or the other persons and entities covered by the Release. If you object to the terms of the Settlement Agreement, you must notify the Court of your objection.

What happens if I do nothing at all?

If you do nothing, and the Settlement is finally approved, you will release all claims that were or could have been asserted in the Action against Defendants and the Released Parties, as described in the Settlement Agreement. You will also receive a payment to which you are entitled.

How do I get out of the Settlement?

In some class actions, class members can exclude themselves from the Settlement. This is sometimes referred to as "opting out" of the Settlement. Because of the legal issues involved in the Action, however, the class affected by this Settlement has been preliminarily certified as a mandatory class. This means you cannot opt out of the benefits of the Settlement to pursue your own claims or for any other reason. Therefore, you will be bound by any judgments or orders entered in this Action, and if the Settlement is approved, you will be deemed to have released Defendants and the Released Parties from the Released Claims, as defined in the Settlement Agreement, including claims asserted on your behalf or on behalf of the Plan, other than your right to obtain the relief provided to you, if any, by the Settlement. Although you cannot opt out of the Settlement, you can object to the Settlement and ask the Court not to approve it, as described below.

Can I sue Defendants for the same claims later?

No. If the Court approves the Settlement, you will have given up any right to sue Defendants and the other Released Parties for all Released Claims covered by the Settlement.

How do I object to the Settlement?

To object, you must prepare a written statement of your objection, specifying the reasons for each objection and signing the statement, and include: (1) your full name, current address, and current telephone number, and, if you are represented by counsel, your counsel's name and contact information; (2) whether your objection applies only to you, to a specific subset of the Settlement Class, or to the entire Settlement Class; (3) a statement of the position(s) you wish to assert; (4) copies of any documents you wish to submit in support of your position; and (5) a list of any other objections to any class action settlements you have submitted in any court, whether state, federal, or otherwise, in the United States in the previous five (5) years. Be sure to include the following case caption and notation: "*Rogers v. Advocate Aurora Health, Inc., et al*., Case No. 1:24-cv-8864 (N.D. Ill.)." You must file your objection with the Court and mail it to each of the addresses listed below, postmarked no later than twenty-eight (28) calendar days before the Final Approval Hearing, or _____, 2026. If you fail to do so, the Court will not consider your objection. If you plan to speak at the Final Approval Hearing, you must send a Notice of Intention to Appear along with your objection. You may request permission to speak at the Final Approval Hearing only if you have filed and served a timely objection to the Settlement.

To do so, you must submit a written "Notice of Intention to Appear at Final Approval Hearing in

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Rogers v. Advocate Aurora Health, Inc., et al., Case No. 1:24-cv-8864 (N.D. Ill.)" that includes the Objector's and, if applicable, the Objector's attorney's name, address, and telephone number. You must file the Notice of Intention to Appear with the Court and mail it to each of the addresses listed below, postmarked no later than twenty-eight (28) calendar days before the Final Approval Hearing, or _____, 2026. If you fail to do so, you will not be permitted to appear at the Final Approval Hearing, except for good cause shown.

Mail the objection to each of the addresses listed below, postmarked no later than twenty-eight (28) calendar days before the Final Approval Hearing, or _____, 2026. You must mail your objection by this date. If you fail to do so, the Court will not consider your objection.

Clerk of Court	**Class Counsel**	**Defendant's Counsel**
United States District Court for the Northern District of Illinois, Eastern Division, Everett McKinley Dirksen United States Courthouse, 219 South Dearborn Street, Chicago, Illinois 60604	Oren Faircloth William H. Payne, IV Siri & Glimstad LLP 100 Pearl Street 14th Floor - #16946876 Hartford, CT 06103 ofaircloth@sirillp.com wpayne@sirillp.com	Gary Feinerman Joseph B. Farrell Latham & Watkins LLP, 330 North Wabash Avenue, Suite 2800, Chicago, IL 60611 Gary.Feinerman@lw.com Joe.Farrell@lw.com

Mail the Notice of Intention to Appear to each of the addresses listed above, postmarked no later than twenty-eight (28) calendar days before the Final Approval Hearing, or _____, 2026. You must mail your Notice of Intention to Appear by this date. If you fail to do so, you will not be permitted to appear at the Final Approval Hearing.

THE COURT'S FINAL APPROVAL HEARING

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

Class Counsel will file with the Court their request for attorneys' fees and costs forty-five (45) days prior to the Final Approval Hearing. The Final Approval Hearing has been set for _____, 2026, at _____. The hearing will be conducted before the Honorable LaShonda A. Hunt at the Everett McKinley Dirksen United States Courthouse, 219 South Dearborn Street, Chicago, Illinois 60604, unless the Court orders that it be held by remote means or on a different date or at a different time.

At the hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court will hear any comments, objections, and arguments concerning the fairness of the proposed Settlement, including the amount requested by Class Counsel for attorneys' fees and costs and the Case Contribution Awards to the Class Representatives. You do not need to attend this hearing, and you do not need to attend to have an objection considered by the Court. Note: The date, time, and location of the Final Approval Hearing are subject to change by Court Order, but any changes will be posted on the Settlement Website at www.____.com.

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Do I have to come to the Final Approval Hearing?

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

Where can I get additional information?

This notice provides only a summary of the matters relating to the Settlement. For more detailed information, you may wish to review the Settlement Agreement. You can view the Settlement Agreement and get more information on the Settlement Website at www.____.com. You can also get more information by writing to the Settlement Administrator at [SETTLEMENT ADMINISTRATOR CONTACT INFORMATION] or Class Counsel at the address listed above.

The Agreement and all other pleadings and papers filed in the case are also available for inspection and copying during regular business hours at the office of the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, Everett McKinley Dirksen United States Courthouse, 219 South Dearborn Street, Chicago, Illinois 60604. If you would like additional information, you can also call [SETTLEMENT ADMINISTRATOR HOTLINE NUMBER].

PLEASE <u>DO NOT CONTACT</u> THE COURT, THE JUDGE, OR DEFENDANTS WITH QUESTIONS ABOUT THE SETTLEMENT.

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EXHIBIT B – PLAN OF ALLOCATION

PLAN OF ALLOCATION FOR CLASS SETTLEMENT

I. DEFINITIONS

Except as indicated in this Plan of Allocation, the capitalized terms used herein shall have the meaning ascribed to them in the Settlement Agreement.

II. CALCULATION OF ALLOCATION AMOUNTS

A. Per Article 2 of the Settlement Agreement and its subparts, Defendants shall provide the Settlement Administrator with the data reasonably necessary to determine the amount of the Net Settlement Amount to be distributed to each Class Member in accordance with this Plan of Allocation.

B. The data reasonably necessary to perform calculations under this Plan of Allocation is the total net charges paid by each Class Member (for themselves and/or their covered spouse or covered domestic partner, as applicable) in connection with the tobacco surcharge during the Class Period, from September 25, 2018 through the date of December 31, 2025, less any refunds, reimbursements, or credits applied to tobacco surcharge payments during that period ("Net Surcharge Payments").

C. The Net Settlement Amount will be allocated as follows:

   a. Calculate the Net Surcharge Payment by each Class Member during the Class Period based on the data provided by Defendants. That amount shall be that Class Member's "Balance."

   b. For the avoidance of doubt, where a Class Member paid the tobacco surcharge both for themselves and for a covered spouse or covered domestic partner, the Net Surcharge Payments for that Class Member shall include the total net charges paid for both the Class Member and the covered spouse or covered domestic partner, less any refunds, reimbursements, or credits applied to those payments.

   c. Sum the Balance for all Class Members.

   d. Allocate each Class Member a share of the Net Settlement Amount in proportion to the sum of that Class Member's Balance as compared to the sum of the Balance for all Class Members, i.e., where the numerator is the Class Member's Balance and the denominator is the sum of all Class Members' Balances. The amounts resulting from this initial calculation will be known as the "Entitlement Amount."

D. Class Members shall be paid directly by the Settlement Administrator by check. Checks issued to Class Members pursuant to this paragraph shall be valid for 180 days from the date of issue.

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E. The Settlement Administrator shall utilize the calculations required to be performed herein for making the required distributions of the Entitlement Amount, less any required tax withholdings or penalties, to each Class Member. In the event that the Settlement Administrator determines that the Plan of Allocation would otherwise require payments exceeding the Net Settlement Amount, the Settlement Administrator is authorized to make such changes as are necessary to the Plan of Allocation such that said totals do not exceed the Net Settlement Amount. The Settlement Administrator shall be solely responsible for performing any calculations required by this Plan of Allocation.

F. If the Settlement Administrator concludes that it is impracticable to implement any provision of the Plan of Allocation, it shall be authorized to make such changes to the methodology as are necessary to implement as closely as possible the terms of the Settlement Agreement, so long as the total amount of distributions does not exceed the Net Settlement Amount.

G. After the distribution of the Net Settlement Amount and allocation of the Net Settlement Amount pursuant to the Plan of Allocation, amounts allocable to Class Members who cannot be located or otherwise cannot receive their Settlement payment or did not cash their checks after 180 calendar days shall be contributed half to Advocate Charitable Foundation and half to Aurora Health Care Foundation, Inc.

H. Neither the Released Parties, Defense Counsel, nor Class Counsel shall have any responsibility for or liability whatsoever with respect to any tax advice or tax events given to or as to any Class Members.

III. QUALIFICATIONS AND CONTINUING JURISDICTION

The Court will retain jurisdiction over the Plan of Allocation to the extent necessary to ensure that it is fully and fairly implemented.

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EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

KELLY ROGERS, KATHRYN DEISINGER O'FLAHERTY, and WYNDHAM HASLER, on behalf of themselves and all others similarly situated, Plaintiffs, v. ADVOCATE AURORA HEALTH, INC., the COMPENSATION COMMITTEE OF THE BOARD OF DIRECTORS OF ADVOCATE AURORA HEALTH, INC., and the ADVOCATE AURORA HEALTH, INC. NON-CHURCH BENEFIT PLAN ADMINISTRATIVE COMMITTEE, Defendants.	Case No. 1:24-cv-8864 District Judge LaShonda A. Hunt

[PROPOSED] ORDER PRELIMINARILY APPROVING SETTLEMENT

Currently before the Court for preliminary approval is a Settlement (the "Settlement") of this class action (the "Action") wherein Class Representatives Kelly Rogers, Kathryn Deisinger O'Flaherty, and Wyndham Hasler (the "Class Representatives") have asserted claims for alleged violations of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001, et seq. ("ERISA"), against Advocate Aurora Health, Inc., the Compensation Committee of the Board of Directors of Advocate Aurora Health, Inc., and the Advocate Aurora Health, Inc. Non-Church Benefit Plan Administrative Committee (collectively, "Defendants"). The claims concern Defendants' Wellness Program, the imposition and administration of tobacco or nicotine

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surcharges, alleged deficiencies in notice of a reasonable alternative standard, the alleged failure to provide the full reward required by applicable law, and alleged breaches of fiduciary duties.

The terms of the Settlement are set out in a Settlement Agreement executed on _____, 2026 (the "Agreement"), which has been signed by the Class Representatives and Class Counsel on behalf of the proposed Settlement Class and by Defendants and their Counsel. The Class Representatives and Defendants are referred to herein collectively as the "Parties." Capitalized terms not otherwise defined in this Order shall have the same meaning as ascribed to them in the Agreement. The "Settlement Class" is defined in this Order below.

Having considered Plaintiffs' Motion for Preliminary Approval of Proposed Settlement (ECF No. __) and the Agreement attached thereto in order to determine, among other things, whether the Settlement is sufficient to warrant the issuance of notice to members of the proposed Settlement Class, it is hereby **ORDERED, ADJUDGED, AND DECREED** as follows:

JURISDICTION. The Court has jurisdiction over the subject matter of this Action and over all Parties to this Action, including all Class Members.

CLASS FINDINGS. The Court preliminarily finds, for purposes of the Settlement only, that the requirements of the Federal Rules of Civil Procedure, the United States Constitution, the Rules of the Court, and any other applicable law have been met as to the Settlement Class, in that:

(a) the Settlement Class is ascertainable from records kept with respect to the Advocate Aurora Health Welfare Benefit Plan (the "Plan") and from other objective criteria, and the Settlement Class is so numerous that joinder before the Court would be impracticable;

(b) Based on allegations in Plaintiffs' Complaint (the "Complaint"), the Court preliminarily finds that there are one or more questions of fact and/or law common to the Settlement Class.

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(c) Based on allegations in the Complaint, the Court preliminarily finds that the claims of the Class Representatives are typical of the claims of the Settlement Class.

(d) The Class Representatives will fairly and adequately protect the interests of the Settlement Class in that: (i) the interests of the Class Representatives and the nature of their alleged claims are consistent with those of the Settlement Class; (ii) there are no significant conflicts between or among the Class Representatives and the Settlement Class; and (iii) the Class Representatives are represented by qualified, reputable counsel who are experienced in preparing and prosecuting ERISA class actions of this type.

(e) The prosecution of separate actions by individual members of the Settlement Class would create a risk of: (i) inconsistent or varying adjudications as to individual Class Members, that would establish incompatible standards of conduct for the parties opposing the claims asserted in the Action; or (ii) adjudications as to individual Class Members that would, as a practical matter, be dispositive of the interests of the other members not parties to the Action, or would substantially impair or impede those persons' ability to protect their interests.

CLASS CERTIFICATION. Based on the findings set out above, the Court PRELIMINARILY CERTIFIES the following Settlement Class for settlement purposes under Federal Rule of Civil Procedure 23(b)(1) in this litigation (the "Settlement Class"), including all individuals satisfying the criteria below:

(a) The individual resides in the United States;

(b) The individual paid a tobacco or nicotine surcharge in connection with participation in the Advocate Aurora Health Welfare Benefit Plan, whether for the individual and/or a dependent, including a covered spouse or covered domestic partner, during the Class Period;

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(c) Excluded from the Settlement Class are Defendants' named officers and directors, named fiduciaries of the Plan, counsel for the Parties, and any members of the federal judiciary assigned to the Action.

The Class Period is September 25, 2018 through December 31, 2025.

The Court finds that the Settlement Class is sufficiently well-defined and cohesive to warrant certification as a non-opt-out class under Fed. R. Civ. P. 23(a) and 23(b)(1).

As required by Fed. R. Civ. P. 23(g), the Court has considered: (i) the work Class Counsel has done in identifying or investigating potential claims in this Action; (ii) Class Counsel's experience in handling class actions, other complex litigation, and claims of the type asserted in this Action; (iii) Class Counsel's knowledge of the applicable law, and in particular its knowledge of ERISA as it applies to claims of the type asserted in this Action; and (iv) the resources Class Counsel has committed to representing the Settlement Class.

Based on these factors, the Court finds that Class Counsel has and will continue to represent fairly and adequately the interests of the Settlement Class. Accordingly, pursuant to Federal Rule of Civil Procedure 23(g)(2), the Court preliminarily designates Siri & Glimstad LLP as Class Counsel with respect to the Settlement Class in this Action. As indicated above, the Court finds that the Class Representatives are adequate and typical representatives for the Settlement Class for settlement purposes and, therefore, hereby appoints Kelly Rogers, Kathryn Deisinger O'Flaherty, and Wyndham Hasler as the representatives of the Settlement Class for settlement purposes. The Court having determined preliminarily that this Action may proceed as a non-opt-out class action under Fed. R. Civ. P. 23(a) and 23(b)(1), the Settlement Class shall be bound by any judgment concerning the Settlement in this Action, subject to the Court's final determination as to whether this Action may so proceed.

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PRELIMINARY APPROVAL OF SETTLEMENT. The Settlement documented in the Agreement is hereby **PRELIMINARILY APPROVED**, as the Court preliminarily finds that: (a) the proposed Settlement resulted from arm's-length negotiations; (b) the Agreement was executed only after Class Counsel had researched and investigated multiple legal and factual issues pertaining to Plaintiffs' claims; (c) there is a genuine controversy between the Parties involving Defendants' compliance with ERISA and the administration of the Wellness Program; (d) the Settlement appears on its face to be fair, reasonable, and adequate; and (e) the Settlement, evidenced by the Agreement, is sufficiently fair, reasonable, and adequate to warrant sending notice of the Action and the Settlement to the Settlement Class.

PLAN OF ALLOCATION. The Court preliminarily finds that the proposed Plan of Allocation is fair, reasonable, and adequate.

FINAL APPROVAL HEARING. A hearing (the "Final Fairness Hearing") pursuant to Fed. R. Civ. P. 23(e) is hereby SCHEDULED to be held before the Court on _____, 2026, at __ a.m., which date shall be no sooner than one hundred twenty (120) days after the date this Order is filed, at the Everett McKinley Dirksen United States Courthouse, 219 South Dearborn Street, Chicago, Illinois 60604, to determine finally, among other things:

(a) Whether the Settlement should be approved as fair, reasonable, and adequate; (b) whether the Settlement Class satisfies the requirements of Fed. R. Civ. P. 23 and should be finally certified as preliminarily found by the Court; (c) whether the Action should be dismissed with prejudice pursuant to the terms of the Agreement; (d) whether the Final Approval Order attached to the Agreement should be entered and whether the Released Parties should be released of and from the Released Claims, as provided in the Agreement; (e) whether the notice and notice methodology implemented pursuant to the Agreement were reasonably calculated, under the

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circumstances, to apprise the Settlement Class of the pendency of the Action, their right to object to the Settlement, and their right to appear at the Final Fairness Hearing, were reasonable and constituted due, adequate, and sufficient notice to all persons entitled to notice, and met all applicable requirements of the Federal Rules of Civil Procedure and any other applicable law; (f) whether Class Counsel adequately represents the Settlement Class for purposes of entering into and implementing the Settlement Agreement as required by Fed. R. Civ. P. 23(g) and as preliminarily found by the Court; and (g) whether the proposed Plan of Allocation of the Net Settlement Amount is fair, reasonable, and adequate and should be approved by the Court;

(h) whether the Settlement has been negotiated at arm's length by Class Counsel on behalf of the Plan and the Settlement Class, whether the Class Representatives have acted independently, whether their interests are identical to the interests of the Plan and the Settlement Class, and whether the negotiation and consummation of the Settlement by the Class Representatives on behalf of the Plan and the Settlement Class do not constitute "prohibited transactions" as defined by ERISA §§ 406(a) or (b), including whether Prohibited Transaction Exemption 2003-39 or another class exemption from the prohibited transaction rules applies; (i) whether the application for attorneys' fees and costs to be filed by Class Counsel should be approved; (j) whether Case Contribution Awards of up to $7,500 per Class Representative should be awarded; and (k) any other issues necessary for approval of the Settlement.

CLASS NOTICE. The Parties have presented to the Court a proposed Settlement Notice, which is appended to the Agreement as Exhibit A. The Court APPROVES the form and content of the Settlement Notice, finding that it fairly and adequately: (1) describes the terms and effect of the Agreement and the Settlement; (2) gives notice to the Settlement Class of the time and place of the Final Fairness Hearing; and (3) describes how recipients of the Settlement Notice may object

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to approval of the Settlement. The Settlement Class is certified as mandatory, no Class Member shall have the right to opt out of the Settlement Class, and the Settlement Notice shall not include any exclusion procedure. The Parties have proposed sending the Settlement Notice to Class Members via email and/or U.S. Mail, and the Court finds that the proposed manner is adequate.

No later than fourteen (14) calendar days after entry of this Order, Defendants shall provide the Class Member List to the Settlement Administrator, and no later than ten (10) calendar days after receipt of the Class Member List, the Settlement Administrator shall cause the Settlement Notice, with such non-substantive modifications as may be agreed upon by the Parties, to be disseminated via email and/or U.S. Mail to the last known address or email address of each member of the Settlement Class who can be identified by reasonable effort. At or before the Final Fairness Hearing, Class Counsel shall file with the Court proof of timely compliance with this mailing and email requirement.

OBJECTIONS TO SETTLEMENT. "Objector" shall mean any member of the Settlement Class who wishes to object to the fairness, reasonableness, or adequacy of the Settlement, to the Plan of Allocation, to any term of the Agreement, to the proposed Case Contribution Awards, or to the proposed award of attorneys' fees and costs.

Any Objector must file with the Court a statement of his, her, or its objection(s), specifying the reason(s), if any, for each objection, including any legal support or evidence that the Objector wishes to bring to the Court's attention or introduce in support of the objection. Any objection must be signed by the Settlement Class member and must include: (1) his, her, or its full name, current address, and current telephone number and, if represented by counsel, counsel's name and contact information; (2) whether the objection applies only to the objecting Class Member, to a specific subset of the Settlement Class, or to the entire Settlement Class; (3) a statement of the

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position(s) the Objector wishes to assert; (4) copies of any other documents that the Objector wishes to submit in support of his, her, or its position; and (5) a list of any other objections to any class action settlements submitted in any court, whether state, federal, or otherwise, in the United States in the previous five (5) years. The Objector must also mail the objection and all supporting law and evidence to counsel for the Parties as stated below. The addresses for filing objections with the Court and service on counsel are:

COURT CLERK
United States District Court for the Northern District of Illinois, Eastern Division, Everett McKinley Dirksen United States Courthouse, 219 South Dearborn Street, Chicago, Illinois 60604

PLAINTIFFS' COUNSEL
Oren Faircloth
William H. Payne, IV
Siri & Glimstad LLP
100 Pearl Street, 14th Floor
#16946876
Hartford, CT 06103
ofaircloth@sirillp.com

DEFENDANTS' COUNSEL
Gary Feinerman
Joseph B. Farrell
Latham & Watkins LLP,
330 North Wabash Avenue, Suite 2800,
Chicago, IL 60611
Gary.Feinerman@lw.com
Joe.Farrell@lw.com

The Objector, or, if represented by counsel, the Objector's counsel, must both effect service of the objection on counsel listed above and file the objection with the Court at least twenty-eight (28) calendar days prior to the Final Fairness Hearing. Any Settlement Class member or other person who does not timely file and serve a written objection complying with this paragraph shall be deemed to have waived, and shall be foreclosed from raising, any objection to the Settlement, and any untimely objection shall be barred.

APPEARANCE AT FINAL FAIRNESS HEARING. An Objector who files and serves a timely written objection in accordance with the paragraph above may also appear at the Final Fairness Hearing either in person or through counsel retained at the Objector's expense. Objectors or their attorneys intending to appear at the Final Fairness Hearing must effect service of a "Notice of Intention to Appear" setting forth, among other things, the name, address, and telephone number

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of the Objector and, if applicable, the Objector's attorney. The Notice of Intention to Appear must be filed with the Court and provided to Class Counsel and Defendants' Counsel at least twenty-eight (28) calendar days prior to the Final Fairness Hearing. Any Objector who does not timely file and serve a Notice of Intention to Appear in accordance with this paragraph shall not be permitted to appear at the Final Fairness Hearing, except for good cause shown. The Parties' counsel shall promptly furnish each other with copies of all Objections and Notices of Intention to Appear that come into their possession.

RESPONSE TO OBJECTORS. The Parties shall respond to any Objector not later than five (5) business days before the Final Fairness Hearing.

COMPLIANCE WITH CLASS ACTION FAIRNESS ACT. No later than ten (10) calendar days after the filing of the motion for preliminary approval of the Settlement, Defendants shall send the CAFA Notice to the Attorney General of the United States, the Secretary of the Department of Labor, and the Attorneys General of all States and Territories in which Class Members reside, as specified in 28 U.S.C. § 1715, and shall file proof of such compliance with the Court at or before the Final Approval Hearing.

NOTICE EXPENSES. Reasonable expenses of effectuating Class Notice shall be paid out of the Gross Settlement Amount from the Qualified Settlement Fund.

FEES AND EXPENSES INCURRED BY THE INDEPENDENT FIDUCIARY AND SETTLEMENT ADMINISTRATOR. The Court understands that Defendants have retained or will retain an Independent Fiduciary for the purpose of evaluating the Settlement to determine whether to authorize the Settlement on behalf of the Plan. The fees and expenses incurred by the Independent Fiduciary, including fees and expenses incurred by consultants, attorneys, and other professionals retained or employed by the Independent Fiduciary, in the course of evaluating and

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authorizing the Settlement on behalf of the Plan, shall be paid out of the Gross Settlement Amount from the Qualified Settlement Fund in accordance with the Agreement. No dollar cap is included in this Order. The expenses incurred by the Settlement Administrator in administering the Settlement and allocating the Qualified Settlement Fund pursuant to the Plan of Allocation approved by the Court, including any payable expenses of the Settlement Administrator, shall also be paid out of the Gross Settlement Amount.

APPLICATION FOR ATTORNEYS' FEES. Any application by Class Counsel for attorneys' fees and reimbursement of expenses, for Case Contribution Awards for the Class Representatives, and all papers in support thereof, shall be filed with the Court and served on all counsel of record at least forty-five (45) calendar days prior to the Final Fairness Hearing.

MOTION FOR FINAL APPROVAL OF SETTLEMENT AND PLAN OF ALLOCATION. Class Counsel shall file with the Court a motion for entry of the Final Approval Order and approval of the Plan of Allocation at least forty-five (45) calendar days prior to the Final Fairness Hearing.

INJUNCTION. Pending final determination of whether the Settlement should be approved, the Class Representatives, all Class Members, including their respective heirs, beneficiaries, executors, administrators, estates, past and present partners, officers, directors, agents, predecessors, successors, and assigns, and the Plan are each hereby BARRED AND ENJOINED from instituting or prosecuting any action that asserts any Released Claim against any of the Released Parties.

TERMINATION OF SETTLEMENT. If the Settlement is terminated in accordance with the Settlement Agreement or does not become Final under the terms of the Settlement Agreement for any other reason, this Order and all class findings herein shall become null and void and shall

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be without prejudice to the rights of the Parties, all of whom shall be restored to their respective positions existing immediately before the Court entered this Order. Any return of remaining Qualified Settlement Fund amounts shall be governed by Section 12.2 of the Settlement Agreement.

USE OF ORDER. In the event this Order becomes of no force or effect, no part of it shall be construed or used as an admission, concession, or declaration by or against Defendants of any fault, wrongdoing, breach, or liability, nor shall the Order be construed or used as an admission, concession, or declaration by or against Plaintiffs or the Settlement Class that their claims lack merit or that the relief requested in the Action is inappropriate, improper, or unavailable, or as a waiver by any party of any defenses or claims he, she, or it may have.

CONTINUANCE OF FINAL FAIRNESS HEARING. The Court reserves the right to continue the Final Fairness Hearing, or to hold the Final Fairness Hearing by remote means, without further written notice.

SO ORDERED this _____ day of _____, 2026.

_____

Hon. LaShonda A. Hunt
United States District Judge

EXHIBIT D

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

KELLY ROGERS, KATHRYN DEISINGER O'FLAHERTY, and WYNDHAM HASLER, on behalf of themselves and all others similarly situated,	Case No. 1:24-cv-8864 District Judge LaShonda A. Hunt

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Plaintiffs,

v.

ADVOCATE AURORA HEALTH, INC., the COMPENSATION COMMITTEE OF THE BOARD OF DIRECTORS OF ADVOCATE AURORA HEALTH, INC., and the ADVOCATE AURORA HEALTH, INC. NON-CHURCH BENEFIT PLAN ADMINISTRATIVE COMMITTEE,

Defendants.

[PROPOSED] FINAL APPROVAL ORDER AND FINAL JUDGMENT

This Action came on for a final approval hearing, held on _____, 2026, on a proposed Settlement (the "Settlement") of this class action (the "Action") preliminarily certified for settlement purposes. The issues having been duly heard and a decision having been duly rendered, **IT IS HEREBY ORDERED AND ADJUDGED**:

To the extent not otherwise defined herein, all terms shall have the same meaning as used in the Settlement Agreement executed on _____, 2026 (the "Agreement").

JURISDICTION AND APPROVAL. The Court has jurisdiction over the subject matter of this Action and over all Parties to this Action, including all Class Members. The Court hereby approves and confirms the Settlement Agreement as a fair, reasonable, and adequate settlement and compromise of this Action, adopts the Settlement Agreement as its Judgment, and orders that the Settlement Agreement shall be effective, binding, and enforced according to its terms and conditions.

The Court determines that Kelly Rogers, Kathryn Deisinger O'Flaherty, and Wyndham Hasler (the "Class Representatives") have asserted claims on behalf of themselves, the Settlement

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Class, and the Advocate Aurora Health Welfare Benefit Plan (the "Plan") for alleged violations of ERISA in connection with the Wellness Program, including the Healthy Breathe program, the imposition and administration of tobacco or nicotine surcharges, alleged notice and reasonable alternative standard deficiencies, the alleged failure to provide the full reward required by applicable law, and alleged breaches of fiduciary duties.

The Court determines that the Settlement has been negotiated vigorously and at arm's length by Class Counsel, and further finds that the Class Representatives have acted independently and that their interests are aligned with the interests of the Plan and the Settlement Class. The Court further finds that the Settlement arises from a genuine controversy between the Parties and is not the result of collusion, nor was the Settlement procured by fraud or misrepresentation. The Court finds that the Plan's participation in the Settlement is on terms no less favorable than the Class Representatives' and the Settlement Class's and that the Plan does not have any additional claims above and beyond those asserted by the Class Representatives that are released as a result of the Settlement. The Court determines that the Settlement is not part of an agreement, arrangement, or understanding designed to benefit a party in interest, but rather is designed and intended to benefit the Plan and the Plan's participants and beneficiaries.

Accordingly, the Court determines that the negotiation and consummation of the Settlement by the Class Representatives on behalf of the Plan and the Settlement Class does not constitute a "prohibited transaction" as defined by ERISA §§ 406(a) or (b), 29 U.S.C. §§ 1106(a) or (b). Further, the Court finds that, in light of the analysis and opinion provided by the Independent Fiduciary, to the extent any transactions required by the Settlement constitute a transaction prohibited by ERISA § 406, 29 U.S.C. § 1106, such transactions satisfy the provisions of Prohibited Transaction Exemption 2003-39, 68 Fed. Reg. 75,632 (2003).

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The Court determines that the Class Notice transmitted to the Settlement Class pursuant to the Preliminary Approval Order concerning the Settlement and the other matters set forth therein is the best notice practicable under the circumstances and included individual notice to all Class Members who could be identified through reasonable efforts. The Class Notice provides valid, due, and sufficient notice of these proceedings and of the matters set forth therein, including the Settlement described in the Agreement, to all persons entitled to such Class Notice, and the Class Notice has fully satisfied the requirements of Federal Rule of Civil Procedure 23 and the requirements of due process.

The Court hereby approves the maintenance of the Action as a non-opt-out class action pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(1), with the Settlement Class being defined as all individuals satisfying the following criteria: (a) the individual resides in the United States; (b) the individual paid a tobacco or nicotine surcharge in connection with participation in the Advocate Aurora Health Welfare Benefit Plan, whether for the individual and/or a dependent, including a covered spouse or covered domestic partner, during the Class Period; and (c) the Class Period is September 25, 2018 through December 31, 2025. Excluded from the Settlement Class are Defendants' named officers and directors, named fiduciaries of the Plan, counsel for the Parties, and any members of the federal judiciary assigned to the Action. Pursuant to Federal Rule of Civil Procedure 23(g), the Court hereby confirms its appointment of Siri & Glimstad LLP as Class Counsel. Based on the Settlement, the Court hereby dismisses the Complaint and the Action against Defendants with prejudice, without costs to any of the Settling Parties other than as provided for in the Settlement Agreement.

As of the Settlement Effective Date, the Class Representatives, the Plan, and each Class Member, on their own behalf and on behalf of their present or former agents, employees,

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accountants, representatives, advisers, investment bankers, trustees, parents, heirs, estates, executors, administrators, successors, and assigns, shall be deemed to have released each and all of the Released Parties from the Released Claims.

As of the Settlement Effective Date, all release provisions in the Settlement Agreement shall be given full force and effect in accordance with their express terms and provisions, including those terms and provisions relating to unknown or unsuspected claims, demands, or causes of action. Further, the Class Representatives assume for themselves, and on behalf of the Settlement Class, and Defendants assume the risk of any subsequent discovery of any matter, fact, or law that, if now known or understood, would in any respect have affected or could have affected the Parties entering into the Agreement.

Upon entry of this Judgment, the Class Representatives, the Class Members, and the Plan shall be conclusively deemed to have settled, released, relinquished, waived, and discharged any and all rights or benefits they may now have, or in the future may have, under Section 1542 of the California Civil Code and under any law, statute, or principle of common law of any State, territory, or foreign jurisdiction that is similar, comparable, or equivalent in substance thereto, with respect to the Released Claims.

The Court further determines that Defendants have fully complied with the notice requirements of the Class Action Fairness Act of 2005 and that all applicable CAFA requirements have been satisfied. All members of the Settlement Class, including their respective heirs, beneficiaries, executors, administrators, estates, past and present partners, officers, directors, agents, predecessors, successors, and assigns, and the Plan are hereby barred and enjoined from the institution and prosecution, either directly or indirectly, of any other actions in any court asserting any and all Released Claims against any and all Released Parties.

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The litigation expenses incurred by Class Counsel in the course of prosecuting this Action are reasonable. Accordingly, Class Counsel is awarded expenses in the amount of $_____, to be paid from the Qualified Settlement Fund.

The attorneys' fees sought by Class Counsel are reasonable in light of the successful results achieved by Class Counsel, the monetary benefits obtained in this Action, the substantial risks associated with the Action, Class Counsel's skill and experience in class action litigation of this type, and the fee awards in comparable cases. Accordingly, Class Counsel is awarded attorneys' fees in the amount of $_____, provided that the aggregate award of attorneys' fees and costs, including the expenses awarded in the preceding paragraph, shall not exceed one-third (33.33%) of the Gross Settlement Amount. Each Class Representative is hereby awarded a Case Contribution Award in the amount of $_____ (not to exceed $7,500 per Class Representative). Class Counsel's attorneys' fees and the Class Representatives' Case Contribution Awards shall be paid pursuant to the timing requirements described in the Settlement Agreement and paid from the Gross Settlement Amount.

The Plan of Allocation for the Qualified Settlement Fund is approved as fair, reasonable, and adequate. Any modification or change in the Plan of Allocation that may hereafter be approved shall in no way disturb or affect this Judgment and shall be considered separate from this Judgment.

The Court further approves the residual-funds provisions of the Settlement Agreement and Plan of Allocation. Amounts allocable to Class Members who cannot be located or otherwise cannot receive their Settlement payment or did not cash their checks after 180 calendar days shall be contributed half to Advocate Charitable Foundation and half to Aurora Health Care Foundation, Inc. No portion of the Gross Settlement Amount, including uncashed payments, interest, or other residual funds, shall revert or be returned to Defendants or any insurer, except as provided by

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Section 12.2 of the Settlement Agreement if the Settlement is terminated before becoming effective.

Without affecting the finality of this Judgment, the Court retains jurisdiction for purposes of implementing the Agreement and reserves the power to enter additional orders to effectuate the fair and orderly administration and consummation of the Agreement and Settlement, as may from time to time be appropriate, and resolution of any and all disputes arising thereunder.

SO ORDERED this _____ day of _____, 2026.

_____

Hon. LaShonda A. Hunt
United States District Judge

Signature: Oren Faircloth

Email: ofaircloth@sirillp.com

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Advocate - Rogers Draft Settlement (final) (2509531.1)

Final Audit Report 2026-09-14

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