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14 UNITED STATES DISTRICT COURT
15 FOR THE NORTHERN DISTRICT OF CALIFORNIA

16 JERI CONNOLLY and RHONDA ARNESON, Case No. CV 14-01983 TEH
17 individually and on behalf of all others similarly
situated,

18 Plaintiff,

CLASS ACTION

19 v.

20 **JOINT STIPULATION OF
SETTLEMENT AND RELEASE**

21 WEIGHT WATCHERS NORTH AMERICA,
INC.,

22 Defendant. /

23
24 This Joint Stipulation of Settlement and Release (the "Agreement"), is entered into by and
25 between Plaintiffs (as hereinafter defined) and the Class of individuals they seek to represent (as
26 hereinafter defined), on the one hand, and Defendant (as hereinafter defined), on the other hand.

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28 ///

RECITALS

1
2 WHEREAS, on April 29, 2014, Plaintiffs Jeri Connolly and Rhonda Arneson filed the
3 Complaint in this Litigation (as hereinafter defined) as a putative class action. The Complaint
4 alleged, among other things, that for the time period of January 9, 2011 through December 9,
5 2012, Defendant Weight Watchers North America, Inc. failed to pay its meeting “Leader” and
6 “Receptionist” employees at least the minimum wage and contract wage for all hours worked,
7 failed to pay Leaders and Receptionists premium overtime wages for all overtime hours worked,
8 failed to pay Leaders and Receptionists the required minimum wage for working “split shifts,”
9 failed to reimburse Leaders and Receptionists for all expenses incurred in the course of their
10 employment, failed to provide Leaders and Receptionists with itemized pay statements showing
11 their total hours worked and the rates or formulae used for calculating their meeting pay, failed to
12 pay employees at least the minimum wage and/or the contract wage for all hours they spent
13 performing location coordinator work (as hereinafter defined), failed to keep required payroll and
14 work records, willfully failed to pay all wages due but unpaid at the time of separation from
15 employment, and engaged in “unfair competition” within the meaning of California law by
16 failing to pay required wages and expense reimbursements.

17 WHEREAS, the Complaint asserted claims under the California Labor Code and the
18 California Business and Professions Code, and sought recovery of, among other things, unpaid
19 wages, penalties, and reasonable attorney’s fees and costs.

20 WHEREAS, the Complaint asserted claims nearly identical to those asserted by a
21 similarly-situated class of individuals in *Sabatino v. Weight Watchers North America, Inc.*, Case
22 No. CV 09-4926-TEH (N.D. Cal. 2009), also represented by Steven Zieff/Rudy, Exelrod, Zieff &
23 Lowe, LLP. The Second Amended Complaint in the *Sabatino* case alleged, among other things,
24 that, for the time period from September 17, 2005 to January 8, 2011, Weight Watchers North
25 America, Inc. failed to pay its meeting “Leader” and “Receptionist” employees at least the
26 minimum wage and contract wage for all hours worked, failed to pay Leaders and Receptionists
27 premium overtime wages for all overtime hours worked, failed to pay Leaders and Receptionists
28 the required minimum wage for working “split shifts,” failed to reimburse Leaders and

1 Receptionists for all expenses incurred in the course of their employment, failed to provide
2 Leaders and Receptionists with itemized pay statements showing their total hours worked and the
3 rates or formulae used for calculating their meeting pay, failed to pay employees at least the
4 minimum wage and/or the contract wage for all hours they spent performing location coordinator
5 work (as hereinafter defined), failed to keep required payroll and work records, willfully failed to
6 pay all wages due but unpaid at the time of separation from employment, and engaged in “unfair
7 competition” within the meaning of California law by failing to pay required wages and expense
8 reimbursements.

9 WHEREAS, the parties to the *Sabatino* lawsuit reached a settlement agreement following
10 mediation, additional negotiations, and informal discovery. The settlement agreement was
11 reached after class counsel had conducted an extensive investigation of the case, including
12 interviewing the named plaintiffs and several dozen other putative class members regarding
13 relevant Weight Watchers policies and practices and class members’ job responsibilities, work
14 hours, pay, and timekeeping practices (including those related to Receptionists’ responsibilities
15 and work hours); interviewing several former managers of putative class members – “Territory
16 Managers” – and Territory Manager Assistants regarding relevant Weight Watchers policies and
17 practices and class members’ job responsibilities, work hours, pay, and timekeeping practices;
18 reviewing thousands of pages of relevant documents produced by Weight Watchers; reviewing
19 thousands of pages of relevant documents produced by plaintiffs; deposing Weight Watchers in a
20 two-day Federal Rule 30(b)(6) deposition and deposing one of plaintiffs’ managers; attending
21 and reviewing plaintiffs’ depositions taken by Weight Watchers; conducting additional factual
22 and legal research; reviewing, analyzing, and preparing potential damages calculations based
23 upon payroll records produced by Weight Watchers regarding meetings worked by class
24 members, class members’ work and time entries, wage payments, reimbursement payments, and
25 hire and termination dates; obtaining, analyzing, and preparing damages estimates based upon
26 payroll data obtained from Weight Watchers the mediation regarding the number of payroll
27 periods during which class members worked meetings as Receptionists but did not work as
28 Leaders or perform location coordinator work, and obtaining written verification from Weight

1 Watchers regarding that data following the mediation.

2 WHEREAS, class counsel in the *Sabatino* case researched, analyzed, and evaluated the
3 merits of the claims, as well as the factual and legal defenses raised by Weight Watchers, and
4 determined that the terms and conditions of the settlement agreement were fair, reasonable and
5 adequate and in the best interests of the *Sabatino* class.

6 WHEREAS, Weight Watchers denied and continues to deny all of the allegations made
7 by plaintiffs in the *Sabatino* case and denied liability with respect to the alleged facts or causes of
8 action asserted in the Litigation. Nonetheless, without admitting or conceding any liability or
9 damages whatsoever, Weight Watchers agreed to settle the case to avoid the burden, expense, and
10 uncertainty of continuing to litigate the action.

11 WHEREAS, the settlement agreement in the *Sabatino* case defined the settlement class as
12 follows:

13 Class shall mean all persons who worked for Weight Watchers North America,
14 Inc. in California as “Leaders” or “Receptionists” or who performed hourly-paid
15 “Location Coordinator” work (pay codes 40 and 41) at any time during the period
16 from September 17, 2005 to January 8, 2011, according to Weight Watchers’
17 payroll records through January 22, 2011.

18 WHEREAS, Weight Watchers agreed to pay \$6,200,000 to fully resolve and satisfy any
19 and all amounts to be paid to the *Sabatino* class members, including any claim for attorney’s fees
20 and costs/expenses approved by the Court, and any court-approved service payments to the
21 named plaintiffs. It was agreed that any unclaimed funds were to be given to an appropriate
22 charity. The parties further agreed that class counsel could file a motion seeking attorney’s fees
23 from the \$6.2 million settlement fund in an amount not to exceed \$1,550,000 as well as recovery
24 of costs.

25 WHEREAS, the parties filed an unopposed motion for preliminary approval of a class
26 action settlement in the *Sabatino* case on December 10, 2010.

27 WHEREAS, on January 6, 2011, Judge Henderson granted the aforementioned motion for
28 preliminary approval, ordered notice to be sent to the class, and set a final fairness hearing date
for May 23, 2011 in the *Sabatino* matter.

1 WHEREAS, on May 23, 2011, plaintiffs' motion for final approval of the proposed
2 settlement of the *Sabatino* action came for hearing and was granted by the Court.

3 WHEREAS, the settlement fund established in *Sabatino* was distributed to class members
4 and the claims administrator's duties were discharged.

5 WHEREAS, Plaintiffs Jeri Connolly and Rhonda Arneson have now filed a Complaint
6 seeking recovery for identical claims addressing the time period January 9, 2011 until December
7 9, 2012.

8 WHEREAS, Defendant has represented that that Defendant's practices for the time period
9 at issue in the Complaint are the same or substantially similar to those in effect during the time
10 period at issue in the *Sabatino* litigation. The investigation included interviews with putative
11 class members and informal discovery provided by Defendant. Among other information,
12 counsel for Plaintiffs requested and received from Defendant payroll and work week information
13 for putative class members. Along with expert David Breshears, counsel for Plaintiffs verified
14 the number of Leader and Receptionist work weeks at issue in the relevant time period.

15 WHEREAS, the parties engaged in negotiations regarding the possibility of a settlement
16 along the lines of that approved by the Court in the *Sabatino* litigation. In conjunction with these
17 settlement negotiations pertaining to the class claims raised in the instant case, the Defendant
18 produced payroll data and other information that allowed Plaintiff's Counsel to conduct due
19 diligence. More specifically, Weight Watchers has provided payroll data and hereby represents
20 that it has determined from its payroll records that:

21 a. From January 9, 2011 through December 9, 2012, there were a total of 50,077
22 work weeks in calendar year 2011 and 50,099 work weeks in calendar year 2012 in which
23 Weight Watchers of North America, Inc. employees worked at least one meeting as a
24 Receptionist and/or performed any miscellaneous functions (including location coordinator work)
25 outside of the meetings, but did not work any meetings as a Leader, in California.

26 b. From January 9, 2011 through December 9, 2012, there were a total of 30,100
27 work weeks in calendar year 2011 and 27,984 work weeks in calendar year 2012 in which
28 Weight Watchers of North America, Inc. employees worked at least one meeting as a Leader in

1 California. During these workweeks, the Leaders may or may not have also worked one or more
2 meetings as a Receptionist and/or performed other miscellaneous functions (including location
3 coordinator work) outside of the meetings, in California.

4 c. The compensation practices for the Leaders and Receptionists in California, as
5 they existed prior to January 9, 2011, continued for the period January 9, 2011 through December
6 9, 2012, at which point Weight Watchers of North America, Inc. changed its compensation
7 practices for these Leaders and Receptionists in California. Weight Watchers of North America,
8 Inc. denies that its prior or current compensation practices were or are improper or unlawful in
9 any way.

10 d. Upon Plaintiffs' request, Weight Watchers has provided detailed information—
11 that is recorded and kept in the normal course of its business—about the pay periods at issue in
12 this matter in the same manner and format as provided to Plaintiffs in the *Sabatino v. Weight*
13 *Watchers* litigation. *See, e.g.*, Zieff Declaration in Support of Motion For Order Certifying
14 Settlement Class filed in the *Sabatino* matter, ¶ 67. Plaintiffs' Counsel with their retained expert
15 have analyzed the data provided, and have determined that the pay rates and hours worked by
16 Class Members (Leaders and Receptionists), including those that are described in Paragraph 67
17 of the Zieff Declaration in Support of Motion For Order Certifying Settlement Class, were
18 substantially similar during the *Sabatino* class period (September 17, 2005 to January 8, 2011) as
19 the pay rates and hours worked during the current class period from January 9, 2011 through
20 December 9, 2012.

21 The information and payroll records provided by Weight Watchers of North America, Inc.
22 during the course of the aforementioned negotiations were material to and relied upon by
23 Plaintiffs and their Counsel in reaching the proposed Class Action Settlement in this matter.

24 Based on the number of work weeks at issue in the *Connolly* litigation and the statute of
25 limitations for penalties under the Labor Code Section 226, which Class Counsel have
26 determined applies to only six (6) weeks in the relevant time period, the parties agreed upon a
27 settlement amount of \$1,687,500, excluding amounts paid for employer tax obligations and
28 excluding the amounts paid to the Settlement Administrator, both of which will be paid by

1 Weight Watchers of North America, Inc.

2 WHEREAS, Plaintiffs' counsel conducted an adequate and diligent investigation with
3 respect to the time frame at issue in the Complaint, in combination with the significant discovery,
4 research, and analysis on the merits of the claims and Weight Watchers' defenses already
5 conducted in the *Sabatino* litigation. Based on the above investigation and experience and based
6 on the material representations and payroll information discussed above, counsel for Plaintiffs
7 have determined that the terms and conditions of the negotiated settlement agreement are fair,
8 reasonable and adequate and in the best interests of the *Connolly* class.

9 WHEREAS, Defendant denied and continues to deny all of the allegations made by
10 Plaintiffs in the Litigation and has denied and continues to deny that it is liable or owes damages
11 to anyone with respect to the alleged facts or causes of action asserted in the Litigation.
12 Nonetheless, without admitting or conceding any liability or damages whatsoever, Defendant has
13 agreed to settle the Litigation on the terms and conditions set forth in this Agreement, to avoid
14 the burden, expense, and uncertainty of continuing the Litigation.

15 NOW THEREFORE, in consideration of the mutual covenants and promises set forth in
16 this Agreement, as well as the good and valuable consideration provided for herein, the parties
17 hereto agree to a full and complete settlement of the Litigation on the following terms and
18 conditions:

19 **1. DEFINITIONS**

20 The defined terms set forth herein shall have the meanings ascribed to them below.

21 **1.1 Charity.**

22 "Charity" shall mean the Charities to be discussed and agreed upon by the parties
23 consistent with the applicable principles governing cy pres awards, subject to the approval
24 of Judge Thelton E. Henderson, or the applicable judge assigned to the case. If the parties
25 cannot agree on the charities, The Judge shall designate the charity or charities.

26 **1.2 Class; Class Member(s).**

27 "Class" shall mean all persons who worked for Weight Watchers North America, Inc. in
28 California as "Leaders" or "Receptionists" including those who performed hourly-paid

1 location coordinator work (pay codes 40 and 41) at any time during the period from
2 January 9, 2011 to December 9, 2012, according to Weight Watchers' payroll records. A
3 member of the Class is a "Class Member" and members of the Class are "Class
4 Members." Class Members are only Class Members during their periods of Covered
5 Employment (as hereinafter defined).

6 **1.3 Class Counsel.**

7 "Class Counsel" shall mean Steven G. Zieff, P.C., John T. Mullan, and Michelle G. Lee
8 of Rudy, Exelrod, Zieff & Lowe, LLP. For purposes of providing any notices required
9 under this Agreement, Class Counsel shall refer to Steven G. Zieff, Rudy, Exelrod, Zieff
10 & Lowe, LLP, 351 California Street, Suite 700, San Francisco, California 94104.

11 **1.4 Court.**

12 "Court" shall mean the United States District Court for the Northern District of
13 California, the Honorable Judge Thelton E. Henderson presiding, or any such judge as
14 may thereafter be assigned to the case.

15 **1.5 Covered Employment.**

16 "Covered Employment" shall mean employment in any and all Leader Payroll Periods,
17 Non-Leader Payroll Periods, and Receptionist Payroll Periods (as hereinafter defined).

18 **1.6 Defendant; Weight Watchers.**

19 "Defendant" or "Weight Watchers" shall mean Weight Watchers North America, Inc.

20 **1.7 Defendant's Counsel.**

21 "Defendant's Counsel" shall mean Gibson, Dunn & Crutcher, LLP. For purposes of
22 providing any notices required under this Agreement, Defendant's Counsel shall refer to
23 Jesse A. Cripps, Gibson, Dunn & Crutcher, LLP, 333 South Grand Avenue, Los Angeles,
24 CA, 90071.

25 **1.8 Effective; Effective Date.**

26 "Effective" shall mean that all of the following have occurred, and "Effective Date" shall
27 be the date on which all of the following have occurred:

28 (A) the Court has entered judgment and entered orders on the motions for awards of

1 attorneys' fees and costs/expenses pursuant to Section 3.2 and service payments
2 pursuant to Section 3.3, and

3 (B) the judgment and the orders on such motions have become Final. "Final" means
4 the later of:

5 (1) The time for seeking appellate review – thirty days after entry of the
6 judgment or order – has expired and it is no longer possible for anyone to
7 file a timely notice of appeal; or

8 (2) If appellate review is sought, after any and all avenues of appellate review
9 have been exhausted and no further appellate review is permitted or
10 possible and the judgment has not been modified, amended or reversed in
11 any way.

12 **1.9 Fairness Hearing.**

13 "Fairness Hearing" shall mean the hearing on the hearing on the Motion for Judgment and
14 Final Approval and the Motion for Attorneys' Fees and Costs as described herein.

15 **1.10 Leader Payroll Period.**

16 "Leader Payroll Period" shall mean a Payroll Period (as hereinafter defined) that falls
17 within the Recovery Period (as hereinafter defined) in which a Class Member worked one
18 or more meetings in California as a Leader according to Weight Watchers' payroll
19 records.

20 **1.11 Litigation.**

21 "Litigation" shall mean *Connolly et al. v. Weight Watchers North America, Inc.*, Case No.
22 CV 14-1983, pending in the United States District Court for the Northern District of
23 California.

24 **1.12 Location Coordinator Work.**

25 The term "location coordinator work" shall mean work hours that were recorded and paid
26 by Weight Watchers under Weight Watchers' payroll codes 40 and 41, according to
27 Weight Watchers' payroll records.
28

1 **1.13 Net Settlement Fund.**

2 “Net Settlement Fund” shall mean the remainder of the Settlement Fund (as hereinafter
3 defined) after deductions for court-approved attorneys’ fees and costs/expenses as
4 described in Section 3.2, court-approved service payments as described in Section 3.3,
5 and payment to the California Labor Workforce and Development Agency as described in
6 Section 3.4.

7 **1.14 Non-Leader Payroll Period.**

8 “Non-Leader Payroll Period” shall mean a Payroll Period (as hereinafter defined) that
9 falls within the Recovery Period (as hereinafter defined) in which a Class Member did not
10 work any meetings as a Leader, but did work one or more meetings as a Receptionist or
11 did perform location coordinator work, according to Weight Watchers’ payroll records.

12 **1.15 Non-Opt Out Class Member(s).**

13 “Non-Opt Out Class Member(s)” shall mean a Class Member(s) who does not timely
14 request exclusion from the Class as set forth in Section 2.4.

15 **1.16 Parties.**

16 “Parties” shall mean and refer to Plaintiffs and Defendant.

17 **1.17 Payroll Period.**

18 “Payroll Period” means a regular biweekly Weight Watchers Payroll Period that falls
19 within the Recovery Period (as hereinafter defined).

20 **1.18 Plaintiffs.**

21 “Plaintiffs” shall mean and include Jeri Connolly and Rhonda Arneson.

22 **1.19 Preliminary Approval Order.**

23 “Preliminary Approval Order” shall mean the order entered by the Court certifying the
24 settlement Class and preliminarily approving, among other things, the terms and
25 conditions of this Agreement, the manner and timing of providing notice to the Class, and
26 the time period for opt-outs and objections.

27 **1.20 Qualifying Payroll Period.**

28 “Qualifying Payroll Period” shall mean a Leader Payroll Period, Non-Leader Payroll

1 Period, or Receptionist Payroll Period (as hereinafter defined).

2 **1.21 Receptionist Payroll Period.**

3 “Receptionist Payroll Period” shall mean a Weight Watchers Payroll Period that falls
4 within the Recovery Period (as hereinafter defined) in which a Class Member did not
5 work any meetings as a Leader but did work one or more meetings as a Receptionist,
6 according to Weight Watchers’ payroll records.

7 **1.22 Recovery Period.**

8 “Recovery Period” shall mean the period from January 9, 2011, until December 9, 2012.

9 **1.23 Complaint.**

10 “Complaint” shall mean the Complaint filed on April 29, 2014.

11 **1.24 Settlement Administrator.**

12 “Settlement Administrator” shall mean Rust Consulting, Inc, which is the entity that has
13 been selected to provide notice of this proposed class action settlement to the Class and to
14 perform other and related functions to administer the settlement contemplated by this
15 Agreement as described herein.

16 **1.25 Settlement Fund.**

17 “Settlement Fund” shall mean the \$1,687,500 that Defendant pays to settle as described in
18 Section 3.1.

19 **2. APPROVAL AND CLASS NOTICE**

20 **2.1 Retention of Settlement Administrator.**

21 The Settlement Administrator shall be responsible for the dissemination of mailed notice
22 to the class, processing opt outs and objections, calculating Non-Opt Out Class Members’
23 shares of the Settlement Fund, processing and printing checks to be issued to Non-Opt
24 Out Class Members, and other duties as provided herein. The Settlement Administrator’s
25 fees and expenses shall be paid by Defendant separate and apart from the other funds
26 Defendant is paying to settle and shall not be deducted from the amount of the Settlement
27 Fund or the amount Defendant is paying for the employer’s share of payroll taxes as
28 described herein.

1 **2.2 Preliminary Approval by the Court.**

2 On or before [June 6, 2014] or as soon after then as practical, Plaintiffs will file this
3 Agreement with the Court, together with a Motion for Order Certifying Settlement Class
4 and Preliminarily Approving Class Action Settlement, together with a proposed Notice of
5 Proposed Settlement of Class Action Lawsuit and Fairness Hearing (“Notice”) in the form
6 attached as Exhibit A and a proposed Order Granting Preliminary Approval in the form
7 attached as Exhibit B, which Defendant shall not oppose. As early as [August 6, 2014],
8 and no later than [August 30,2014], Class Counsel will file their Motion for Attorneys’
9 Fees and Costs to be heard at or about the time of the Fairness Hearing. No later than ten
10 days after Plaintiffs file this Agreement with the Court, Defendant shall serve the Class
11 Action Fairness Act notices required by 28 U.S.C. § 1715. Plaintiffs will seek, and
12 Defendant will not oppose, certification of a settlement Class under Rule 23(b)(3) of the
13 Federal Rules of Civil Procedure. If the Court denies the Motion for Order Certifying
14 Settlement Class and Preliminarily Approving Class Action Settlement or otherwise fails
15 to enter the proposed Order Granting Preliminary Approval substantially in the form
16 attached as Exhibit B, then the litigation will resume unless the Parties jointly agree to
17 seek reconsideration of the ruling or seek Court approval of a renegotiated settlement. If
18 a mutually agreed class settlement is not approved, the parties will make best efforts to
19 address the concerns raised by the Court which resulted in non-approval of the settlement,
20 and if that effort is unsuccessful, the case will proceed as if no settlement has been
21 attempted; provided, however: (a) Defendant will have the right to contest whether this
22 case should be certified and/or maintained as a class action and to contest the merits of the
23 claims being asserted by Plaintiffs in this Litigation; (b) Plaintiffs will have the right to
24 seek leave of Court to file an amended complaint adding allegations and claims pursuant
25 to and subject to the restrictions set forth in Federal Rules of Civil Procedure Rule
26 15(a)(2) and Defendant will have the right to oppose such motion; and (c) both parties
27 shall reserve all rights and arguments with respect to the appropriate statute of limitations
28 to be applied if an amended complaint is permitted by the Court. If the Court determines

1 that a mutually agreed class settlement is not approved, the Parties will negotiate and
2 submit for Court approval a case schedule which shall, among other things, propose dates
3 for completion of class certification and merits discovery and the filing of motions (and
4 oppositions thereto), including but not limited to Plaintiffs' motion for class certification
5 under Fed. R. Civ. P. 23, and any summary judgment motions.

6 **2.3 Class Notice.**

7 (A) Within ten (10) days of the Order Granting Preliminary Approval, Defendant will
8 provide the Settlement Administrator with a list, in electronic form, of the names,
9 last-known addresses and phone numbers, employee ID numbers and Social
10 Security numbers, of all Class Members. So that Class Counsel can assist Class
11 Members with questions about addresses to which the Notice is sent, Defendant
12 shall simultaneously provide Class Counsel with the same list but without Social
13 Security numbers; provided, however, that any information regarding the Class
14 Members that is provided to Class Counsel pursuant to this Agreement shall be
15 provided only to the law firm of Rudy, Exelrod, Zieff & Lowe, LLP (the "Rudy
16 Exelrod Firm") and such information shall be used for settlement purposes only
17 and shall not be disclosed to any person outside of the Rudy Exelrod Firm. Class
18 Counsel shall not use such information to affirmatively contact a Class Member
19 without prior specific inquiry by that Class Member to Class Counsel, or a prior
20 specific inquiry by the Class Member to Defendant, Defendant's Counsel, or the
21 Settlement Administrator that has been shared with Class Counsel, except that
22 Class Counsel may use the information to contact Class Members for the purpose
23 of reminding or encouraging them to cash their settlement checks.

24 (B) Within 10 calendar days after receiving the information described in Section
25 2.3(A), the Settlement Administrator shall mail, via First Class United States Mail,
26 the Notice substantially in the form attached as Exhibit A, subject to any Court-
27 ordered revisions, to all Class Members using each individual's last known
28 address as recorded in Defendant's records or, if different, the address obtained by

1 the Settlement Administrator through the National Change of Address Database,
2 and any alternative addresses provided by Class Counsel. The Settlement
3 Administrator shall take all reasonable steps to obtain the correct address of any
4 Class Members for whom the Notice is returned by the post office as
5 undeliverable and shall attempt remailings in those situations, but in no event shall
6 the Settlement Administrator attempt remailings of the Notice to any Class
7 Member more than 40 calendar days after the date of the initial mailing. The
8 Settlement Administrator shall notify Class Counsel and Defendant's Counsel at
9 least weekly of any mail sent to Class Members that is returned as undeliverable
10 after the first mailing as well as any such mail returned as undeliverable after any
11 subsequent mailing(s).

12 **2.4 Class Member Opt-Out.**

13 (A) Any Class Member may request exclusion from the Class by "opting out." Class
14 Members who choose to do so must submit a written and signed request for
15 exclusion to the Settlement Administrator. To be effective, such Opt-Out
16 Statements must be (1) mailed to the Settlement Administrator via First Class
17 United States Mail and postmarked by a date certain, to be specified on the Notice,
18 which will be the date that is 45 calendar days after the Settlement Administrator
19 makes the initial mailing of the Notice, unless that date is a Sunday or a national
20 holiday, in which case the date will be the next day that is not a Sunday or a
21 national holiday, or (2) received by the Settlement Administrator by that date,
22 provided, however, that if a Class Member mails the Opt-Out Statement pursuant
23 to option (1), it will be effective only if received by the Settlement Administrator
24 on or before 10 calendar days after the end of the Opt-Out Period. The end of the
25 "Opt-Out Period" shall be 45 calendar days after the Settlement Administrator
26 makes the initial mailing.

27 (B) The Settlement Administrator shall stamp the date of receipt of the Opt-Out
28 Statement on the original of each Opt-Out Statement that it receives and shall

1 serve copies of each Statement on Class Counsel and Defendant's Counsel not
2 later than 3 business days after receipt thereof. The Settlement Administrator also
3 shall, within 13 calendar days after the end of the Opt-Out Period (or the next
4 business day, if the 13th day is not a business day), provide (by e-mail and
5 overnight delivery) Class Counsel and Defendant's Counsel with a declaration
6 under penalty of perjury attaching (1) stamped copies of any Opt-Out Statements,
7 with Social Security Numbers redacted, and (2) a final list of all Class Members
8 who timely submitted Opt-Out Statements. The Settlement Administrator shall
9 retain the stamped originals of all Opt-Out Statements and originals of all
10 envelopes accompanying Opt-Out Statements in its files until such time as the
11 Settlement Administrator is relieved of its duties and responsibilities under this
12 Agreement.

13 **2.5 Objections to Settlement.**

14 (A) Class Members who wish to present objections to the proposed settlement at the
15 Fairness Hearing, including the Motion for Attorneys' Fees and Costs, must first
16 do so in writing. To be considered, such objections must be (1) mailed to the
17 Settlement Administrator via First-Class United States mail and postmarked by a
18 date certain, to be specified on the Notice, which shall be 45 calendar days after
19 the initial mailing by the Settlement Administrator of such Notice, unless that date
20 is a Sunday or a national holiday, in which case the date will be the next day that
21 is not a Sunday or a national holiday, or (2) received by the Settlement
22 Administrator by that date, provided, however, that if a Class Member mails the
23 objection pursuant to option (1), it will be deemed timely only if received by the
24 Settlement Administrator on or before 10 calendar days after the end of the Opt-
25 Out Period. The Settlement Administrator shall stamp the date received on the
26 original and send copies of each objection to the Parties by e-mail and overnight
27 delivery not later than 3 calendar days after receipt thereof. The Settlement
28 Administrator shall also provide to Class Counsel and Defendant's Counsel (by e-

1 mail and overnight delivery) a declaration signed under penalty of perjury
2 attaching the date-stamped copies of any objections within 13 calendar days after
3 the End of the Opt-Out Period (or the next business day if the 13th day is not a
4 business day).

5 (B) An objector also has the right to appear at the Fairness Hearing either in person or
6 through counsel hired by the objector. An objector who wishes to appear at the
7 Fairness Hearing must state his or her intention to do so at the time he/she submits
8 his/her written objections. An objector may withdraw his/her objections only with
9 Court approval, which approval may be requested on the objector's behalf by
10 Plaintiffs upon Class Counsel's sworn representation that the objector has
11 consented to the request. No Class Member may appear at the Fairness Hearing
12 unless he or she has submitted a timely objection that complies with the
13 procedures provided in Section 2.5(A). Any Class Member who has submitted an
14 Opt-Out Statement may not submit objections to the settlement and no such
15 objections shall be considered by the Court.

16 **2.6 Motion for Judgment and Final Approval.**

17 Not later than 20 calendar days after the end of the Opt-Out Period, Plaintiffs will submit
18 a Motion for Judgment and Final Approval and any supplemental brief in support of the
19 Motion for Attorneys' Fees and Costs which Defendant shall not oppose.

20 **2.7 Entry of Judgment.**

21 At the Fairness Hearing, Plaintiffs will request that the Court, among other things, (a)
22 grant final certification, for purposes of settlement, of the Class under Rule 23(b)(3), (b)
23 enter judgment in accordance with this Agreement and in a form to be proposed by the
24 Parties, (c) approve the settlement and Agreement, including the requested service awards
25 for the Plaintiffs, as final, fair, reasonable, adequate, and binding on all Class Members
26 who have not timely opted out pursuant to Section 2.4(d), dismiss the Litigation with
27 prejudice, subject to the Court's retention of jurisdiction to oversee enforcement of the
28 Agreement and related orders, (e) enter an order permanently enjoining all Class

1 Members who do not opt out from pursuing and/or seeking to reopen claims that have
2 been released by this Agreement, and (f) grant Class Counsel's Motion for Attorneys'
3 Fees and Costs.

4 **2.8 Effect of Failure to Grant Final Approval.**

5 In the event the Court fails to enter judgment in accordance with this Agreement and
6 substantially in the form to be proposed by the Parties, or such judgment does not become
7 Final as defined herein, the Parties shall proceed as follows: The parties will make best
8 efforts to address the concerns raised which resulted in non-finalization of the settlement,
9 and if that effort is unsuccessful the Litigation will resume unless the Parties jointly agree
10 to: (1) seek reconsideration or appellate review of the decision denying entry of judgment,
11 or (2) attempt to renegotiate the settlement and seek Court approval of the renegotiated
12 settlement. In the event any reconsideration and/or appellate review is denied and/or
13 unsuccessful, or a mutually agreed settlement is not approved:

14 (A) The case will proceed as if no settlement has been attempted, the Class certified
15 for purposes of settlement shall be decertified, and Defendant will have the right
16 to contest whether this case should be certified and/or maintained as a class action
17 and to contest the merits of the claims being asserted by Plaintiffs in this
18 Litigation. In such a case, the Parties will negotiate and submit for Court approval
19 a case schedule which shall, among other things, propose dates for completion of
20 class certification and merits discovery and the filing of motions (and oppositions
21 thereto), including but not limited to Plaintiffs' motion for class certification under
22 Fed. R. Civ. P. 23, and any summary judgment motions.

23 (B) The Court will provide notice to Class Members that the Agreement did not
24 receive final approval and that, as a result, no payments will be made to Class
25 Members under the Agreement and that the Parties will continue to litigate the
26 case. Such notice shall be mailed by the Settlement Administrator via First Class
27 United States Mail to the addresses used by the Settlement Administrator in
28 mailing the Notice.

1 **3. SETTLEMENT TERMS**

2 **3.1 Settlement Fund.**

3 (A) Defendant agrees to pay \$1,687,500, which shall fully resolve and satisfy any and
4 all amounts to be paid to Class Members, any claim for attorney's fees and
5 costs/expenses approved by the Court, and any court-approved service payments
6 to Plaintiffs. Other than its responsibility to pay the Settlement Administrator's
7 fees and expenses, described in Section 2.1, and the employer's share of payroll
8 taxes (including FICA, FUTA, and other such employer tax contributions)
9 described in Section 3.6(C), under no circumstances will Defendant be required to
10 pay more than \$1,687,500 for any reason under the Agreement. Under no
11 circumstance will any portion of the Settlement Fund be retained by or revert to
12 Defendant.

13 (B) If Class Members fail to cash their checks, the amounts of the remaining funds
14 shall be paid to Charity.

15 **3.2 Attorneys' Fees and Costs/Expenses.**

16 (A) At the Fairness Hearing, Class Counsel shall request the Court to grant their
17 Motion for Attorneys' Fees and Costs and grant an award of attorneys' fees from
18 the Settlement Fund in an amount not to exceed \$421,875.00 (which is 25% of the
19 Settlement Fund). Class Counsel shall also seek reimbursement of litigation costs
20 and expenses from the Settlement Fund. Defendant will not oppose the fee and
21 cost/expenses application. Defendant shall pay to Class Counsel these fees, costs,
22 and expenses in the amount approved by the Court from the Settlement Fund no
23 later than 5 calendar days after the Effective Date.

24 (B) The substance of Class Counsel's application for attorneys' fees and
25 costs/expenses is not part of this Agreement and is to be considered separately
26 from the Court's consideration of the fairness, reasonableness, adequacy, and
27 good faith of the settlement of the Litigation. The outcome of any proceeding
28 related to Class Counsel's application for attorneys' fees and costs/expenses shall

1 not terminate this Agreement or otherwise affect the Court's ruling on the Motion
2 for Judgment and Final Approval.

3 **3.3 Service Payments To Plaintiffs.**

4 At the Fairness Hearing, Plaintiffs will each apply to the Court to receive no more than
5 \$15,000 each (\$30,000 total) from the Settlement Fund for services rendered to the Class.
6 Defendant will not oppose such applications. Defendant shall pay the service awards to
7 the Plaintiffs in the amount approved by the Court no later than 5 calendar days after the
8 Effective Date, provided that the respective Plaintiffs have executed and provided to
9 Defendant's Counsel individual releases in the form attached as Exhibit C and which will
10 provide a non-retaliation provision to protect the Plaintiffs (and provided that any
11 applicable revocation period has expired; if a revocation period applicable to any Plaintiff
12 has not expired, the payment will be made no later than 5 calendar days after the
13 expiration of the revocation period). The service payments and the requirements for
14 obtaining such payments set forth in this Section 3.3 are separate and apart from, and in
15 addition to, other recovery to which Plaintiffs are entitled under other provisions of this
16 Agreement. The substance of the above-referenced Plaintiffs' application for service
17 payments is not part of this Agreement and is to be considered separately from the
18 Court's consideration of the fairness, reasonableness, adequacy and good faith of the
19 settlement of the Litigation. The outcome of the Court's ruling on the application for
20 service payments shall not terminate this Agreement or otherwise affect the Court's ruling
21 on the Motion for Judgment and Final Approval. A Plaintiff who chooses not to sign
22 Exhibit C shall still be able to obtain any amount that he or she is entitled to receive as a
23 Class Member under this Agreement.

24 **3.4 Distribution to the LWDA.**

25 For purposes of Section 2699(j) of the California Labor Code, \$10,000 of the Settlement
26 Fund shall be treated as penalties recovered under the Labor Code Private Attorneys
27 General Act of 2004, and 75% of that amount, or \$7,500, shall be distributed to the
28 California Workforce Development Agency. Defendant shall pay this amount to the

1 LWDA no later than 5 calendar days after the Effective Date. The remaining 25%, or
2 \$2,500, shall be distributed to Non-Opt Out Class Members.

3 **3.5 Plan of Distribution to Non-Opt Out Class Members.**

4 (A) All Non-Opt Out Class Members are entitled to a share of the Net Settlement Fund
5 according to the plan of distribution set forth below.

6 (B) The plan of distribution has been developed with a view towards more highly
7 rewarding those claims that have significantly higher potential value in Class
8 Counsel's judgment, based on Class Counsel's review and analysis of the relative
9 strengths, risks, and potential recoveries associated with the various claims in the
10 Litigation. To this end, the plan distinguishes between: (i) Qualifying Payroll
11 Periods when Class Members worked as Leaders and Qualifying Payroll Periods
12 when they did not; (ii) Leader Payroll Periods for which Class Members have
13 potential claims for Labor Code Section 226(e) "penalties" and Leader Payroll
14 Periods for which they do not (owing to the one-year statute of limitations period
15 applicable to such claims; and (iii) Receptionist Payroll Periods for which Class
16 Members have potential claims for Labor Code Section 226(e) "penalties" and
17 Receptionist Payroll Periods for which they do not.

18 (C) Each Non-Opt Out Class Member's proportionate share of the Net Settlement
19 Fund shall be determined by the Settlement Administrator by applying the
20 following plan of distribution, based on the payroll records to be provided to the
21 Settlement Administrator by Weight Watchers:

22 (1) 75% of the Net Settlement Fund shall be allocated to Leader Payroll
23 Periods ("Leader Fund") and 25% of the Net Settlement Fund shall be
24 allocated to Non-Leader Payroll Periods ("Non-Leader Fund").

25 (2) Each Non-Opt Out Class Member's proportionate share of the Leader
26 Fund and/or the Non-Leader Fund shall be calculated using the following
27 distribution method:
28

Pro Rata Distribution for Leader Payroll Periods*

Type of Qualifying Payroll Period	Points Credited to Class Member
All Leader Payroll Periods	1 Leader Fund Point
Leader Payroll Periods Ending on or after November 5, 2012	1 additional Leader Fund Point

**Pro rata distribution of the Non-Leader Fund will be determined by dividing an individual's total Leader Fund Points by the total of all Leader Fund Points credited to all Non-Opt Out Class Members.¹*

Pro Rata Distribution for Non-Leader Payroll Periods**

Type of Qualifying Payroll Period	Points Credited to Class Member
All Non-Leader Payroll Periods	1 Non-Leader Fund Point
Receptionist Payroll Periods Ending on or after November 5, 2012	1.5 additional Non-Leader Fund Points

***Pro rata distribution of the Leader Fund is determined by dividing an individual's total Non-Leader Fund Points by the total of all Non-Leader Fund Points credited to all Non-Opt Out Class Members.*

(3) The specific calculations will be as follows:

- (a) For each Leader Payroll Period worked by the Non-Opt Out Class Member, assign the Non-Opt Out Class Member 1 "Leader Fund Point." For each Leader Payroll Period worked by the Non-Opt Out Class Member that ended on or after November 5, 2012, assign the Non-Opt Out Class Member 1 additional Leader Fund Point. The sum of the Non-Opt Out Class Member's Leader Fund Points is the Non-Opt Out Class Member's "Individual Class Member Leader Fund Numerator."
- (b) Add all Non-Opt Out Class Members' Individual Class Member Leader Fund Numerators to obtain the "Total Class Member Leader Fund Denominator."

¹ An example regarding the method of distribution is described in the *Sabatino v. Weight Watchers* settlement agreement, and those same principles regarding distribution shall be followed here.

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- (c) To determine the “Resulting Leader Fund Decimal” for the Non-Opt Out Class Member, divide the Non-Opt Out Class Member’s Individual Class Member Leader Fund Numerator by the Total Class Member Leader Fund Denominator.
 - (d) To determine the amount of the Leader Fund to be paid to the Non-Opt Out Class Member, multiply the Resulting Leader Fund Decimal by the total amount of the Leader Fund. This is the Non-Opt Out Class Member’s “Leader Fund Share.”
- (4) To calculate each Non-Opt Out Class Member’s proportionate share of the Non-Leader Fund:
- (a) For each Non-Leader Payroll Period worked by the Non-Opt Out Class Member, assign the Non-Opt Out Class Member 1 “Non-Leader Fund Point.” For each Receptionist Payroll Period worked by the Non-Opt Out Class Member that ended on or after November 5, 2012, assign the Non-Opt Out Class Member 1.5 additional Non-Leader Fund Point. The sum of the Non-Opt Out Class Member’s Non-Leader Fund Points is the Non-Opt Out Class Member’s “Individual Class Member Non-Leader Fund Numerator.”
 - (b) Add all Non-Opt Out Class Members’ Individual Class Member Non-Leader Fund Numerators to obtain the “Total Class Member Non-Leader Fund Denominator.”
 - (c) To determine the “Resulting Non-Leader Fund Decimal” for the Non-Opt Out Class Member, divide the Non-Opt Out Class Member’s Individual Class Member Non-Leader Fund Numerator by the Total Class Member Non-Leader Fund Denominator.
 - (d) To determine the amount of the Non-Leader Fund to be paid to the Non-Opt Out Class Member, multiply the Resulting Non-Leader

1 Fund Decimal by the total amount of the Leader Fund. This is the
2 Non-Opt Out Class Member's "Non-Leader Fund Share."

3 (5) To determine each Non-Opt Out Class Member's share of the Net
4 Settlement Fund, add the Non-Opt Class Member's Leader Fund Share and
5 Non-Leader Fund Share.

6 (6) As reflected in this Section, it is the intention and agreement of the Parties
7 that for each Qualifying Payroll Period, a Non-Opt Class Member will
8 recover from either the Leader Fund or the Non-Leader Fund as applicable,
9 but not from both.

10 **3.6 Taxability of Settlement Distributions.**

11 (A) For tax purposes, 30% of payments to Non-Opt Out Class Members pursuant to
12 Section 3.5 shall be treated as wages and 70% of such payments shall be treated as
13 penalties and interest.

14 (B) Payments treated as wages pursuant to Section 3.6(A) shall be made net of all
15 applicable employment taxes, including, without limitation, federal, state and local
16 income tax withholding and the employee share of the FICA tax, and shall be
17 reported to the Internal Revenue Service ("IRS") and the payee under the payee's
18 name and social security number on an IRS Form W-2. Payments treated as
19 penalties and interest pursuant to Section 3.6(A) shall be made without
20 withholding and shall be reported to the IRS and the payee, to the extent required
21 by law, under the payee's name and social security number on an IRS Form 1099.
22 Any service payments pursuant to Section 3.3 shall be made without withholding
23 and reported to the IRS and the payee under the payee's name and social security
24 number on an IRS Form 1099.

25 (C) Defendant shall pay the employer's share of all state and federal payroll taxes
26 imposed by applicable law, including the employer's share of the FICA tax and
27 any federal and state unemployment tax due, with respect to the amounts treated
28 as wages pursuant to Section 3.6(A). Such tax obligations shall be in addition to

1 Defendant's obligation to pay the \$1,687,5000.00 described in Section 3.1.

2 **4. RELEASE**

3 **4.1 Release of Claims.**

4 (A) By operation of the entry of the Judgment and Final Approval, and except as to
5 such rights or claims as may be created by this Agreement, Plaintiffs and Non-Opt
6 Out Class Members forever and fully release Defendant, and all present and
7 former parent companies, subsidiaries, affiliates, and their respective owners,
8 shareholders, officers, directors, employees, agents, servants, divisions, registered
9 representatives, attorneys, insurers, predecessors, and successors and assigns, from
10 all claims alleged in the Complaint, and from any and all other claims that could
11 have been brought based on the facts alleged in the Complaint, whether at
12 common law, pursuant to statute, ordinance, or regulation, in equity or otherwise,
13 and whether arising under federal, state, or other applicable law, which any such
14 Class Member has or might have, known or unknown, asserted or unasserted, that
15 arose during periods of Covered Employment ("Released Claims").

16 (B) Each Non-Opt Out Class Member is deemed to have acknowledged that this
17 Agreement is intended to include in its effect all claims asserted in or based upon
18 the facts alleged in the Litigation that arose during any time up until and including
19 December 9, 2012, including both asserted and unasserted claims, and including
20 those claims that each or any Non-Opt Out Class Member does not know or
21 suspect to exist in his or her favor against Defendant. With respect to the
22 Released Claims, the Plaintiffs and all Non-Opt Out Class Members waive all
23 rights and benefits afforded by section 1542 of the Civil Code of the State of
24 California, understanding the significance of that waiver. Section 1542 provides:

25 A general release does not extend to claims which the creditor does not know or
26 suspect to exist in his favor at the time of executing the release, which if known by
27 him must have materially affected his settlement with the debtor.
28

1 **4.2 Release of Fees and Costs for Settled Matters.**

2 Class Counsel and Plaintiffs, on behalf of the Class and each individual Class Member,
3 hereby irrevocably and unconditionally release, acquit, and forever discharge any claim
4 that they may have against Defendant for attorneys' fees or costs/expenses associated
5 with Class Counsel's representation of Plaintiffs and the Class.

6 **4.3 No Assignment.**

7 Class Counsel and Plaintiffs, on behalf of the Class and each individual Class Member,
8 represent and warrant that they have not assigned or transferred, or purported to assign or
9 transfer, to any person or entity, any claim or any portion thereof or interest therein,
10 including, but not limited to, any interest in the Litigation, or any related action.

11 **4.4 Non-Admission of Liability.**

12 By entering into this Agreement, Defendant in no way admits any violation of law or any
13 liability whatsoever to Plaintiffs and/or the Class, individually or collectively, all such
14 liability being expressly denied. Likewise, by entering into this Agreement, Defendant in
15 no way admits to the suitability of this case for class action litigation other than for
16 purposes of settlement. Rather, Defendant enters into this Agreement to avoid further
17 protracted litigation and to resolve and settle all disputes with Plaintiffs and the Class.
18 Settlement of the Litigation, negotiation and execution of this Agreement, and all acts
19 performed or documents executed pursuant to or in furtherance of this Agreement or the
20 settlement: (a) are not, shall not be deemed to be, and may not be used as an admission or
21 evidence of any wrongdoing or liability on the part of Defendant or of the truth of any of
22 the factual allegations in any and all complaints filed in the Litigation; (b) are not, shall
23 not be deemed to be, and may not be used as an admission or evidence of fault or
24 omission on the part of Defendant in any civil, criminal, administrative or arbitral
25 proceeding; and (c) are not, shall not be deemed to be, and may not be used as an
26 admission or evidence of the appropriateness of these or similar claims for class action
27 treatment other than for purposes of administering this Agreement. The Parties
28 understand and agree that this Agreement and all exhibits thereto are settlement

1 documents and shall be inadmissible in evidence in any proceeding, except an action or
2 proceeding to approve, interpret, or enforce the terms of the Agreement.

3 **4.5** Weight Watchers shall not retaliate or discriminate against either Plaintiff in any way
4 (either by firing, demotion, cutting shifts, assigning to less favorable shifts or
5 assignments, or taking any action that, in any way, adversely impacts the terms or
6 conditions of employment because of any action taken in connection with this litigation or
7 any claims raised in connection with this litigation or for raising any claim for wages
8 owed or a claimed violation of any provision of California law).

9 **5. CLASS DISTRIBUTION**

10 (A) Within 33 calendar days after the end of the Opt-Out Period, and based on the
11 Settlement Administrator’s identification for Weight Watchers of Non-Opt Out
12 Class Members by name and employee identification number, Weight Watchers
13 will provide the Settlement Administrator and Class Counsel with a list, in
14 electronic form, of the names and last known addresses of all Non-Opt Out Class
15 Members, and each Non-Opt Out Class Member’s Leader Payroll Periods, Non-
16 Leader Payroll Periods, and Receptionist Payroll Periods. With the exception of
17 addresses, this data shall be conclusively presumed to be accurate.

18 (B) Within 10 calendar days after the entry of judgment, the Settlement Administrator
19 shall have calculated and shall provide to Class Counsel and Defendant’s Counsel
20 a proposed schedule of distribution of the claims shares to Class Members from
21 the Settlement Fund, containing the name of and proposed distribution to each
22 Non-Opt Out Class Member (“Schedule of Distribution”), as well as the amount
23 of the employer’s share of all state and federal payroll taxes imposed by
24 applicable law (see Section 3.6(C)).

25 (C) Within 10 calendar days after the Effective Date, the Settlement Administrator
26 shall prepare individual settlement payment checks to be drawn on funds that shall
27 be provided by Weight Watchers no later than 5 calendar days after the Effective
28 Date, less withholdings as specified in Section 3.6(B), for each Non-Opt Out Class

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Member.

(D) The Settlement Administrator will (i) mail to all Non-Opt Out Class Members their settlement payment checks within 5 calendar days of preparing individual settlement payment checks, to be drawn on those funds provided by Weight Watchers pursuant to Section 5(C), and, (ii) within the time(s) required by applicable law, and using those funds provided by Weight Watchers pursuant to Section 5(C), will pay the employer’s share of all state and federal payroll taxes imposed by applicable law (see Section 3.6(C) to the applicable taxing authorities). The Settlement Administrator shall use reasonable efforts to make a second mailing to Non-Opt Out Class Members whose checks are returned because of incorrect addresses. Such efforts shall include using Social Security numbers to obtain better address information and, for Non-Opt Out Class Members whose payment is greater than \$100.00, attempting to call such Non-Opt Out Class Members. The Settlement Administrator shall provide Class Counsel and Defendant’s Counsel a declaration describing the efforts it took to reach Non-Opt Out Class Members who have not cashed checks. Any additional efforts undertaken shall be in the sole discretion of the Settlement Administrator. All efforts of the Settlement Administrator to send checks to Non-Opt Out Class Members shall cease no later than 90 calendar days after the Settlement Administrator makes the initial mailing of checks. Beginning 45 days after the initial check mailing date, the Settlement Administrator shall provide weekly reports to Class Counsel and Defendant’s Counsel of the names of Non-Opt Out Class Members who have not yet cashed their checks.

(E) The funds from settlement payment checks that have not been cashed after 120 calendars days from the date of the initial mailing of settlement payment checks by the Settlement Administrator shall be donated to Charity.

1 **6. PUBLICITY; CLASS MEMBER COMMUNICATIONS**

2 **6.1 Public Statements; Class Member Communications**

- 3 (A) The Parties agree that no press release regarding this matter will be issued by
4 either Party and further agree that neither Party will initiate any media or social
5 media statements, except that Defendant may issue press releases related to
6 earnings and may make standard financial disclosures related to this litigation.
- 7 (B) Defendant and Defendant’s Counsel agree not to discourage Class Members from
8 participating in the settlement and cashing their settlement checks.
- 9 (C) Nothing contained in this Section shall prevent Class Counsel from providing
10 legal advice to Class Members, from encouraging Qualified Class Members to
11 cash their settlement checks, from describing the case (apart from the settlement)
12 on Class Counsel’s website, or from posting the following specific language and
13 information about the settlement, and the settlement and settlement approval
14 documents on Class Counsel’s website: (1) After preliminary approval but prior
15 to final approval: “The parties have agreed to a settlement under which Weight
16 Watchers will pay \$1,687,500 to settle all claims in the case on behalf of a class of
17 Leaders, Receptionists, and employees who performed hourly-paid location
18 coordinator work for Weight Watchers in the State of California at any time
19 during the period from January 9, 2011, through December 9, 2012. You can read
20 about the proposed settlement by viewing the Class Notice [hyperlink] and the
21 Joint Stipulation of Settlement Release [hyperlink]. The settlement is still subject
22 to final approval by the Court. The Court will hold a hearing on [insert date] to
23 determine whether to finally approve the settlement or not. If you did not receive
24 a notice in the mail about the settlement, and you believe you should have, please
25 contact us, or contact the Settlement Administrator, Rust Consulting (insert phone
26 number). Also, if you believe you are part of the class, and you have changed
27 addresses since you worked for Weight Watchers, please contact us or the
28 Settlement Administrator, Rust Consulting (insert phone number), with your new

1 address.” (2) Following final approval: On [insert date], the Court signed an order
2 granting final approval to the settlement negotiated by the parties, under which
3 Weight Watchers will pay \$1,687,500 million to settle all claims in the case on
4 behalf of a class of Leaders, Receptionists, and employees who performed hourly-
5 paid location coordinator work for Weight Watchers in the State of California at
6 any time during the period from January 9, 2011, through December 9, 2012. You
7 can read about the proposed settlement by viewing the Class Notice [hyperlink]
8 and the Joint Stipulation of Settlement Release [hyperlink]. If you did not receive
9 a notice in the mail about the settlement, and you believe you should have, please
10 contact us or the Settlement Administrator, Rust Consulting (insert phone
11 number). Also, if you believe you are part of the class, and you have changed
12 addresses since you worked for Weight Watchers, please contact us or the
13 Settlement Administrator, Rust Consulting (insert phone number), with your new
14 address. Settlement Checks are presently expected to be mailed out to Class
15 Members by (insert date).” (3) Following the mailing of settlement checks, Class
16 Counsel may add language to the website informing and reminding Class
17 Members that settlement checks have been mailed and of the deadline for cashing
18 checks. In addition to the foregoing, in the event that Class Counsel determine in
19 good faith that it is in Class Members’ best interest for Class Counsel to publish
20 additional information about the settlement on their website, prior to publishing
21 such information, Class Counsel shall give notice to Defendant’s Counsel and
22 shall meet and confer in good faith with Defendant’s Counsel. If the parties are
23 unable to resolve the issue through meet and confer efforts, any dispute shall be
24 submitted to the Court for resolution on an expedited basis. Class Counsel may
25 also post on their website the following settlement documents: This Joint
26 Stipulation of Settlement and Release, the Notice to the Class, the Order
27 Certifying Settlement Class and Preliminarily Approving Class Action Settlement,
28 and the Motion for Attorneys’ Fees and Costs and supporting briefs (not including

1 Class Counsel's supporting declaration). Prior to posting any other settlement-
2 related documents, Class Counsel shall meet and confer in good faith with
3 Defendant's Counsel.

4 **7. REPRESENTATIONS.**

5 **7.1 Representation**

6 Weight Watchers represents and affirms that it will exercise reasonable diligence and act
7 in good faith to provide accurate data to the Settlement Administrator. Similarly, Weight
8 Watchers represents and affirms that it has exercised reasonable diligence and acted in
9 good faith during the negotiation phase pertaining to the claims raised in this Litigation
10 to provide accurate data to Class Counsel about the Class Members. Weight Watchers
11 further represents and affirms that, as to representations that it made prior to mediation in
12 the Litigation about the content of data that it had produced in discovery, such
13 representations were accurate to the best of Weight Watchers' information and belief.

14 **8. MISCELLANEOUS**

15 **8.1 Cooperation Between the Parties; Further Acts.**

16 The Parties shall cooperate fully with each other and shall use their best efforts to obtain
17 the Court's approval and effectuation of this Agreement and all of its terms as
18 expeditiously as practical. Each of the Parties, upon the request of any other party, agrees
19 to perform such further acts and to execute and deliver such other documents as are
20 reasonably necessary to carry out the provisions of this Agreement. Class Counsel have
21 the right and obligation to monitor Weight Watchers' and the Settlement Administrator's
22 administration of the settlement. In fulfilling that obligation, Class Counsel have the right
23 to make reasonable requests for documents and information from Weight Watchers and
24 the Settlement Administrator relating to the administration of the settlement.

25 **8.2 Entire Agreement.**

26 This Agreement constitutes the entire agreement between the Parties with regard to the
27 subject matter contained herein, and all prior and contemporaneous negotiations and
28 understandings between the Parties shall be deemed merged into this Agreement. The

1 Parties agree that this Agreement shall not affect the enforceability of any independent
2 separation or release agreement entered into by any Class Member.

3 **8.3 Binding Effect.**

4 This Agreement shall be binding upon the Parties and, with respect to Plaintiffs and the
5 Class Members, their spouses, children, representatives, heirs, administrators, executors,
6 beneficiaries, conservators, attorneys and assigns.

7 **8.4 Arms' Length Transaction; Materiality of Terms.**

8 The Parties have negotiated all the terms and conditions of this Agreement at arms'
9 length. All terms and conditions of this Agreement in the exact form set forth in this
10 Agreement are material to this Agreement and have been relied upon by the Parties in
11 entering into this Agreement.

12 **8.5 Captions.**

13 The captions or headings of the sections and paragraphs of this Agreement have been
14 inserted for convenience of reference only and shall have no effect upon the construction
15 or interpretation of any part of this Agreement.

16 **8.6 Construction.**

17 The determination of the terms and conditions of this Agreement has been by mutual
18 agreement of the Parties. Each party participated jointly in the drafting of this
19 Agreement, and therefore the terms and conditions of this Agreement are not intended to
20 be, and shall not be, construed against any party by virtue of draftsmanship.

21 **8.7 Blue Penciling.**

22 Following the Effective Date, if any provision of this Agreement is held by a court of
23 competent jurisdiction to be void, voidable, unlawful or unenforceable, the remaining
24 portions of this Agreement will remain in full force and effect.

25 **8.8 Governing Law.**

26 This Agreement shall in all respects be interpreted, enforced and governed by and under
27 the laws of the State of California, without regard to choice of law principles.
28

1 **8.9 Continuing Jurisdiction.**

2 The Court shall retain jurisdiction over the interpretation and implementation of this
3 Agreement as well as any and all matters arising out of, or related to, the interpretation or
4 implementation of this Agreement and of the settlement contemplated thereby. The Court
5 shall not have jurisdiction to modify the terms of the Agreement or to increase Weight
6 Watchers' payment obligations hereunder except as provided or contemplated hereunder.

7 **8.10 Waivers, etc. to Be in Writing.**

8 No waiver, modification or amendment of the terms of this Agreement, whether
9 purportedly made before or after the Court's approval of this Agreement, shall be valid or
10 binding unless in writing, signed by or on behalf of all Parties and then only to the extent
11 set forth in such written waiver, modification or amendment, subject to any required
12 Court approval. Any failure by any party to insist upon the strict performance by the
13 other party of any of the provisions of this Agreement shall not be deemed a waiver of
14 future performance of the same provisions or of any of the other provisions of this
15 Agreement, and such party, notwithstanding such failure, shall have the right thereafter to
16 insist upon the specific performance of any and all of the provisions of this Agreement.

17 **8.11 When Agreement Becomes Effective; Counterparts.**

18 This Agreement shall become effective upon its execution. The Parties may execute this
19 Agreement in counterparts, and execution in counterparts shall have the same force and
20 effect as if Plaintiffs and Defendant had signed the same instrument.

21 **8.12 Facsimile or Emailed Signatures.**

22 Any Party may execute this Agreement by causing its counsel to sign on the designated
23 signature block below and transmitting that signature page via facsimile or email to
24 counsel for the other party. Any signature made and transmitted by facsimile or email for
25 the purpose of executing this Agreement shall be deemed an original signature for
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1 purposes of this Agreement and shall be binding upon the party whose counsel transmits
2 the signature page by facsimile or email.

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4 **Class Representatives**

5 Dated: June 11, 2014 PLAINTIFF JERI CONNOLLY

6 By: /s/ Jeri Connolly
Jeri Connolly

7 Dated: June 11, 2014 PLAINTIFF RHONDA ARNESON

8 /s/ Rhonda Arneson
9 Rhonda Arneson

10 **Class Counsel**

11 RUDY, EXELROD, ZIEFF & LOWE, LLP
12 Dated: June 11, 2014

13 By: /s/ Steven G. Zieff
Steven G. Zieff

14 **Defendant**

15 WEIGHT WATCHERS NORTH AMERICA, INC.
16 Dated: June 11, 2014

17 By: /s/ Seth Kaplan
Seth Kaplan
Assistant General Counsel

18 **Defendant's Counsel**

19 GIBSON, DUNN & CRUTCHER LLP
20 Dated: June 11, 2014

21 By: /s/ Jesse A. Cripps
Jesse A. Cripps

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