

CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (“Settlement Agreement”) is entered into between and among the Class Representatives, all Class Members, and the Defendants.

1. Article 1 – Recitals

- 1.1** On March 12, 2014, Karolyn Kruger, M.D., Candace Culton, Frances Baillie, Eileen Schneider, Judy Lewis, Linda Christensen, and Teresa Powell all participants in the defined contribution retirement program known as the Retirement Plus Plan, filed a Complaint (Case No. 14-cv-00208) against Novant Health, Inc. and various individuals and committees alleged to have fiduciary responsibility for the Retirement Plus Plan in the United States District Court for the Middle District of North Carolina as representatives of a putative class asserting various claims of breaches of fiduciary duty and seeking relief under the Employee Retirement Income Security Act of 1974, as amended (“ERISA”).
- 1.2** Defendants filed a motion to dismiss on May 20, 2014, seeking dismissal of the Complaint on the basis that plaintiffs failed to state a cause of action for fiduciary breach.
- 1.3** With defendants’ motion to dismiss under advisement, the parties discussed settlement through private mediation. Through extensive discussions in mediation and continued discussions after mediation, the parties finally reached an agreement. The terms of the parties’ settlement are memorialized in this Settlement Agreement.
- 1.4** The plaintiff class representatives and plaintiffs’ class counsel consider it desirable and in the class members’ best interests that the claims against defendants be settled on behalf of the class representatives and the class upon the terms set forth below, and they have concluded that such terms are fair, reasonable, and adequate and that this settlement will result in benefits to class representatives and the class.
- 1.5** Defendants admit no wrong doing or liability with respect to any of the allegations or claims in the Complaint. This Settlement Agreement, and the discussions between the settling parties preceding it, shall in no event constitute, be construed as, or be deemed evidence of, an admission or concession of fault or liability of any kind by Novant Health, Inc. or any of the other defendants named in the Complaint and identified in the Settlement Agreement.
- 1.6** The Settling Parties, as defined below, have concluded that it is desirable that this matter be finally settled upon the terms and conditions set forth in this Settlement Agreement.

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

2. Article 2 – Definitions

As used in this Settlement Agreement and the Exhibits hereto (as listed in Paragraph 13.18), unless otherwise defined, the following terms have the meanings specified below:

- 2.1** “Administrative Expenses” means expenses incurred in the administration of this Settlement Agreement, including (a) all fees, expenses, and costs associated with providing the Settlement Notices to the Class; (b) related tax expenses (including taxes and tax expenses as described in Paragraph 5.3); (c) all expenses and costs associated with the distribution of funds pursuant to the Plan of Allocation, including but not limited to the fees of the Plans’ recordkeeper associated with implementing this Settlement Agreement, facilitating the distribution of funds pursuant to the Plan of Allocation, and gathering the data necessary to prepare the Plan of Allocation; (d) all fees and expenses of the Independent Fiduciary, Independent Consultant (except as specifically provided otherwise in Paragraphs 10.5, 10.6, 10.7, 10.8, and 10.11 herein), Settlement Administrator, and Escrow Agent; and (e) all fees, expenses, and costs associated with providing notices required by the Class Action Fairness Act of 2005, 28 U.S.C. §§ 1711–1715. Excluded from Administrative Expenses are Defendants’ internal expenses and the Settling Parties’ respective legal expenses. Administrative Expenses shall be paid from the Gross Settlement Amount.
- 2.2** “Active Account” means an individual investment account in any of the Plans with a balance greater than \$0.
- 2.3** “Alternate Payee” means a person other than a participant or Beneficiary in any of the Plans who is entitled to a benefit under any of the Plans as a result of a Qualified Domestic Relations Order.
- 2.4** “Approved Service Providers” means those service providers selected by the Plan Fiduciary and reviewed by the Independent Consultant following the request for proposal (“RFP”) bidding process described in Paragraph 10.6.
- 2.5** “Attorneys’ Fees and Costs” means the amount awarded by the Court as compensation for the services provided by Class Counsel and to be provided in the future during the Settlement Period. The amount of attorneys’ fees for Class Counsel shall not exceed \$10,666,666 which shall be recovered from the Gross Settlement Amount. Class Counsel also will seek reimbursement for all litigation costs and expenses advanced and carried by Class Counsel for the duration of this litigation, not to exceed \$95,000.00 which also shall be recovered from the Gross Settlement Amount.

- 2.6** “Authorized Former Participant” means a Former Participant who has submitted a completed, satisfactory Former Participant Claim Form by the Claims Deadline set by the Court in the Preliminary Order and whose Former Participant Claim Form is accepted by the Settlement Administrator.
- 2.7** “Beneficiary” means a person who currently is entitled to receive a benefit under any of the Plans that is derivative of a participant’s interest in any of the Plans, other than an Alternate Payee. A Beneficiary includes, but is not limited to, a spouse, surviving spouse, domestic partner, or child who currently is entitled to a benefit.
- 2.8** “CAFA” means the Class Action Fairness Act of 2005, 28 U.S.C. §§ 1711–1715.
- 2.9** “Claims Deadline” means a date that is no later than ten (10) calendar days before the Fairness Hearing.
- 2.10** “Class Action” means *Karolyn Kruger, M.D. et al. v. Novant Health, Inc. et al.*, Case No. 14-cv-00208 in the United States District Court for the Middle District of North Carolina.
- 2.11** “Class Counsel” means Schlichter, Bogard & Denton LLP, 100 S. Fourth Street, Saint Louis, Missouri, 63102.
- 2.12** “Class Members” means all individuals in the Settlement Class.
- 2.13** “Class Period” means the period from October 1, 1998 through September 30, 2015.
- 2.14** “Class Representatives” means Karolyn Kruger, M.D., Candace Culton, Frances Baillie, Eileen Schneider, Judy Lewis, Linda Christensen, and Teresa Powell.
- 2.15** “Class Representatives’ Compensation” means an amount to be determined by the Court, but not to exceed \$25,000 for each Class Representative, which shall be paid from the Gross Settlement Amount.
- 2.16** “Confidentiality Order” means the Protective Order entered by the Court based upon the Proposed Protective filed contemporaneously herewith.
- 2.17** “Court” means the United States District Court for the Middle District of North Carolina.
- 2.18** “Court of Appeals” means the United States Court of Appeals for the Fourth Circuit.
- 2.19** “Current Participant” means a person who participated in any of the Plans during the Class Period and on September 30, 2015, had an Active Account balance.

- 2.20** “Defendants” means Novant Health, Inc., the Plan Fiduciary, as defined herein, and all current or former Novant employees who were members of the committees defined herein as the Plan Fiduciary at any time since October 1, 1998.
- 2.21** “Defense Counsel” means counsel for Defendants including Morgan, Lewis & Bockius LLP and Brooks Pierce McLendon Humphrey & Leonard, LLP.
- 2.22** “Escrow Agent” means Commerce Bank, or another entity agreed to by the Settling Parties.
- 2.23** “Fairness Hearing” means the hearing scheduled by the Court to consider (a) any objections from Class Members to the Settlement Agreement, (b) Class Counsel’s petition for Attorneys’ Fees and Costs and Class Representatives’ Compensation, and (c) whether to finally approve the Settlement pursuant to Fed. R. Civ. P. 23.
- 2.24** “Final Approval” 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 5 hereto.
- 2.25** “Final Order” means thirty days after Final Approval.
- 2.26** “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 timely initiated, that it has been fully and finally resolved, either by court action or by voluntary action of any party, without any possibility of a reversal, vacatur, or modification of any judicial ruling, order, or judgment, including the exhaustion of all proceedings in any remand or subsequent appeal and remand. The Settling Parties agree that absent an appeal or other attempted review proceeding, the period after which the Final Order becomes Final is thirty (30) calendar days after its entry.
- 2.27** “Former Participant” is a person who participated in any of the Plans during the Class Period and on September 30, 2015, did not have an Active Account.
- 2.28** “Former Participant Claim Form” means the form described generally in Paragraph 3.4.2 and substantially in the form attached as Exhibit 1.
- 2.29** “Gross Settlement Amount” means the sum of thirty-two million dollars (\$32,000,000), contributed to the Qualified Settlement Fund pursuant to Article 5. The Gross Settlement Amount shall be the full and sole monetary payment to the Settlement Class, Plaintiffs, and Class Counsel made on behalf of Defendants in connection with the Settlement effectuated through this Settlement Agreement.
- 2.30** “Independent Consultant” means Innovest Portfolio Solutions LLC.

- 2.31** “Independent Fiduciary” means the company mutually agreed to by the Settling Parties, within seven days of the Court’s entry of the Preliminary Order, to serve as a fiduciary to the Plans as defined in Article 3 herein.
- 2.32** “Mediator” means Hunter Hughes, Hunter ADR, 1075 Peachtree Street NW, suite 2550, Atlanta, Georgia 30309, or if he is unavailable, another mediator mutually agreed upon by the Settling Parties.
- 2.33** “Novant” means Novant Health, Inc.
- 2.34** “Net Settlement Amount” means the Gross Settlement Amount minus: (a) all Attorneys’ Fees and Costs paid to Class Counsel; (b) all Class Representatives’ Compensation 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 but before the end of the Settlement Period, and (3) an amount estimated for adjustments of data or calculation errors.
- 2.35** “Plaintiffs” means the Class Representatives and the Class Members.
- 2.36** “Plans” means the Savings and Supplemental Retirement Plan of Novant Health, Inc. and the Tax Deferred Savings Plan of Novant Health, Inc (collectively, the “Retirement Plus Plan”); the Franklin/Upstate 401(k) Plan; the Presbyterian Women’s Care Corp. 401(k) Plan; the Lakeside/Q-Neck 401(k) Plan; the 457(b) Retirement Plan of Novant Health, Inc. (the “457(b) Plan”); and the Retirement Plus Plan Wrap Nonqualified 457(b)/457(f) Plan of Novant Health, Inc. (the “457(f) Plan”).
- 2.37** “Plan of Allocation” means the methodology for allocating and distributing the Net Settlement Amount pursuant to Article 6 herein.
- 2.38** “Plan Fiduciary” refers to the Administrative Committee for the Plans, which is sometimes referred to as the Novant Health Retirement Plan Committee.
- 2.39** “Preliminary Order” means the order proposed by the Settling Parties and approved by the Court in connection with the Motion for Entry of the Preliminary Order to be filed by Class Representatives through Class Counsel, as described in Paragraph 3.2 and in substantially the form attached hereto as Exhibit 2.
- 2.40** “Qualified Settlement Fund” or “Settlement Fund” means the interest-bearing, settlement fund account to be established and maintained by the Escrow Agent pursuant to Article 5 herein and referred to as the Qualified Settlement Fund (within the meaning of Treas. Reg. § 1.468B-1).
- 2.41** “Released Parties” means (a) each Defendant, (b) each Defendant’s past, present, and future parent corporation(s), and (c) each Defendant’s past, present, and future

affiliates, subsidiaries, divisions, joint ventures, predecessors, successors, successors-in-interest, and assigns, and (d) with respect to (a) through (c) above, all of their affiliates, subsidiaries, divisions, joint ventures, predecessors, successors, successors-in-interest, assigns, employee benefit plan fiduciaries (with the exception of the Independent Fiduciary), administrators, service providers (including their owners and employees), consultants, subcontractors, boards of trustees, boards of directors, officers, trustees, directors, partners, agents, managers, members, employees, independent contractors, representatives, attorneys, administrators, fiduciaries, insurers, co-insurers, reinsurers, accountants, auditors, advisors, consultants, personal representatives, spouses, heirs, executors, administrators, associates, members of their immediate families, and all persons acting under, by, through, or in concert with any of them.

2.42 “Released Claims” means any and all actual or potential claims, actions, demands, rights, obligations, liabilities, damages, attorneys’ fees, expenses, costs, and causes of action:

- a. That were asserted in the Class Action, or that arise out of the conduct alleged in the Complaint whether or not pleaded in the Complaint;
- b. That relate to: (1) the selection, oversight, retention, or performance of the Plans’ investment options and service providers, (2) fees, costs, or expenses charged to, paid, or reimbursed by the Plans, (3) disclosures or failures to disclose information regarding the Plans’ investment options or service providers, (4) disclosures or failures to disclose relationships among fiduciaries, service providers, and investment managers for the Plans, (5) engaging in self-dealing or prohibited transactions, and/or (6) collecting compensation based on a percentage of total assets;
- c. That would be barred by *res judicata* based on entry of the Final Order;
- d. That relate to the direction to calculate, the calculation of, and/or the method or manner of allocation of the Qualified Settlement Fund to the Plans or any member of the Settlement Class pursuant to the Plan of Allocation; or
- e. That relate to the approval by the Independent Fiduciary of the Settlement Agreement, unless brought against the Independent Fiduciary alone.
- f. “Released Claims” specifically exclude (1) those claims not related to 2.41(a)-(e) above; (2) claims of denial of benefits from the Plans; (3) labor or employment claims unrelated to the Plans, including by way of example only, claims arising under Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Equal Pay Act, 42 U.S.C. § 1981, the Fair Labor Standards Act, the Family and Medical Leave Act, the National Labor Relations Act, the Sarbanes Oxley Act, the Dodd-Frank Wall Street Reform and Protection Act, state anti-discrimination and wage-payment laws, claims for wrongful termination under state common law and other state law claims of

a similar nature to those set forth in this subpart (f)(3); and, (4) claims arising from conduct outside the Class Period, other than the continuation of the Plans' current investment menu and plan services (and related fees) through the periods concerning plan investments and services identified in Paragraphs 10.2, 10.4, and 10.6 herein; and (5) claims assigned to Novant pursuant to Paragraph 13.21 of this Settlement Agreement.

- 2.43** "Settlement" or "Settlement Agreement" refers to the agreement embodied in this agreement and its exhibits.
- 2.44** "Settlement Administrator" means Analytics LLC, an independent contractor to be retained by Class Counsel.
- 2.45** "Settlement Agreement Execution Date" means that date on which the final signature is affixed to this Settlement Agreement.
- 2.46** "Settlement Class" means all persons who participated in the Plans at any time during the Class Period, including any Beneficiary of a deceased person who participated in the Plans at any time during the Class Period, and/or, Alternate Payees, in the case of a person subject to a Qualified Domestic Relations Order who participated in the Plans at any time during the Class Period.

Excluded from the Settlement Class are Defendants and all members of Novant's Board of Trustees since October 1, 1998.

- 2.47** "Settlement Effective Date" means the date on which the Final Order is Final, provided that by such date the Settlement has not been terminated pursuant to Article 11.
- 2.48** "Settlement Notice" means the Notices of Class Action Settlement and Fairness Hearing to be mailed by first class mail to Class Members identified by the Settlement Administrator following the Court's issuance of the Preliminary Order, in substantially the form attached hereto as Exhibits 3 and 4. The Settlement Notice also shall inform Class Members of a Fairness Hearing to be held before the Court, on a date to be determined by the Court, at which any Class Member satisfying the conditions set forth in the Preliminary Order and the Settlement Notice may be heard regarding: (a) the terms of the Settlement Agreement; (b) the petition of Class Counsel for award of Attorneys' Fees and Costs; (c) payment of and reserve for Administrative Expenses; and (d) Class Representatives' Compensation. The Settlement Notice shall inform Former Participants of the Claims Deadline by which they must file a completed Former Participant Claim Form to be eligible for a distribution pursuant to the Plan of Allocation.
- 2.49** "Settlement Period" shall be from the Settlement Effective Date and continuing for a period of four years thereafter.
- 2.50** "Settlement Website" means the internet website established pursuant to Paragraph 12.3.

2.51 “Settling Parties” means the Defendants and the Class Representatives, on behalf of themselves and each of the Class Members.

3. Article 3 – Review and Approval by Independent Fiduciary, Preliminary Settlement Approval, and Notice to the Class

3.1 The Independent Fiduciary, agreed to by Class Counsel and Defendants, and retained by the Plan Fiduciary, on behalf of the Plans, shall have the following responsibilities including whether to approve and authorize the settlement of Released Claims on behalf of the Plans.

3.1.1 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, for the purpose of Defendants’ reliance on PTE 2003-39.

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

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

3.1.4 Novant, Defense Counsel, and Class Counsel shall provide the Independent Fiduciary with sufficient information so that the Independent Fiduciary can review the Settlement Agreement.

3.1.5 Within fifteen (15) calendar days of receipt of the notification from the Independent Fiduciary, the Plan Fiduciary shall (a) review the determination by the Independent Fiduciary, (b) conclude whether the Independent Fiduciary has made the determinations required by the PTE, and (c) notify Class Counsel and Defense Counsel in writing of its conclusion in that regard.

3.2 Class Representatives, through Class Counsel, shall file with the Court motions seeking preliminary approval of this Settlement Agreement, class certification for settlement purposes only, and for entry of the Preliminary Order in substantially the form attached hereto as Exhibit 2. Defendants will promptly thereafter file a statement of non-opposition to these motions. The Preliminary Order to be presented to the Court, as to the Class Action, shall, among other things:

3.2.1 Grant the motion to certify the class for settlement purposes only;

- 3.2.2** Approve the text of the Settlement Notice and Former Participant Claim Form for mailing to Class Members and Former Participants identified by the Settlement Administrator to notify them (1) of the Fairness Hearing and (2) that notice of changes to the Settlement Agreement, future orders regarding the Settlement, modifications to the Class Notice, changes in the date or timing of the Fairness Hearing, or other modifications to the Settlement, including the Plan of Allocation, may be provided to the Class through the Settlement Website without requiring additional mailed notice;
- 3.2.3** Determine that pursuant to Rule 23(c)(2) of the Federal Rules of Civil Procedure, the Settlement Notices constitute the best notice practicable under the circumstances, provide due and sufficient notice of the 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;
- 3.2.4** Cause the Settlement Administrator to mail by first class mail the Settlement Notice to each Class Member identified by the Settlement Administrator and the Former Participant Claim Form to each Former Participant identified by the Settlement Administrator based upon the data provided by the Plans' recordkeeper;
- 3.2.5** 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 the Defendants, the Released Parties, or the Plans;
- 3.2.6** Set the Fairness Hearing for no sooner than one hundred twenty (120) calendar days after the date the Motion for Entry of the Preliminary Order is filed, in order to determine whether (i) the Court should approve the Settlement as fair, reasonable, and adequate, (ii) the Court should enter the Final Order, and (iii) the Court should approve the application for Attorneys' Fees and Costs, Class Representatives' Compensation, Administrative Expenses incurred to date, and a reserve for anticipated future Administrative Expenses;
- 3.2.7** Provide that any objections to any aspect of the Settlement Agreement shall be heard, and any papers submitted in support of said objections shall be considered, by the Court at the Fairness Hearing if they have been filed validly with the Clerk of the Court and copies provided to Class Counsel and Defense Counsel. To be filed validly, the objection and any notice of intent to appear or supporting documents must be filed at least thirty (30) days prior to the scheduled Final Approval Hearing. Any person wishing to speak at the Fairness Hearing shall file and serve a notice of intent to appear within the time limitation set forth above;

- 3.2.8** Provide that the Settling Parties may, but are not required to, serve discovery requests, including requests for documents and notices of deposition not to exceed two (2) hours in length, on any objector within ten (10) days of receipt of the objection and that any responses to discovery or depositions must be completed within ten (10) days of the discovery request being served on the objector;
- 3.2.9** Provide that any party may file a response to an objection by a Class Member at least ten (10) days before the Fairness Hearing;
- 3.2.10** Set a deadline of no later than the date of the Fairness Hearing by which each Former Participant must file a Former Participant Claim Form with the Settlement Administrator in order to be considered for a distribution pursuant to the Plan of Allocation; and
- 3.2.11** Provide that the Fairness Hearing may, without further direct notice to the Class Members, other than by notice to Class Counsel, be adjourned or continued by order of the Court.
- 3.3** Defense Counsel shall respond timely to written requests, including by e-mail, from the Settlement Administrator for readily accessible data that are reasonably necessary to determine the feasibility of administering the Plan of Allocation or to implement the Plan of Allocation. The actual and reasonable expenses of any third party, including the Plans' recordkeeper, that are necessary to perform such work shall be Administrative Expenses to be deducted from the Gross Settlement Amount.

 - 3.3.1** The Settlement Administrator shall be bound by the Confidentiality Order and any further non-disclosure or security protocol required by the Settling Parties.
 - 3.3.2** The Settlement Administrator shall use the data provided by Defendants and the Plans' recordkeeper solely for the purpose of meeting its obligations as Settlement Administrator, and for no other purpose.
 - 3.3.3** The Settling Parties shall have the right to approve a written protocol to be provided by the Settlement Administrator concerning how the Settlement Administrator will maintain 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.
- 3.4** By the date and in the manner set by the Court in the Preliminary Order, and unless otherwise set forth below, the Settlement Administrator shall:

 - 3.4.1** Cause to be mailed to each Class Member identified by the Settlement Administrator a Settlement Notice in the form and manner to be approved by the Court, which shall be in substantially the form attached hereto as Exhibits 3 and 4 or a form subsequently agreed to by the Settling Parties

and the Court. The Settlement Notice shall be sent by first-class mail, postage prepaid, to the last known address of each Class Member provided by the the Plans' recordkeeper (or its designee) through Defense Counsel, unless an updated address is obtained by the Settlement Administrator through its efforts to verify the last known addresses provided by the Plans' recordkeeper (or its designee). Class Counsel also shall post a copy of the Settlement Notice on the Settlement Website. The Settlement Administrator shall use commercially reasonable efforts to locate any Class Member whose Settlement Notice is returned and re-mail such documents one additional time.

3.4.2 Cause the Former Participant Claim Form, which shall be in substantially the form attached as Exhibit 1, or a form subsequently agreed to by the Settling Parties and the Court, to be included with the Settlement Notice that is mailed to the Former Participants.

3.4.3 Have prepared and provided CAFA notices to the Attorney General of the United States, the Secretary of the Department of Labor, and the Attorneys General of all states in which members of the Class reside, as specified by 28 U.S.C. § 1715, within ten (10) calendar days of Class Representatives' filing of the Settlement Agreement and proposed Preliminary Order. Subject to Court approval, the costs of such notice shall be paid from the Qualified Settlement Fund and shall be considered Administrative Expenses.

4. Article 4 – Final Settlement Approval

4.1 No later than ten (10) business days before the Fairness Hearing, Class Counsel and Defense Counsel shall submit to the Court a mutually agreed upon motion for entry of the Final Order (Exhibit 5), which shall request approval by the Court of the terms of this Settlement Agreement and entry of the Final Order in accordance with this Settlement Agreement. The Final 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:

4.1.1 For 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 Plans and the Class Members and directing the Settling Parties to take the necessary steps to effectuate the terms of the Settlement Agreement;

4.1.2 For a determination pursuant to Rule 23(c)(2) of the Federal Rules of Civil Procedure that the Settlement Notice constitutes the best notice practicable under the circumstances and that due and sufficient notice of the Fairness Hearing and the rights of all Class Members has been provided;

- 4.1.3** For 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 derivatively to secure relief for the Plans, without costs to any of the Settling Parties other than as provided for in this Settlement Agreement, except for retention of jurisdiction to enforce Article 8 of the Settlement Agreement;
- 4.1.4** That 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 (i) conclusively deemed to have, and by operation of the Final Order shall have, fully, finally, and forever settled, released, relinquished, waived, and discharged Defendants, the Plans, and the Released Parties from all Released Claims, and (ii) barred from suing Defendants, the Plans, or the Released Parties in any action or proceeding alleging any of the Released Claims, even if any Class Member may thereafter discover facts in addition to or different from those which the Class Members or Class Counsel now know or believe to be true with respect to the Class Action and the Released Claims, whether or not such Class Members have executed and delivered a Former Participant Claim Form, 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;
- 4.1.5** That the Plans and each Class Member (and their respective heirs, beneficiaries, executors, administrators, estates, past and present partners, officers, directors, agents, attorneys, predecessors, successors, and assigns) on behalf of the Plans shall be (i) conclusively deemed to have, and by operation of the Final Order shall have, fully, finally, and forever settled, released, relinquished, waived, and discharged Defendants and the Released Parties from all Released Claims, and (ii) barred from suing Defendants or the Released Parties in any action or proceeding alleging any of the Released Claims, even if the Plans or any Class Member on behalf of the Plans may thereafter discover facts in addition to or different from those which the Plans or any Class Member now knows or believes to be true with respect to the Class Action and the Released Claims;
- 4.1.6** That each Class Member shall release Defendants, Defense Counsel, Class Counsel, the Released Parties, and the Plans 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;
- 4.1.7** That all applicable CAFA requirements have been satisfied;

- 4.1.8** That the Settlement Administrator shall have final authority to determine the share of the Net Settlement Amount to be allocated to each Current Participant and each Authorized Former Participant pursuant to the Plan of Allocation approved by the Court;
- 4.1.9** That, with respect to payments or distributions to Authorized Former Participants, all questions not resolved by the Settlement Agreement shall be resolved by the Settlement Administrator in its sole and exclusive discretion;
- 4.1.10** That, with respect to any matters that arise concerning the implementation of distributions to Current Participants (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 Fiduciary pursuant to the applicable law and governing terms of the Plans; and
- 4.1.11** That within twenty-one (21) calendar days following the issuance of all settlement payments to Class Members as provided by the Plan of Allocation approved by the Court, the Settlement Administrator shall prepare and provide to Class Counsel and 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.
- 4.2** The final 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 Plans shall be bound by the Settlement Agreement and by the final order.

5. Article 5 – Establishment of Qualified Settlement Fund

- 5.1** No later than three (3) business days after entry of the Preliminary Order, the Escrow Agent shall establish an escrow account. The Settling Parties agree that the escrow account is intended to be, and will be, an interest-bearing Qualified Settlement Fund within the meaning of Treas. Reg. § 1.468B-1. In addition, the Escrow Agent timely shall make such elections as necessary or advisable to carry out the provisions of this Paragraph 5.1, including the “relation-back election” (as defined in Treas. Reg. § 1.468B-1) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Escrow Agent to prepare and deliver, in a timely and proper manner, the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur.
- 5.2** For the purpose of § 468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the “administrator” shall be the Escrow

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

- 5.3** Taxes and tax expenses are Administrative Expenses to be deducted and paid from the Gross Settlement Amount, including but not limited to: (1) all taxes (including any estimated taxes, interest, or penalties) arising with respect to the income earned by the Gross Settlement Amount, including any taxes or tax detriments that may be imposed upon Defendants or Defense Counsel with respect to any income earned by the Gross Settlement Amount for any period during which the Gross Settlement Amount does not qualify as a “qualified settlement fund” for federal or state income tax purposes, and (2) all tax expenses and costs incurred in connection with the operation and implementation of this Article 5 (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing (or failing to file) the returns described in this Article 5). Such taxes and tax expenses shall be Administrative Expenses and shall be paid timely by the Escrow Agent out of the Gross Settlement Amount without prior order from the Court. The Escrow Agent shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to any Class Member any funds necessary to pay such amounts, including the establishment of adequate reserves for any taxes and tax expenses (as well as any amounts that may be required to be withheld under Treas. Reg. § 1.468B-2(1)(2)); neither Defendants, Defense Counsel, nor Class Counsel are responsible nor shall they have any liability therefor. The Settling Parties agree to cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this Article 5.
- 5.4** Within five (5) business days after the later of (a) the Preliminary Order is entered, or (b) the escrow account described in Paragraph 5.1 is established and the Escrow Agent shall have furnished to Defendants in writing the escrow account name, IRS W-9 Form, and all necessary wiring instructions, Defendants, or their agents or insurers, will deposit the Gross Settlement Amount, thirty-two million dollars (\$32,000,000), into the Qualified Settlement Fund.
- 5.5** The Escrow Agent shall, at the written direction of Class Counsel, invest the Qualified Settlement Fund in short-term United States Agency or Treasury Securities or other instruments backed by the Full Faith and Credit of the United States Government or an Agency thereof, or fully insured by the United States Government or an Agency thereof, and shall reinvest the proceeds of these investments as they mature in similar instruments at their then-current market rates.

- 5.6** The Escrow Agent shall not disburse the Qualified Settlement Fund or any portion except as provided in this Settlement Agreement, in an order of the Court, or in a subsequent written stipulation between Class Counsel and Defense Counsel. Subject to the orders of the Court, the Escrow Agent is authorized to execute such transactions as are consistent with the terms of this Settlement Agreement.
- 5.7** Within one-hundred twenty (120) calendar days after the Settlement Effective Date, the Gross Settlement Amount will be distributed from the Qualified Settlement Fund as follows: (a) first, all Attorneys' Fees and costs shall be paid to Class Counsel within three (3) business days after the Settlement Effective Date; (b) second, all Administrative Expenses not paid previously shall be paid within five (5) business days after the Settlement Effective Date; (c) third, any Class Representatives' Compensation ordered by the Court shall be paid within five (5) business days after the Settlement Effective Date; (d) fourth, a contingency reserve not to exceed an amount to be mutually agreed upon by the Settling Parties shall be set aside by the Settlement Administrator for: (1) Administrative Expenses incurred before the Settlement Effective Date but not yet paid, (2) Administrative Expenses estimated to be incurred after the Settlement Effective Date but before the end of the Settlement Period, (3) an amount estimated for adjustments of data or calculation errors; and (d) fourth, the Net Settlement Amount will be distributed pursuant to the Plan of Allocation. Pending final distribution of the Net Settlement Amount in accordance with the Plan of Allocation, the Escrow Agent will maintain the Qualified Settlement Fund.
- 5.8** The Escrow Agent, or the Settlement Administrator on its behalf, shall be responsible for making provision for the payment from the Qualified Settlement Fund of all taxes and tax expenses, if any, owed with respect to the Qualified Settlement Fund and for all tax reporting, remittance, and/or withholding obligations, if any, for amounts distributed from it. Defendants, Defense Counsel, and/or Class Counsel have no responsibility or any liability for any taxes or tax expenses owed by, or any tax reporting or withholding obligations, if any, of the Qualified Settlement Fund.
- 5.9** No later than February 15 of the year following the calendar year in which Defendants, their insurers, or agents make a transfer to the Qualified Settlement Fund pursuant to the terms of this Article 5, Defendants, their insurers, or agents shall timely furnish a statement to the Escrow Agent, or the Settlement Administrator on its behalf, that complies with Treas. Reg. § 1.468B-3(e)(2), which may be a combined statement under Treas. Reg. § 1.468B3(e)(2)(ii), and shall attach a copy of the statement to their federal income tax returns filed for the taxable year in which Defendants, their insurers, or agents make a transfer to the Qualified Settlement Fund.

6. Article 6 – Plan of Allocation

- 6.1** After the Settlement Effective Date, the Settlement Administrator shall cause the Net Settlement Amount to be allocated and distributed to the Authorized Former

Participants and those Current Participants covered by Paragraphs 6.6 and 6.7 below, and to the Plans for distribution to the Current Participants in accordance with the Plan of Allocation set forth in this Article 6 and as ordered by the Court.

6.2 To be eligible for a distribution from the Net Settlement Amount, a person must be a Current Participant or an Authorized Former Participant, Beneficiary, or Alternate Payee of such a person. Current Participants shall receive their settlement payments as contributions to their Plan account(s), except as provided in Paragraphs 6.6 and 6.7 below. Authorized Former Participants shall receive their settlement payments in the form of checks, as provided in Paragraph 6.8 below.

6.3 Beneficiaries will receive checks as described in this Article 6 in amounts corresponding to their entitlement as beneficiaries of the Current Participant or of the Authorized Former Participant with respect to which the payment is made. Alternate Payees will receive checks if and to the extent they are entitled to receive a portion of a Current Participant's or Authorized Former Participant's allocation under this Article 6 pursuant to the terms of the applicable Qualified Domestic Relations Order. The Settlement Administrator shall have sole and final discretion to determine the amounts to be paid to Beneficiaries and Alternate Payees in accordance with the Plan of Allocation set forth in this Article 6 and as ordered by the Court.

6.4 **Calculation of Settlement Payments.** Payments to Authorized Former Participants and Current Participants shall be calculated by the Settlement Administrator pursuant to the Plan of Allocation as follows:

6.4.1 For each Authorized Former Participant and Current Participant, the Settlement Administrator shall determine a Modified Average Account Balance, as follows:

- First, each participant's average, aggregate quarter-ending balance across all of his or her accounts in the Plans shall be determined for two separate periods: (1) March 31, 2008 through September 30, 2015 (the "Period 1 Average"); and (2) December 31, 1998 through December 31, 2007 (the "Period 2 Average").
- Second, the Period 1 Average shall be multiplied by 4 to determine the Modified Period 1 Average.
- Third, the Modified Period 1 Average shall be combined with the Period 2 Average and the total divided by 2, to determine the participant's Modified Average Account Balance.

6.4.2 The Settlement Administrator shall determine the total settlement payment available to each Authorized Former Participant and Current Participant by calculating each such participant's pro-rata share of the Net Settlement fund based on his or her Modified Average Account Balance.

Further, to the extent a participant has more than one account in the Plans, the Settlement Administrator shall calculate the proportionate share of the total settlement distribution available to the participant (rounded to the nearest dollar or smaller increment, as determined by the Settlement Administrator) that shall be allocated to each of the participant's accounts, based upon the most recent quarter-ending balance in each such account. To illustrate, if the total settlement distribution available to a Current Participant is \$1,000, and that Current Participant has two Active Accounts with quarter-ending balances of \$100,000 (account 1) and \$50,000 (account 2), then the proportionate share to be contributed to accounts 1 and 2 would be \$667.00 and \$333.00, respectively.

6.4.3 The Settlement Administrator shall utilize the calculations required to be performed herein for (a) making the required payments to Authorized Former Participants and Current Participants under Paragraphs 6.6 and 6.7 of the Settlement Agreement; and (b) instructing Defendants as to the amounts to be distributed to the Current Participants under Paragraph 6.5 of the Settlement Agreement and calculating the total amount to deposit into each Current Participant's Active Account(s) to fulfill this instruction.

6.4.4 Unless the Settling Parties agree in writing, the total amount of all checks to be written by the Settlement Administrator plus the total amount of all credits that Defendants are instructed to make to Current Participants may not exceed the Net Settlement Amount. Nothing in this Paragraph 6.4.4 is intended to modify the requirements of Paragraph 6.9 below. 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.

6.5 **Payments to Current Participants Generally.** Current Participants will not be required to submit a Former Participant Claim Form to receive a settlement payment. The Settlement Administrator shall complete all payment calculations for all Current Participants and Authorized Former Participants within thirty (30) business days after the Settlement Effective Date.

6.5.1 Within two (2) business days after the Settlement Administrator has completed all payment calculations for all Current Participants, the Settlement Administrator will provide Novant (or its designee) with an Excel spreadsheet containing the name, Social Security number, and the amount of the settlement payment to be made into the Active Account(s) for each of the Current Participants, except with respect to payments associated with Active Accounts in the 457(f) Plan, which will be paid by check as set forth in Paragraph 6.6.

- 6.5.2** Thereafter, within ten (10) business days' written notice to Novant (or its designee), the Settlement Administrator shall effect a transfer from the Qualified Settlement Fund to the Plans' trustee of the aggregate amount of all settlement payments payable to Current Participants, as reflected in the spreadsheet provided by the Settlement Administrator. Novant (or its designee) shall direct the Plans' trustee to credit the individual Active Account(s) of each Current Participant in an amount equal to that stated on the spreadsheet provided by the Settlement Administrator in relation to such Current Participant.
- 6.5.3** The settlement payment for each Current Participant will be invested in accordance with and proportionate to such Current Participant's investment elections then on file. If there is no investment election on file for any Current Participant, then such Current Participant shall be deemed to have directed such payment to be invested in the relevant Plan's "Qualified Default Investment Alternative," as defined in 29 C.F.R. § 2550.404c-5.
- 6.5.4** The settlement payments into Active Accounts associated with the Retirement Plus Plan, the Franklin/Upstate 401(k) Plan, the Lakeside/Q-Neck 401(k) Plan, and the Presbyterian Women's Care Corp. 401(k) Plan will be reflected as additional earnings.
- 6.5.5** The settlement payments into Active Accounts associated with the 457(b) Plan will be reflected as vested, additional earnings.
- 6.5.6** The Plans' recordkeeper shall process all Current Participant transactions within thirty (30) calendar days of receiving direction from Novant (or its designee) for any Current Participant.
- 6.5.7** The Plans may be amended, to the extent necessary, to reflect the settlement allocation to Current Participants' Active Account(s) in accordance with this Article 6.
- 6.6** **Payments to Current Participants with an Active Account in the 457(f) Plan.** For each Current Participant entitled to a settlement payment allocable to his or her Active Account in the 457(f) Plan, the Settlement Administrator shall issue a single check from the Qualified Settlement Fund and mail it to the address of the Current Participant then on file with the recordkeeper for the Plans. The Settlement Administrator shall: (i) calculate and withhold any applicable taxes associated with the payments allocable to the Current Participant's 457(f) account; (ii) report such payments and remit such tax withholdings and employer-tax payments to the Internal Revenue Service and applicable state revenue agents; and (iii) issue appropriate tax forms to the Current Participants.
- 6.7** **Payments to Current Participants with accounts that are not Active Accounts.** For each Current Participant entitled to a settlement payment allocable to a Plan

account that is not an Active Account as of September 30, 2015, the Settlement Administrator shall issue a check or checks from the Qualified Settlement Fund and mail the check or checks to the address of the Current Participant then on file with the recordkeeper for those Plans. The checks shall be issued as follows:

- 6.7.1** A single check shall be issued for total settlement payments allocable to the Current Participant's inactive accounts in the Retirement Plus Plan, the Franklin/Upstate 401(k) Plan, the Presbyterian Women's Care Corp. 401(k) Plan, and/or the Lakeside/Q-Neck 401(k) Plan (the "Qualified Plans").
- 6.7.2** A separate, single check shall be issued for total settlement payments allocable to the Current Participant's inactive account in the 457(b) Plan;
- 6.7.3** A separate, single check shall be issued for total settlement payments allocable to the Current Participant's inactive account in the 457(f) Plan.
- 6.7.4** For each check issued, the Settlement Administrator shall (i) calculate and withhold any applicable taxes associated with the payments allocable to the Current Participant; (ii) report such payments and remit such tax withholdings (and, with respect to payments allocable to the 457(f) Plan, remit any employer-tax payments) to the Internal Revenue Service and applicable state revenue agents; and (iii) issue appropriate tax forms to the Current Participant.
- 6.7.5** For settlement payments allocable to inactive accounts in the Qualified Plans, the Settlement Administrator shall advise the Current Participant that any distribution pursuant to the Settlement is rollover eligible and of their right to rollover such an amount, and shall follow proper rollover instructions provided by the Current Participant.
- 6.7.6** Settlement payments that cannot be made by the Plans' trustee within thirty (30) calendar days of receiving direction from Novant (or its designee), as described in Paragraph 6.5, because the Current Participant no longer has an Active Account in one or more of the Plans shall be returned by the Plans' trustee to the Settlement Administrator for distribution pursuant to this Paragraph 6.7 within ten (10) calendar days thereafter.

6.8 Payments to Authorized Former Participants. For each Authorized Former Participant, the Settlement Administrator will issue a check or checks from the Qualified Settlement Fund and mail the check or checks to the address of such Authorized Former Participant listed in his or her Former Participant Claim Form or, in the case of ambiguity or uncertainty, to the address of such person as determined by the Settlement Administrator using commercially reasonable means. The checks shall be issued as follows:

- 6.8.1** A single check shall be issued for total settlement payments allocable to the Authorized Former Participant's accounts in the "Qualified Plans."
- 6.8.2** A separate, single check shall be issued for total settlement payments allocable to the Authorized Former Participant's account in the 457(b) Plan;
- 6.8.3** A separate, single check shall be issued for total settlement payments allocable to the Authorized Former Participant's account in the 457(f) Plan.
- 6.8.4** For each check issued, the Settlement Administrator shall (i) calculate and withhold any applicable taxes associated with the payments allocable to the Authorized Former Participant; (ii) report such payments and remit such tax withholdings (and, with respect to payments allocable to the 457(f) Plan, remit any employer-tax payments) to the Internal Revenue Service and applicable state revenue agents; and (iii) issue appropriate tax forms to the Authorized Former Participants.
- 6.8.5** For settlement payments allocable to accounts in the Qualified Plans, the Settlement Administrator shall advise the Authorized Former Participant that any distribution pursuant to the Settlement is rollover eligible and of their right to rollover such an amount, and shall follow proper rollover instructions provided by the Authorized Former Participant.
- 6.9** This Plan of Allocation is based upon preliminary data regarding the Class Members who may be entitled to settlement payments. If the Settlement Administrator concludes that it is impracticable to implement any provision of this Plan of Allocation, the Settling Parties will modify promptly the terms of this Plan of Allocation and present such modified terms, first, to the Independent Fiduciary for its review and approval and, second, to the Court for its approval. Direct mailed notice to Class Members of such proposed modification of the Plan of Allocation shall not be required. However, notice of such proposed modification shall be posted on the Settlement Website within five (5) business days of the date that the proposed modification is submitted to the Court for its approval. If the proposed modification is implemented, notice of such modification shall be posted on the Settlement Website within five (5) business days of the date that the modification was implemented.
- The Settlement Administrator shall be solely responsible for performing any calculations required by this Plan of Allocation.
- 6.10** Within ten (10) business days of completing all aspects of this Plan of Allocation, the Settlement Administrator shall send to Class Counsel, Defense Counsel, and Defendants one or more affidavits stating the following: (a) the name of each Class Member to whom the Settlement Administrator sent the Settlement Notice or the Former Participant Claim Form, and the address of such mailing; (b) the date(s)

upon which the Settlement Administrator sent the Settlement Notice or the Former Participant Claim Form; (c) the name of each Class Member whose Settlement Notice or Former Participant Claim Form was returned as undeliverable; (d) the efforts made by the Settlement Administrator to find the correct address and to deliver the Settlement Notice or Former Participant Claim Form for each such Class Member; and (e) the name of each Class Member to whom the Settlement Administrator made a distribution from the Net Settlement Amount, together with the amount of the distribution, the name of the payee, the date of distribution, the amount of tax withholdings, if applicable, and the date of remittance of tax withholdings to the appropriate tax authority, if applicable.

- 6.11** The Settling Parties acknowledge that any payments to Class Members or their attorneys may be subject to applicable tax laws. Defendants, Defense Counsel, Class Counsel, and Class Representatives will provide no tax advice to the Class Members and make no representation regarding the tax consequences of any of the settlement payments described in this Settlement Agreement. To the extent that any portion of any settlement payment is subject to income or other tax, the recipient of the payment shall be responsible for payment of such tax. Deductions will be made, and reporting will be performed by the Settlement Administrator, as required by law in respect of all payments made under the Settlement Agreement. Payments from the Qualified Settlement Fund shall not be treated as wages by the Settling Parties, with the exception of settlement payments allocable to the 457(f) Plan.
- 6.12** Each Class Member who receives a payment under this Settlement Agreement shall be fully and ultimately responsible for payment of any and all federal, state, or local taxes resulting from or attributable to the payment received by such person. Each Class Member shall hold Defendants, 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 Defendants, 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.
- 6.13** All checks issued pursuant to this Plan of Allocation shall expire no later than one hundred twenty (120) calendar days after their issue date. All checks that are undelivered or are not cashed before their expiration date shall revert to the Qualified Settlement Fund.
- 6.14** No sooner than thirty (30) calendar days following the end of the Settlement Period, any Net Settlement Amount remaining in the Qualified Settlement Fund after distributions, including costs and taxes, shall be paid to the Plans for the purpose of defraying administrative fees and expenses of the Plans that would otherwise be charged to the Plans' participants. In no event shall any part of the Settlement Fund be used to reimburse any Defendant or otherwise offset settlement related costs incurred by any Defendant.

7. Article 7 – Attorneys’ Fees and Costs

7.1 Class Counsel will seek to recover their attorneys’ fees not to exceed \$10,666,666, and litigation costs and expenses advanced and carried by Class Counsel for the duration of this litigation, not to exceed \$95,000.00, which shall be recovered from the Gross Settlement Amount.

7.2 Class Counsel will file a motion for an award of Attorneys’ Fees and Costs at least thirty (30) days before the deadline set in the Preliminary Order for objections to the proposed settlement, which may be supplemented thereafter. Defendants will take no position with the Court regarding Class Counsel’s request for Attorneys’ Fees and Costs, to the extent it does not exceed the amounts set forth in Article 7, and shall take no position with the Court regarding any request for Class Representatives’ Compensation that does not exceed \$25,000 per Class Representative.

8. Article 8 – Release and Covenant Not to Sue

8.1 As of the Settlement Effective Date, the Plans (subject to Independent Fiduciary approval as required by Paragraph 3.1) and the Class Members (and their respective heirs, beneficiaries, executors, administrators, estates, past and present partners, officers, directors, agents, attorneys, predecessors, successors, and assigns) shall be deemed to have fully, finally, and forever settled, released, relinquished, waived, and discharged Defendants, the Plans, and all Released Parties from the Released Claims, whether or not such Class Members have executed and delivered a Former Participant Claim Form, 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.

8.2 As of the Settlement Effective Date, the Class Members and the Plans (subject to Independent Fiduciary approval as required by Paragraph 3.1), 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 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 pursuant to the procedures set forth in this Settlement Agreement.

8.3 Class Counsel, the Class Members, or the Plans, may hereafter discover facts in addition to or different from those that they know or believe to be true with respect to the Released Claims. Such facts, if known by them, might have affected the decision to settle with Defendants, the Plans, and the Released Parties, or the decision to release, relinquish, waive, and discharge the Released Claims, or the decision of a Class Member not to object to the Settlement. Notwithstanding the

foregoing, each Class Member and the Plans shall expressly, upon the entry of the Final Order, be deemed to have, and by operation of the Final Order, shall have, fully, finally, and forever settled, released, relinquished, waived, and discharged any and all Released Claims. The Class Members and the Plans acknowledge and shall be deemed by operation of the Final 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.

- 8.4** Each Class Member and the Plans hereby stipulate and agree with respect to any and all Released Claims that, upon entry of the Final Order, the Class Members shall be conclusively deemed to, and by operation of the Final 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 which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

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

9. Article 9 – Representations and Warranties

9.1 The Settling Parties represent:

- 9.1.1** That they are voluntarily entering into this Settlement Agreement as a result of arm's length negotiations among their counsel, and that in executing this Settlement Agreement they are relying solely upon their own judgment, belief, and knowledge, and upon the advice and recommendations of their own independently selected counsel, concerning the nature, extent, and duration of their rights and claims hereunder and regarding all matters that relate in any way to the subject matter hereof;
- 9.1.2** That they assume the risk of mistake as to facts or law;
- 9.1.3** That they recognize that additional evidence may have come to light, but that they nevertheless desire to avoid the expense and uncertainty of litigation by entering into the Settlement;
- 9.1.4** That they have read carefully the contents of this Settlement Agreement, and this Settlement Agreement is signed freely by each individual

executing this Settlement Agreement on behalf of each of the Settling Parties; and

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

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

10. Article 10 – Additional Terms

10.1 Defendants agree to comply with the Additional Terms set forth in this Article 10 for the duration of the Settlement Period, unless another period is specified.

10.2 Within 90 days after Final Approval, and for the remainder of the Settlement Period, Novant and the Plan Fiduciary shall not knowingly permit and shall use their best efforts to ensure that Derrick L. Davis, DL Davis & Company and any of its current or former employees since January 1, 1998, any non-publicly traded entity wholly or partially owned by Derrick L. Davis, any member of Derrick L. Davis' immediate family, and Ron Warden (herein collectively referred to as "Davis") do not have any involvement with the Plans or any other defined contribution retirement plan provided or offered by Novant or any employer within the Novant Health System.

Within 90 days after Final Approval, Novant shall initiate the process of terminating its relationship with Davis related to Novant's other benefit plans including its defined benefits plans and any other (non-retirement) employee benefit plan. In any event, and beginning no later than January 1, 2017, and continuing for four years thereafter until January 1, 2021, Novant and the Plan Fiduciary or other relevant fiduciary of Novant's benefit plans shall not knowingly permit and shall use their best efforts to ensure that Davis does not have any involvement with any defined benefit retirement plan or any other (non-retirement) employee benefit plan provided or offered by Novant or any employer within the Novant Health System.

The prohibitions in this paragraph 10.2 include the prohibition of Davis receiving any remuneration, payment, or any other benefit as a result of any employee retirement plan or (non-retirement) employee benefit plan provided or offered by Novant or any employer within the Novant Health System.

The prohibitions in this Paragraph 10.2 shall not preclude payments or other benefits to any individual other than Derrick L. Davis who becomes entitled to such payments or benefits only by virtue of their status as a participant or beneficiary under an employee benefit plan provided or offered by Novant or any employer within the Novant Health System.

10.3 During the Settlement Period, Novant shall not enter into any new real estate or business relationships with Derrick L. Davis or DL Davis & Company. In addition, Novant shall not knowingly permit and shall use its best efforts to ensure that it does not enter into any such relationships with any non-publicly traded entity wholly or partially owned by (1) Derrick L. Davis, (2) any member of Derrick L. Davis' immediate family, or (3) Ron Warden. For the purposes of this paragraph 10.3, Derrick L. Davis, DL Davis & Company, and any non-publicly traded entity wholly or partially owned by Derrick L. Davis, any member of Derrick L. Davis' immediate family, or Ron Warden are herein collectively referred to as "DLD".

This paragraph 10.3 shall not preclude Novant from (1) extending existing real estate or business relationship agreements involving DLD during the Settlement Period, where such extension is available as a matter of contractual right to Novant under the terms of the underlying agreement(s) as originally executed, (2) purchasing the real estate or other property that is the subject of such agreement(s) for an appropriate fair market value as determined by an independent appraiser, or (3) taking such other action with respect to an existing agreement involving DLD as is necessary to unwind or otherwise extinguish the parties' continuing obligations under such business or real estate agreement.

Paragraphs 10.2 and 10.3 shall not apply to (1) life insurance policies owned by Novant, or for which Novant pays associated premiums, and for which Davis or DLD served as an agent or broker; (2) individual whole life insurance policies purchased by Novant employees, or for which Novant pays associated premiums, and for which Davis or DLD served as an agent or Broker; or (3) individual disability wrap insurance policies purchased by Novant employees, or for which Novant pays associated premiums, and for which Davis or DLD served as an agent or broker.

10.4 Within nine months after Final Approval and for the remainder of the Settlement Period, Novant and the Plan Fiduciary shall not offer any fund or investment provided by Mass Mutual and shall not knowingly permit and shall use their best efforts to ensure that no other fund or investment from any other company is included in the Plans that provide Davis any form of remuneration, payment, or any other benefit.

10.5 At the end of the first, second, third, and fourth year of the Settlement Period, the Independent Consultant shall (1) audit and benchmark the Plans' existing investment options and recordkeeping fees and services; and (2) review a list of the Plans' existing service providers along with the compensation paid to those providers. Novant or the Plan Fiduciary shall provide upon request all plan-related materials needed to facilitate the Independent Consultant's annual review.

Within thirty days after its review, the Independent Consultant will report to the Independent Fiduciary, Class Counsel, Novant, and the Plan Fiduciary with a written assessment of (a) the investment options and recordkeeping fees and services; and (b) the Defendants' compliance with Article 10 of the Settlement

Agreement. The Independent Consultant, in its discretion, also may provide written recommendations regarding the Plans' investment options and/or recordkeeping fees and services as part of its annual report to the Independent Fiduciary and the Plan Fiduciary. Within 60 days after receiving the Independent Consultant's report, the Plan Fiduciary will respond to the Independent Consultant's observations or recommendations, including any plan of action. Copies of the Plan Fiduciary's response will be sent to the Independent Fiduciary, who will determine whether there is compliance with Article 10 of the Settlement Agreement, and Class Counsel.

The Settling Parties agree that the costs of the Independent Consultant's activities described in this paragraph are administrative expenses properly paid for, or reimbursed to Novant, by the Plans under applicable law.

- 10.6** The Settling Parties acknowledge that the Plan Fiduciary recently completed an RFP bidding process for education, recordkeeping, and investment consulting services related to the Plans. To advise in conducting this RFP process, the Plan Fiduciary, on behalf of the Plans, retained Plan Sponsor Advisors. All three RFPs sought and obtained proposals from at least three prospective vendors. For the recordkeeping RFP, at least three of the prospective vendors currently provide services to 401(k) plans with assets exceeding \$2 billion.

The Independent Consultant (1) reviewed all of the vendor proposals submitted during the RFP process; (2) provided recommendations arising from its review for consideration by the Plan Fiduciary prior to the Plan Fiduciary's decisions on which vendors to retain; (3) approved the RFP process conducted; and (4) reviewed the vendor selection decisions made by the Plan Fiduciary. Class Counsel was apprised and the Independent Fiduciary will be apprised by the Independent Consultant, in writing, of its review, recommendations, and approval of the RFP process and review of the Plan Fiduciary's vendor-selection decisions.

Within six months after Final Approval, the Plan Fiduciary shall transition all education, recordkeeping, and investment consulting services to the Approved Service Providers retained by the Plan Fiduciary on behalf of the Plans, based on the RFP process described above.

Within three months after the Plans are transitioned to the selected investment consultant, the Plan Fiduciary shall review all investment options then offered in the Plans. In considering new/replacement options, the Plan Fiduciary, with the assistance of the investment consultant to the Plans, shall consider, without limitation, (1) the lowest-cost share class available for any particular mutual fund considered for inclusion in the Plans; (2) collective trusts and separate account investments, to the extent such investments are permissible under IRC § 403(b); and (3) passively managed funds for each category or fund offering that will be made available under the Plans. For any style or class of investment, the investment consultant to the Plans shall provide the Plan Fiduciary with at least three finalists to consider in making its selection.

A copy of the investment consultant's report or reports provided to the Plan Fiduciary as part of the above review, including the identities of the recommended finalists, their fees, and their performance histories, shall also be provided to the Independent Consultant. Within fourteen days after receiving the report(s), the Independent Consultant shall notify the investment consultant, Class Counsel, Novant, the Plan Fiduciary, and the Independent Fiduciary in writing if it determines that (1) the investment consultant's report(s) is materially flawed or (2) its investment-finalists recommendations are inconsistent with industry practice.

The Settling Parties agree that the costs of the Independent Consultant's activities described in this subsection are administrative expenses properly paid for, or reimbursed to Novant, by the Plans under applicable law.

- 10.7** To the extent any RFPs for recordkeeping, education, or investment consulting services with respect to the Plans are commenced during the Settlement Period, the Independent Consultant shall review the RFP in advance of its issuance. To facilitate such review, Novant or the Plan Fiduciary shall provide the RFP to the Independent Consultant no less than 14 days before the RFP's intended date of issuance. If the Independent Consultant disapproves of the RFP, it must notify Novant, the Plan Fiduciary, Class Counsel, and the Independent Fiduciary in writing of such disapproval no less than 7 days before the RFP's intended date of issuance. The Independent Consultant's written disapproval shall contain recommendations meant to address or correct those concerns for the Plan Fiduciary's consideration. Within 14 days after receiving the Independent Consultant's report, the Plan Fiduciary will respond to the Independent Consultant's observations or recommendations, including any plan of action. Copies of the Plan Fiduciary's response will be sent to the Independent Fiduciary, who will determine whether there is compliance with the Settlement Agreement, and Class Counsel.

In addition, Novant or the Plan Fiduciary shall provide all RFP responses received during the Settlement Period to the Independent Consultant. Upon request, Novant or the Plan Fiduciary also shall provide to the Independent Consultant all RFP related materials needed to facilitate the Independent Consultant's review of the RFP responses. Within fourteen days after receiving the RFP responses, the Independent Consultant shall have the authority, in its discretion, to provide recommendations arising from its review of the RFP responses to Novant and the Plan Fiduciary. Class Counsel and the Independent Fiduciary shall receive a copy, if any, of the Independent Consultant's recommendations. Within 14 days after receiving the Independent Consultant's report, the Plan Fiduciary will respond to the Independent Consultant's observations or recommendations, including any plan of action. Copies of the Plan Fiduciary's response will be sent to the Independent Fiduciary, who will determine whether there is compliance with the Settlement Agreement, and Class Counsel.

Novant or the Plan Fiduciary shall notify the Independent Consultant of the anticipated selection of any vendor arising from the RFP process and the

Independent Consultant shall, within seven days thereafter, notify Novant and the Plan Fiduciary if it disapproves the anticipated vendor selection(s), identifying in writing the specific reasons for such disapproval. A copy of any such notification shall be provided to the Independent Fiduciary and Class Counsel. Within 14 days after receiving the Independent Consultant's report, the Plan Fiduciary will respond to the Independent Consultant's observations or recommendations, including any plan of action. Copies of the Plan Fiduciary's response will be sent to the Independent Fiduciary, who will determine whether there is compliance with the Settlement Agreement, and Class Counsel.

The Settling Parties agree that the costs of the Independent Consultant's activities described in this subsection are administrative expenses properly paid for (or reimbursed to Novant) by the Plans under applicable law.

- 10.8** Novant shall receive no compensation for services provided to the Plans. Nothing in this paragraph prevents or prohibits Novant from seeking or obtaining reimbursement from the Plans for costs incurred by Novant on behalf of the Plans to the extent such costs would be appropriately charged to the Plans under applicable law.
- 10.9** Fees paid to the Plans' recordkeeper will not be set or determined on a percentage-of-plan-assets basis. Nothing in this paragraph shall dictate how fees paid to the Plans' recordkeeper shall be allocated among the Plans' participants.
- 10.10** The Plan Fiduciary, on behalf of the Plans, will continue to contract with the Plans' recordkeeper to obtain participant statements that comply with all applicable DOL participant-disclosure regulations.
- 10.11** Novant or the Plan Fiduciary shall provide accurate participant communications throughout the Settlement Period and shall submit generic participant communications intended for all of the Plans' participants to the Independent Consultant for review before dissemination to participants. Within 14 days of receipt of such communications, the Independent Consultant shall notify the Plan Fiduciary in writing of any suggested changes, edits, or concerns regarding the communications. The Settling Parties agree that the costs of the Independent Consultant's review activities described in this paragraph are administrative expenses properly paid for, or reimbursed to Novant, by the Plans under applicable law.
- 10.12** Any portion of the Net Settlement Amount remaining after distributions, including costs and taxes, shall be paid to the Plans. In no event shall any part of the Settlement Fund be used to reimburse any Defendant or otherwise offset settlement-related costs incurred by any Defendant, except as to the third-party expenses described in paragraph 3.3 and/or as would be appropriately chargeable to the Plan under applicable law, including paragraphs 10.5, 10.6, 10.7, 10.8, and 10.11. Nothing in this paragraph prohibits Novant from paying for the Plan's administrative expenses and obtaining only reasonable reimbursement from Plan

assets. Any costs paid in this manner shall be stated in any required disclosures or reporting as costs paid by the Plan, not costs paid by Novant.

- 10.13** At no time during the Settlement Period will any broker provide brokerage services or receive any compensation for brokerage services either directly or indirectly from the Plans.
- 10.14** To ensure compliance with this Settlement, the Independent Consultant shall prepare recommendations and reports as described in Article 10 of the Settlement Agreement and provide those reports to the Independent Fiduciary as described in Article 10 (10.5, 10.6, 10.7). If the Independent Fiduciary determines, based on such reports and any additional reports as may be specifically requested by the Independent Fiduciary during the Settlement Period, that Defendants have materially failed to comply with Article 10 of this Agreement, it shall promptly notify Class Counsel, Novant, and the Plan Fiduciary of such disapproval. If Novant or the Plan Fiduciary does not obtain the written approval of the Independent Fiduciary within 60 days of such determination, Class Counsel may initiate a dispute pursuant to Paragraph 13.7 of this Settlement Agreement.
- 10.15** The Settling Parties agree that in the event the Plan Fiduciary, or the Independent Fiduciary based upon its review of reports received from the Independent Consultant as described in this Article 10, determines that continued retention of the particular Independent Consultant identified in the Settlement Agreement will disadvantage the Plans or participants in the Plans, Novant may terminate such retention pursuant to the notice provisions prescribed in the underlying service agreement entered into between the Independent Consultant and Novant. In advance of such termination, Novant, the Plan Fiduciary or Independent Fiduciary shall provide a written explanation to Class Counsel detailing the reason(s) for such intended termination. In the event the particular Independent Consultant is terminated in accordance with this section, Class Counsel, Novant and the Plan Fiduciary shall mutually agree to and promptly identify a replacement service provider to serve as Independent Consultant for the remainder of the Settlement Period. Novant shall notify the Independent Fiduciary and Class Counsel of its intention to terminate the Independent Consultant at least thirty days in advance of such termination.
- 10.16** Within six months after Final Approval, the Plan Fiduciary, with the assistance of the Plans' investment consultant, shall adopt a new investment policy statement(s) for the Plans. Thirty days prior to its adoption, a draft investment policy statement(s) shall be provided to the Independent Consultant. Within fourteen days after being supplied the draft investment policy statement(s), the Independent Consultant shall provide its recommendations, if any, concerning the investment policy statement(s) to Novant and the Plan Fiduciary.
- 11. Article 11 – Termination, Conditions of Settlement, and Effect of Disapproval, Cancellation, or Termination**

- 11.1** The Settlement Agreement shall automatically terminate, and thereby become null and void with no further force or effect if:
- 11.1.1** Pursuant to paragraph 3.1, (1) either the Independent Fiduciary does not approve the Settlement Agreement, or disapproves the Settlement Agreement for any reason whatsoever or the Plan Fiduciary reasonably concludes that the Independent Fiduciary's approval does not include the determinations required by the PTE; and (2) the Settling Parties do not mutually agree to modify the terms of this Settlement Agreement to facilitate an approval by the Independent Fiduciary or the Independent Fiduciary's determinations required by the PTE.
 - 11.1.2** The Preliminary Order and the Final Order are not entered by the Court in the form submitted by the Settling Parties or in a form which is otherwise agreed to by the Settling Parties;
 - 11.1.3** The Settlement Class is not certified as defined herein or in a form which is otherwise agreed to by the Settling Parties;
 - 11.1.4** This Settlement Agreement is disapproved by the Court or fails to become effective for any reason whatsoever; or
 - 11.1.5** The Preliminary Order or Final Order is finally reversed on appeal, or is modified on appeal, and the Settling Parties do not mutually agree to any such modifications.
- 11.2** 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 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. All funds deposited in the Qualified Settlement Fund, and any interest earned thereon, shall be returned to Defendants, their agents, or insurers pro rata based on their contributions to the Qualified Settlement Fund within thirty (30) calendar days after the Settlement Agreement is finally terminated or deemed null and void, except as provided for in Paragraph 11.4.
- 11.3** 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' Compensation.
- 11.4** In the event that the Settlement Agreement is terminated, Administrative Expenses incurred prior to the termination shall be paid first from the interest earned, if any, on the Qualified Settlement Fund. Administrative Expenses in excess of the interest earned on the Qualified Settlement Fund shall be split evenly and paid by Class Counsel, on the one hand, and Defendants, on the other hand.
- 11.5** CAFA notice will be served timely on the appropriate officials by the Settlement Administrator as provided in Paragraph 3.4.3.

12. Article 12 – Public Comments Regarding the Class Action or Settlement Agreement

12.1 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 with the Class Members, the Independent Fiduciary, the Independent Consultant, and the Settling Parties’ tax advisors, provided in each case that they (a) secure written agreements with such persons or entities that such information shall not be further disclosed and (b) comply with this Article 12 in all other respects.

12.2 The Settling Parties and Class Counsel further agree that they each will not at any time publicly disparage or encourage or induce others to publicly disparage any of the Settling or Released Parties or disparage them in writing, except that Novant may bring legal action as provided in Paragraph 13.21 and make public comments or statements consistent with such legal action. However, at no time shall Novant, the Plan Fiduciary or an entity acting on its behalf publicly disparage Class Counsel, Class Members, Class Representatives, or disparage the filing or claims in the Class Action, provided that nothing in this sentence shall preclude Novant or the Plan Fiduciary from expressing disagreement with the factual or legal merits of the claims or Defendants’ potential liability associated with those claims.

12.3 Class Counsel will establish a Settlement Website on which it will post the following documents or links to the following documents on or following the date of the Preliminary Order: the operative Complaint, Settlement Agreement and its Exhibits, Settlement Notice, Former Participants Claim Form, Class Representatives’ Motion for Attorneys’ Fees and Costs and Award of Compensation to Class Representatives, 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 (“Settlement Website Information”). No other information or documents will be posted on the Settlement Website unless agreed to in advance by the Settling Parties in writing. Class Counsel will take down the Settlement Website ninety (90) calendar days after the receipt of the affidavit(s) referenced in Paragraph 6.9.

13. Article 13 – General Provisions

13.1 The undersigned counsel, on behalf of themselves and the Settling Parties, agree to cooperate fully with each other in seeking Court approvals of the Preliminary Order and the Final Order, and to do all things as may reasonably be required to effectuate preliminary and final approval and the implementation of this Settlement Agreement according to its terms. The Settling Parties agree to provide each other with copies of any filings necessary to effectuate this Settlement at least three (3) business days in advance of filing.

- 13.2** Within sixty (60) calendar days after the Settlement Period, the Settling Parties shall either return to the producing parties, or destroy, all documents produced in discovery under a claim of confidentiality pursuant to the Confidentiality Order, including but not limited to documents produced under a claim of privilege. Each Settling Party shall serve a written notice to each producing party certifying that the Settling Party has carried out the obligations imposed by this Paragraph 13.2. The Settling Parties, Class Counsel, and Defense Counsel agree that at all times they will honor the requirements of the Confidentiality Order, notwithstanding Settlement of the Action.
- 13.3** 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 Defendants of any wrongdoing, fault, or liability whatsoever by any of Defendants, 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, and Defendants admit no wrong doing 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.
- 13.4** Neither the Settling Parties, Class Counsel, nor Defense Counsel shall have any responsibility for or liability whatsoever with respect to (i) 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; (ii) the determination of the Independent Fiduciary; (iii) the management, investment, or distribution of the Qualified Settlement Fund; (iv) the Plan of Allocation as approved by the Court; (v) the determination, administration, calculation, or payment of any claims asserted against the Qualified Settlement Fund; (vi) any losses suffered by, or fluctuations in the value of, the Qualified Settlement Fund; or (vii) 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 Defendants 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.
- 13.5** Only Class Counsel shall have standing to seek enforcement of this Settlement Agreement on behalf of Plaintiffs and Class Members. Any individual concerned about Defendants' compliance with this Settlement Agreement may so notify Class Counsel and direct any requests for enforcement to them. Class Counsel shall have the full and sole discretion to take whatever action they deem appropriate, or to refrain from taking any action, in response to such request. Class Counsel shall provide the monitoring necessary to assure compliance with the Settlement Agreement and any action to enforce the Settlement Agreement during the Settlement Period without additional fee or reimbursement of expenses beyond the Attorneys' Fees and Costs determined by the Court.

- 13.6** This Settlement Agreement shall be interpreted, construed, and enforced in accordance with applicable federal law and, to the extent that federal law does not govern, North Carolina law.
- 13.7** Class Counsel, Defense Counsel, and the Settling Parties agree that any and all disputes concerning compliance with the Settlement Agreement, with the exception of any and all disputes concerning compliance with Article 8, shall be exclusively resolved as follows:
- 13.7.1** If Class Counsel, Defense Counsel, or a Settling Party has reason to believe that a legitimate dispute exists concerning the Settlement Agreement, other than any and all disputes concerning compliance with Article 8, the party raising the dispute shall first promptly give written notice under the Settlement Agreement to the other party including in such notice: (a) a reference to all specific provisions of the Settlement Agreement that are involved; (b) a statement of the alleged non-compliance; (c) a statement of the remedial action sought; and (d) a brief statement of the specific facts, circumstances, and any other arguments supporting the position of the party raising the dispute;
- 13.7.2** Within twenty (20) days after receiving the notice described in Paragraph 13.7.1, the receiving party shall respond in writing with its position and the facts and arguments it relies on in support of its position;
- 13.7.3** For a period of not more than twenty (20) days following mailing of the response described in Paragraph 13.7.2, the Settling Parties shall undertake good-faith negotiations, which may include meeting in person or conferring by telephone, to attempt to resolve the dispute;
- 13.7.4** If the dispute is not resolved during the period described in Paragraph 13.7.3, the parties shall conduct a mediation of the dispute with the Mediator on the earliest reasonably practicable date; provided, however, that the scope of such mediation shall be expressly limited to the dispute;
- 13.7.5** Within 30 days after the conclusion of the Mediator's attempt to resolve the dispute (the date of the conclusion of the mediation shall be determined by agreement of the parties or by the Mediator), if the dispute persists, the Settling Parties shall arbitrate the dispute. The Mediator shall serve as the arbitrator.
- 13.7.6** The Settling Parties intend to resolve any disputes quickly, expeditiously, and inexpensively. Accordingly, there shall be no discovery allowed in connection with mediation or arbitration pursuant to this Paragraph 13.7, and no witnesses shall be presented or examined during the mediation or arbitration except that if the Mediator acting as arbitrator, in his sole discretion, should determine that a limited number of documents or witnesses are needed to resolve the dispute, he may order their production

or testimony. The Mediator acting as the arbitrator will make his decision based solely on the papers, documents, testimony, and arguments of counsel presented to him.

- 13.7.7** If the Mediator acting as the arbitrator finds that a party has not complied with the Settlement Agreement as asserted, the sole remedy that the Mediator acting as the arbitrator may impose is the issuance of an order requiring the offending party to cure such non-compliance.
- 13.7.8** In any arbitration or mediation under this Paragraph 13.7, each party shall bear its own fees and costs. However, the Mediator acting as the arbitrator shall have the discretion and authority to award attorneys' fees and/or costs to the prevailing party.
- 13.7.9** The Mediator acting as the arbitrator shall issue a written determination, including findings of fact, if requested by any party.
- 13.7.10** Under no circumstances shall the mediator acting as the arbitrator have authority to consider any disputes or order any remedy other than as expressly set forth in this Paragraph 13.7. The arbitrator's award may be enforced in the Court under federal law governing arbitration awards.
- 13.8** The Settling Parties agree that the Court has personal jurisdiction over the Class and Defendants and shall maintain that jurisdiction for purposes of resolving any disputes between the Settling Parties concerning compliance with Article 8 or 13.7 of the Settlement Agreement. Any motion or action to enforce Article 8 or 13.7 of this Settlement Agreement—including by way of injunction—may be filed in the U.S. District Court for the Middle District of North Carolina, and or asserted by way of an affirmative defense or counterclaim in response to any action that is asserted to violate Article 8 or 13.7.
- 13.9** The Settlement Agreement may be executed by exchange of executed signature pages, and any signature transmitted by facsimile or e-mail attachment of scanned signature pages for the purpose of executing this Settlement Agreement shall be deemed an original signature for purposes of this Settlement Agreement. The Settlement Agreement may be executed in any number of counterparts, and each of such counterparts shall for all purposes be deemed an original, and all such counterparts shall together constitute the same instrument.
- 13.10** Each party to this Settlement Agreement hereby acknowledges that he, she, 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, or its counsel.
- 13.11** Any headings included in this Settlement Agreement are for convenience only and do not in any way limit, alter, or affect the matters contained in this Settlement Agreement or the Articles or Paragraphs they caption. References to a person are also to the person's permitted successors and assigns, except as otherwise provided

herein. Whenever the words “include,” “includes” or “including” are used in this Settlement Agreement, they shall not be limiting but shall be deemed to be followed by the words “without limitation.”

- 13.12** 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.
- 13.13** This Settlement Agreement and the exhibits attached hereto constitute the entire agreement among the Settling Parties and no representations, warranties, or inducements have been made to any party concerning the Settlement other than those contained in this Settlement Agreement and the exhibits thereto.
- 13.14** The provisions of this Settlement Agreement may be waived only by an instrument in writing executed by the waiving party and specifically waiving such provisions. The waiver of any breach of this Settlement Agreement by any party shall not be deemed to be or construed as a waiver of any other breach or waiver by any other party, whether prior, subsequent, or contemporaneous, of this Settlement Agreement.
- 13.15** Each of the Settling Parties agrees, without further consideration, and as part of finalizing the Settlement hereunder, that it will in good faith execute and deliver such other documents and take such other actions as may be necessary to consummate and effectuate the subject matter of this Settlement Agreement.
- 13.16** The provisions of this Settlement Agreement are not severable.
- 13.17** 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 Effective Date of Settlement.
- 13.18** All of the exhibits attached hereto are incorporated by reference as though fully set forth herein. The exhibits shall be: Exhibit 1 – Former Participant Claim Form; Exhibit 2 – Preliminary Order; Exhibit 3 – Notice of Class Action Settlement and Fairness Hearing to Current Participants; Exhibit 4 – Notice of Class Action

Settlement and Fairness Hearing to Former Participants; and Exhibit 5 – Final Order.

- 13.19** No provision of the Settlement Agreement or of the exhibits attached hereto shall be construed against or interpreted to the disadvantage of any party to the Settlement Agreement because that party is deemed to have prepared, structured, drafted, or requested the provision.
- 13.20** 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;

IF TO THE CLASS REPRESENTATIVES:

Jerome J. Schlichter (jschlichter@uselaws.com)
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and

NOVANT HEALTH, INC.
Attn: Chief Legal Officer
2085 Frontis Plaza, Blvd.
Winston-Salem, North Carolina 27103

13.21 The Settling Parties acknowledge that, upon the Settlement Effective Date, the Plan Fiduciary shall and does assign to Novant any claims that the Plans may have against the Plans' service providers and/or their owners or employees related to services provided with respect to the Plans or the fees received by the Plans' service providers for Plan-related services at any time during the Class Period.

13.22 As additional consideration above and beyond the consideration set forth in Paragraph 13.21 herein, Novant shall defend, indemnify and hold harmless the Class Representatives, Plaintiffs, the Settlement Class, and the Plans against any claims (whether direct claims, counter claims, or otherwise) by Plan service providers or their employees or owners related to Plan-related services or contracts for such services, arising during the Class Period or Settlement Period.

ON BEHALF OF PLAINTIFFS Karolyn Kruger, M.D., Candace Culton, Frances Baillie, Eileen Schneider, Judy Lewis, Linda Christensen, and Teresa Powell Individually and as Representatives of the Class

Dated: November 9, 2015

SCHLICHTER, BOGARD & DENTON
LLP



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Attorneys for Plaintiffs and Class
Representatives

ON BEHALF OF ALL DEFENDANTS

Dated: _____

Peter S. Brunstetter
EVP and Chief Legal Officer
Novant Health, Inc.
2085 Frontis Plaza Blvd.
Winston-Salem, NC 27103

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13.22 As additional consideration above and beyond the consideration set forth in Paragraph 13.21 herein, Novant shall defend, indemnify and hold harmless the Class Representatives, Plaintiffs, the Settlement Class, and the Plans against any claims (whether direct claims, counter claims, or otherwise) by Plan service providers or their employees or owners related to Plan-related services or contracts for such services, arising during the Class Period or Settlement Period.

ON BEHALF OF PLAINTIFFS Karolyn Kruger, M.D., Candace Culton, Frances Baillie, Eileen Schneider, Judy Lewis, Linda Christensen, and Teresa Powell Individually and as Representatives of the Class


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ON BEHALF OF ALL DEFENDANTS

Dated: November 9, 2015



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