

Exhibit A

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

**HEATHER JANDA HAY,
individually and on behalf of the GUCCI
AMERICA, INC. RETIREMENT AND
SAVINGS PLAN n/k/a KERING
AMERICAS, INC. RETIREMENT AND
SAVINGS PLAN,**

Plaintiff,

v.

**GUCCI AMERICA, INC., BENEFIT
PLANS COMMITTEE GUCCI AMERICA,
INC. n/k/a BENEFIT PLANS
COMMITTEE KERING AMERICAS,
INC., KERING AMERICAS, INC., and
DOES NOS. 1-10, whose names are
currently unknown,**

Defendants.

No. 2:17-cv-07148(CCC/CLW)

Civil Action

CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (“Settlement Agreement”) is entered into between and among the Plaintiff and Class Representative, all Class Members, and Defendants, as defined herein.

1. Article 1 – Recitals

- 1.1** On September 15, 2017, Plaintiff, Heather Janda Hay (“Plaintiff”), who is a former participant in a defined contribution 401(k) retirement plan known as the Gucci America, Inc. Retirement and Savings Plan n/k/a the Kering Americas, Inc. Retirement and Savings Plan (the “Plan”), filed a Complaint (Case No. 2:17-cv-07148 (CCC/CLW)) against Defendants, Gucci America, Inc., Benefit Plans Committee Gucci America, Inc. n/k/a Benefit Plans Committee Kering Americas, Inc., Kering Americas, Inc., and Does Nos. 1-10 (collectively, “Defendants”) (Plaintiff and Defendants are referred to as the “Parties”), in the United States District Court for the District of New Jersey, individually and on behalf of the Plan, alleging that she is a participant in the Plan and asserting

various claims for breaches of fiduciary duty and seeking relief under the Employee Retirement Income Security Act of 1974, as amended (“ERISA”).

- 1.2 On December 11, 2017, Defendants filed a motion to dismiss the Complaint. While that motion to dismiss was pending, the Parties exchanged written discovery, including substantive document productions. In addition, on August 31, 2018, Plaintiff appeared for deposition in Philadelphia, Pennsylvania and was deposed by Defendants.
- 1.3 On October 3, 2018, the Court issued an order denying Defendants’ motions to dismiss the Complaint. On October 3, 2018, the Court also issued an order referring the case to mediation with the Mediator. The Parties subsequently engaged in private mediation with the Mediator on November 13, 2018. After extensive arm’s length negotiations supervised by the Mediator, the Parties reached a settlement. The terms of the Parties’ settlement are memorialized in this Settlement Agreement.
- 1.4 Pursuant to the terms of the Parties’ agreement, and for settlement purposes only, Plaintiff subsequently filed an amended complaint contemporaneously with this Settlement Agreement alleging the same claims as in the original complaint, but alleging those claims on behalf of herself, the Plan, and as a putative class action on behalf of all participants in the Plan since September 15, 2011.
- 1.5 Plaintiff and Class Counsel consider it desirable and in the Plan’s and Class Members’ best interests that the claims against Defendants be settled on the terms set forth below, and they have concluded that such terms are fair, reasonable, and adequate and that this settlement will result in significant benefits to the Plan and the Class Members.
- 1.6 Defendants admit no wrongdoing or liability with respect to any of the allegations or claims in the Complaint, any wrongdoing or liability being expressly denied by Defendants and each of them. 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 any of Defendants.
- 1.7 The Settling Parties have concluded that it is desirable that this matter be finally settled upon the terms and conditions set forth in this Settlement Agreement.
- 1.8 Therefore, the Settling Parties, in consideration of the promises, covenants, and agreements herein described, acknowledged by each of them to be satisfactory and adequate, and intending to be legally bound, do hereby mutually agree to the terms of this Settlement Agreement.

2. Article 2 – Definitions

As used in this Settlement Agreement and the Exhibits hereto (as listed in Paragraph 12.12), unless otherwise defined, the following terms have the meanings specified below:

- 2.1 “Action” or “Class Action” means *Heather Janda Hay v. Gucci America, Inc., et al.*, Case No. 2:17-cv-07148 (CCC/CLW) in the United States District Court for the District of New Jersey.
- 2.2 “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 Settlement Class; (b) related tax expenses (including taxes and tax expenses as described in Paragraph 5.3); (c) all expenses and costs associated with the calculations pursuant to the Plan of Allocation; and (d) all fees and expenses of the Settlement Administrator, Independent Fiduciary, and Escrow Agent. Excluded from Administrative Expenses are Defendants’ internal expenses and the Settling Parties’ respective legal expenses.
- 2.3 “Active Account” means an individual investment account in the Plan with a balance greater than \$0 as of December 31, 2018.
- 2.4 “Alternate Payee” means a person other than a participant or Beneficiary in the Plan who is entitled to a benefit under the Plan as a result of a Qualified Domestic Relations Order (“QDRO”), as defined in 29 U.S.C. § 1056(d)(3)(K), where the QDRO relates to a participant’s balance during the Class Period.
- 2.5 “Attorneys’ Costs” means costs and expenses advanced and carried by Class Counsel. Class Counsel will request payment of their Attorneys’ Costs, which shall be recovered solely and exclusively from the Gross Settlement Amount, to the extent approved by the Court.
- 2.6 “Attorneys’ Fees” means the amount awarded by the Court as compensation for the services provided by Class Counsel. Class Counsel will request up to \$395,000 in attorneys’ fees from the Gross Settlement Amount, which shall be paid to the extent approved by the Court.
- 2.7 “Attorneys’ Fees and Costs” means the Attorneys’ Fees and Attorneys’ Costs.
- 2.8 “Authorized Former Participant” means a Former Participant who has submitted a Former Participant Claim Form by the Claims Deadline set by the Court in the Preliminary Approval Order and whose Former Participant Claim Form is accepted by the Settlement Administrator and determined by the Settlement Administrator to be completed and satisfactory.
- 2.9 “Beneficiary” means a person who is entitled to receive a benefit under the Plan that is derivative of a deceased Current Participant’s or Former Participant’s interest in the Plan, other than an Alternate Payee. A Beneficiary includes, but is not limited to, a spouse, surviving spouse, domestic partner, child or other individual or trust designated by the Current Participant or Former Participant or determined under the terms of the Plan who currently is entitled to a benefit.
- 2.10 “CAFA” means the Class Action Fairness Act of 2005, 28 U.S.C. §§ 1711–1715.

- 2.11 “Claims Deadline” means a date that is no later than twenty-one (21) calendar days before the Fairness Hearing.
- 2.12 “Class Counsel” means Shepherd, Finkelman, Miller & Shah, LLP.
- 2.13 “Class Member” means each and every individual in the Settlement Class.
- 2.14 “Class Period” means the period from September 15, 2011 through December 31, 2018.
- 2.15 “Class Representative” means Plaintiff, Heather Janda Hay.
- 2.16 “Class Representative’s Compensation” means an amount to be determined by the Court, but not to exceed \$5,000 for the Class Representative, which shall be paid solely and exclusively from the Gross Settlement Amount.
- 2.17 “Court” means the United States District Court for the District of New Jersey.
- 2.18 “Court of Appeals” means the United States Court of Appeals for the Third Circuit.
- 2.19 “Current Participant” means a person who has an Active Account.
- 2.20 “Defendants” means Gucci America, Inc., Benefit Plans Committee Gucci America, Inc. n/k/a Benefit Plans Committee Kering Americas, Inc., Kering Americas, Inc., and Does Nos. 1-10.
- 2.21 “Defense Counsel” means Morgan, Lewis & Bockius LLP.
- 2.22 “Effective Approval Order” means the Final Approval Order once it becomes Effective.
- 2.23 “Effective” means with respect to any judicial ruling, order, or judgment that the period for any motions for reconsideration, motions for rehearing, appeals, petitions for certiorari, or the like (“Review Proceeding”) has expired without the initiation of a Review Proceeding, or, if a Review Proceeding has been initiated, that it has been fully and finally resolved, either by court action or by voluntary action of any party, without any possibility of a reversal, vacatur, or modification of any judicial ruling, order, or judgment, including the exhaustion of all proceedings in any remand or subsequent appeal and remand. The Settling Parties agree that absent an appeal or other attempted Review Proceeding, the Final Approval Order becomes Effective thirty-three (33) calendar days after its entry.
- 2.24 “Escrow Agent” means Huntington Bank or another entity agreed to by the Settling Parties.
- 2.25 “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 request for Attorneys’ Fees and Costs and the Class Representative’s request for Class Representative’s Compensation, and (c) whether to finally approve the Settlement pursuant to Fed. R. Civ. P. 23.

- 2.26** “Final Approval Order” means the entry of the order and final judgment approving the Settlement Agreement, implementing the terms of this Settlement Agreement, and dismissing the Action with prejudice, to be proposed by the Settling Parties for approval by the Court, in substantially the form attached as Exhibit 4 hereto.
- 2.27** “Former Participant” means a person who had an account in the Plan during the Class Period and who does not have an Active Account.
- 2.28** “Former Participant Claim Form” means the form described generally in Paragraph 3.3.2 and substantially in the form attached as Exhibit 1.
- 2.29** “Gross Settlement Amount” means eight hundred thousand dollars (\$800,000) plus three hundred ninety-five thousand dollars (\$395,000) to be paid to Class Counsel in Attorneys’ Fees to the extent approved by the Court, and five thousand dollars (\$5,000) to be paid to Plaintiff as Class Representative’s Compensation to the extent approved by the Court, all of which will be 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, the Plan, Plaintiff, and Class Counsel made on behalf of Defendants in connection with the Settlement effectuated through this Settlement Agreement.
- 2.30** “Independent Fiduciary” means the person or entity selected by the Parties to serve as an independent fiduciary to the Plan with respect to the Settlement Agreement as defined in Article 3 herein.
- 2.31** “Kering” means Kering Americas, Inc. and Gucci America, Inc.
- 2.32** “Mediator” means Sheryl Mintz Goski, Law Offices of Sheryl Mintz Goski, 30 Columbia Turnpike, Suite 301, P.O. Box 479, Florham Park NJ 07932, or if she is unavailable, another mediator mutually agreed upon by the Settling Parties.
- 2.33** “Net Settlement Amount” means the Gross Settlement Amount minus (a) all Attorneys’ Fees and Costs paid to Class Counsel; (b) all Class Representative’s Compensation; and (c) all Administrative Expenses (and any contingency reserve for Administrative Expenses) approved by the Court.
- 2.34** “Participants” means “Authorized Former Participant” and “Current Participant.”
- 2.35** “Plaintiffs” means the Class Representative and the Class Members.
- 2.36** “Plan” means the Kering Americas, Inc. Retirement and Savings Plan formerly known as the Gucci America, Inc. Retirement and Savings Plan.
- 2.37** “Plan of Allocation” means the methodology for allocating and distributing the Net Settlement Amount pursuant to Article 6 herein.
- 2.38** “Preliminary Approval Order” means the order proposed by the Settling Parties and approved by the Court in connection with the Motion for Preliminary Approval of the

Settlement to be filed by the Class Representative through Class Counsel, as described in Paragraph 3.2 and in substantially the form attached hereto as Exhibit 2.

2.39 “Qualified 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.

2.40 “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, (d) with respect to (a) through (c) above, all of their affiliates, subsidiaries, divisions, joint ventures, predecessors, successors, successors-in-interest, assigns, 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, (e) the Plan and its predecessors and successors, and (f) and any fiduciaries (with the exception of the Independent Fiduciary), administrators, service providers, recordkeepers, consultants, contractors, parties in interest, and trustees of the Plan. Released Parties are intended third-party beneficiaries of this Settlement Agreement and are entitled to enforce its terms.

2.41 “Released Claims” means any and all actual or potential claims, actions, demands, rights, obligations, liabilities, damages, attorneys’ fees, expenses, costs, interests, and causes of action, including both known and unknown claims, based on facts existing as of the date of the Preliminary Approval Order against any of the Released Parties:

- a. that were asserted in the Action, or that arise out of, relate to, or are based on any of the allegations, acts, omissions, facts, matters, transactions, or occurrences that are or were alleged, asserted, or set forth in the Action; or
- b. that arise out of, relate in any way to, are based on, or have any connection with (1) the selection, oversight, retention, or performance of the Plan’s investment options and service providers, (2) fees, costs, or expenses charged to, paid, or reimbursed by the Plan, (3) disclosures or failures to disclose information regarding the Plan’s investment options or service providers, (4) the investment options offered to Plan participants, (5) the selection of recordkeepers, vendors and providers for the Plan, (6) the services provided to the Plan or the costs of those services, (7) collecting or paying compensation based on a percentage of total assets, or (8) any alleged breach of the duty of loyalty, care, prudence, or diversification or any other fiduciary duties or prohibited transactions arising from, related to, or based on the allegations set forth in the Action; or
- c. that would be barred by res judicata based on entry by the Court of the Final Approval Order; or

- d. that relate to the direction to calculate, the calculation of, and/or the method or manner of allocation of the Net Settlement Amount 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.

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

2.43 “Settlement Administrator” means Strategic Claims Services, an independent contractor to be retained by Class Counsel and approved by the Court.

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

2.45 “Settlement Class” means all participants and beneficiaries of the Plan at any time on or after September 15, 2011 through December 31, 2018, including any Beneficiary of a deceased person who was a Participant in the Plan at any time during the Class Period, and any Alternate Payees, in the case of a person subject to a QDRO who was a Participant in the Plan at any time during the Class Period.

2.46 “Settlement Effective Date” means the date on which the Final Approval Order becomes Effective, provided that by such date the Settlement has not been terminated pursuant to Article 10.

2.47 “Settlement Notices” means the Notice of Class Action Settlement and Fairness Hearing to be mailed by electronic or first class mail by the Settlement Administrator to Class Members following the Court’s issuance of the Preliminary Approval Order, in substantially the form attached hereto as Exhibit 3. The Settlement Notice shall inform Class Members of all information required by Federal Rule of Civil Procedure 23 and due process, including the 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 Approval Order and the Settlement Notice may be heard regarding: (a) the terms of the Settlement Agreement; (b) Class Counsel’s request for award of Attorneys’ Fees and Costs; (c) payment of Administrative Expenses and any reserve for Administrative Expenses; and (d) any requested Class Representative’s Compensation. The Settlement Notice also shall inform Former Participants of the Claims Deadline by which they must submit a completed Former Participant Claim Form to the Settlement Administrator in order to be eligible for a distribution pursuant to the Plan of Allocation.

2.48 “Settlement Website” means the internet website established pursuant to Paragraph 3.4.

2.49 “Settling Parties” means Plaintiff, the Plan, each of the Class Members, and Defendants.

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

3.1 The Independent Fiduciary retained by the Parties shall have the following responsibilities on behalf of the Plan:

3.1.1 The Independent Fiduciary shall determine whether to approve and authorize the settlement of Released Claims on behalf of the Plan.

3.1.2 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.

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

3.1.4 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.

3.1.5 Defendants, Defense Counsel, Plaintiff and Class Counsel shall provide the Independent Fiduciary with sufficient information so that the Independent Fiduciary can review and evaluate the Settlement Agreement.

3.2 Following the Settlement Agreement Execution Date, and no later than February __, 2019, the Class Representative, 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 Approval Order in substantially the form attached hereto as Exhibit 2. The Preliminary Approval Order to be presented to the Court, as to the Action, shall, among other things:

3.2.1 Grant the motion to certify the class pursuant to Rule 23(b)(1) of the Federal Rules of Civil Procedure for settlement purposes only;

3.2.2 Approve the text of the Settlement Notices for mailing to Class Members and the Former Participant Claim Form for mailing to Former Participants;

3.2.3 Cause the Settlement Administrator to mail by first class mail the Settlement Notice to each Class Member and the Former Participant Claim Form to each Former Participant;

3.2.4 Determine that pursuant to Fed. R. Civ. P. 23(c)(2) and (e), mailing the Settlement Notices constitutes the best notice practicable under the

circumstances, provides due and sufficient notice of the Fairness Hearing and of the rights of all Class Members, and complies fully with the requirements of Fed. R. Civ. P. 23, the Constitution of the United States, and any other applicable law;

- 3.2.5 Preliminarily enjoin each Class Member and his or her respective heirs, beneficiaries, executors, administrators, estates, past and present partners, officers, directors, agents, attorneys, predecessors, successors, and assigns from instituting, maintaining, prosecuting, or asserting any of the Released Claims against the Defendants or other Released Parties in any action or proceeding;
- 3.2.6 Provide that, pending final determination of whether the Settlement Agreement should be approved, no Class Member may directly, through representatives, or in any other capacity, commence any action or proceeding in any court or tribunal asserting any of the Released Claims against Defendants or other Released Parties;
- 3.2.7 Set the Fairness Hearing for no sooner than one hundred thirty (130) calendar days after the date the Motion for Preliminary Approval of the Settlement 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 Approval Order, and (iii) the Court should approve the application for Attorneys' Fees and Costs, Class Representative's Compensation, Administrative Expenses incurred to date, and any reserve for anticipated future Administrative Expenses;
- 3.2.8 Provide that any objections to any aspect of the Settlement Agreement shall be heard, and any papers submitted in support of said objections shall be considered, by the Court at the Fairness Hearing if they have been 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 supporting documents must be filed at least twenty-eight (28) days prior to the scheduled Fairness 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;
- 3.2.9 Approve the form of CAFA notices attached as Exhibit 5 and order that upon mailing of the CAFA notices, Defendants shall have fulfilled their obligations under CAFA.
- 3.2.10 Provide that any party may file with the Court a response to an objection by a Class Member at least fourteen (14) days before the Fairness Hearing;
- 3.2.11 Set a deadline of no later than twenty-one (21) days before 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

- 3.2.12 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 By the date and in the manner set by the Court in the Preliminary Approval Order, and unless otherwise set forth below, the Settlement Administrator shall:
- 3.3.1 Cause to be mailed to each Class Member a Settlement Notice in the form and manner to be approved by the Court, which shall be in substantially the form attached hereto as Exhibit 3 to Current Participants and Former Participants, respectively, or a form subsequently agreed to by the Settling Parties and the Court. The Settlement Notice shall be sent by electronic or first-class mail, postage prepaid, to the last known address of each Class Member provided by the Plan's recordkeeper or its designee, unless an updated address is obtained by the Settlement Administrator through its efforts to verify the last known addresses provided by the Plan's recordkeeper or its designee. The Settlement Administrator also shall post a copy of the 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 Settlement Notice one additional time if an updated location is identified; and
- 3.3.2 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 The Settlement Administrator shall establish a static Settlement Website on which it will post the following documents in static (nonsearchable) PDF format: the Complaint, Settlement Agreement and its Exhibits, Settlement Notices, Former Participants Claim Form, and the motions for preliminary approval and final approval (when filed); the Motion for Attorneys' Fees and Costs and Class Representative's Compensation, and Administrative Expenses (when filed); any approval order or other 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"). The Settlement Website URL web address shall be mutually agreed upon by the Settling Parties but shall not include the words "Kering" or "Gucci" therein. No other information or documents (other than the date, time, and location of the Fairness Hearing and the toll-free number for the call center described in Paragraph 3.5) will be posted on the Settlement Website unless agreed to in advance by the Settling Parties in writing. No individual shall be sent or targeted with any messages or advertisements, whether through email or social or professional networking websites or platforms or otherwise, regarding the Settlement Website, other than the Settlement Notices. The Settlement Administrator will take down the Settlement Website ninety (90) calendar days after the receipt of the affidavit(s) referenced in Paragraph 6.8.
- 3.5 On or before the date that the Settlement Notices are mailed, the Settlement

Administrator also shall arrange for a toll-free telephone call center facility to be active during the period of time that the Settlement Website is active. The toll-free telephone call facility will employ an interactive voice response system to answer calls, and will provide callers the option of speaking with a live operator if necessary.

- 3.6 Kering or its designee(s) will provide the Settlement Administrator with all information necessary to send the Settlement Notices no later than ten (10) business days before the notices are to be distributed.
- 3.7 Defendants shall have no responsibility for providing or distributing the Net Settlement Amount or any notice of the Settlement to Class Members or for paying the cost of providing notice of the Settlement to Class Members other than its payment of the Gross Settlement Amount through the Qualified Settlement Fund.
- 3.8 The Settlement is contingent upon approval by the Court of the Settlement Class under Fed. R. Civ. P. 23(b)(1).

4. Article 4 – Final Settlement Approval

- 4.1 No later than fourteen (14) days before the Fairness Hearing, Class Counsel shall submit to the Court a motion for entry of the Final Approval Order (Exhibit 4), which shall request approval by the Court of the terms of this Settlement Agreement and entry of the Final Approval Order in accordance with this Settlement Agreement. The Final Approval Order as proposed by the Settling Parties shall provide for the following, among other things, as is necessary to carry out the Settlement consistent with applicable law and governing Plan documents:
 - 4.1.1 For approval of the settlement covered by this Settlement Agreement, adjudging the terms of the Settlement Agreement to be fair, reasonable, and adequate to the Plan and the Class Members and directing the Settling Parties to take the necessary steps to effectuate the terms of the Settlement Agreement;
 - 4.1.2 For a determination pursuant to Fed. R. Civ. P. 23(c)(2) and (e) that mailing the Settlement Notices constituted the best notice practicable under the circumstances and that due and sufficient notice of the Fairness Hearing and the rights of all Class Members was provided, consistent with the Federal Rules of Civil Procedure and the requirements of due process under the United States Constitution;
 - 4.1.3 For dismissal with prejudice of the Action and all Released Claims asserted therein, whether asserted by the Class Representative on her own behalf or on behalf of the Class Members, or derivatively to secure relief for the Plan, without costs to any of the Settling Parties other than as provided for in this Settlement Agreement;
 - 4.1.4 That each Class Member and his or her 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 Effective Approval Order shall have, fully, finally, and forever settled, released, relinquished, waived, and discharged Defendants and other Released Parties from all Released Claims, and (ii) barred and enjoined from instituting, maintaining, prosecuting, or asserting any of the Released Claims against the Defendants and other Released Parties in any action or proceeding, even if any Class Member may thereafter discover facts in addition to or different from those which the Class Member or Class Counsel now know or believe to be true with respect to the Action and the Released Claims, whether or not such Class Member has executed and delivered a Former Participant Claim Form, whether or not such Class Member has filed an objection to the Settlement, and whether or not the objections or claims for distribution of any such Class Member have been approved or allowed;

- 4.1.5 That the Plan and each Class Member (and his or her respective heirs, beneficiaries, executors, administrators, estates, past and present partners, officers, directors, agents, attorneys, predecessors, successors, and assigns) on behalf of the Plan shall be (i) conclusively deemed to have, and by operation of the Effective Approval 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 and enjoined from instituting, maintaining, prosecuting, or asserting any of the Released Claims against Defendants and the Released Parties in any action or proceeding, even if the Plan or any Class Member on behalf of the Plan may thereafter discover facts in addition to or different from those which the Plan or any Class Member now knows or believes to be true with respect to the Action and the Released Claims;
- 4.1.6 That each Class Member shall release Defendants, Defense Counsel, the Released Parties, and the Plan from any claims, liabilities, and attorneys' fees and expenses arising from the allocation of the Gross Settlement Amount or Net Settlement Amount, or arising from any act or omission of the Settlement Administrator or the Independent Fiduciary, 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 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; and

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

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

5. Article 5 – Establishment of Qualified Settlement Fund

5.1 No later than ten (10) business days after entry of the Preliminary Approval Order, the Escrow Agent shall establish an escrow account. The Settling Parties agree that the escrow account is intended to be, and will be, an interest-bearing Qualified Settlement Fund within the meaning of Treas. Reg. § 1.468B-1. In addition, the Escrow Agent shall timely 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 Qualified Settlement Fund and filing the returns described in Treas. Reg. § 1.468B-2(k)). Such returns as well as the election described in Paragraph 5.1 shall be consistent with this Article 5 and, in all events, shall reflect that all taxes (as defined in Paragraph 5.3 below) (including any estimated taxes, interest, or penalties) on the income earned by the Gross Settlement Amount shall be deducted and paid from the Gross Settlement Amount as provided in Paragraph 5.3 hereof.

5.3 Taxes and tax expenses are Administrative Expenses to be deducted and paid from the Gross Settlement Amount, including but not limited to (1) all taxes (including any estimated taxes, interest, or penalties) arising with respect to the income earned by the Gross Settlement Amount, including any taxes or tax detriments that may be imposed upon 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 payments 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)); none of Defendants, Defense Counsel, or 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 twenty (20) business days after the later of (a) the date the Preliminary Approval 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, \$100,000 of the Gross Settlement Amount shall be paid into the Qualified Settlement Fund to be used to pay Administrative Expenses associated with the Settlement (e.g., class notice). The rest of the Gross Settlement Amount, i.e., the Gross Settlement Amount minus the \$100,000 already paid per the above, shall be paid within five (5) calendar days after the Settlement Effective Date.
- 5.5 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.
- 5.6 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 forty-five (45) calendar days after the Settlement Effective Date; (b) second, any Administrative Expenses incurred through the Settlement Effective Date shall be paid within forty-five (45) calendar days after the Settlement Effective Date; (c) third, any Class Representative's Compensation ordered by the Court shall be paid within forty-five (45) calendar 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 and approved by the Court shall be set aside by the Settlement Administrator for additional Administrative Expenses incurred or anticipated after the Settlement Effective Date; and (e) fifth, 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.
- 5.7 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 and Defense 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.

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 as set forth in Paragraph 6.6 below, and to the Plan for payments to the accounts of Current Participants as set forth in Paragraph 6.5 below, both 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 payment from the Net Settlement Amount, a person must be a Current Participant or an Authorized Former Participant, or a Beneficiary or Alternate Payee of such a person. Current Participants shall receive their settlement payments as contributions to their Plan account(s), as provided for in Paragraph 6.5 below. Authorized Former Participants shall receive their settlement payments in the form of tax-qualified rollovers to an individual retirement account or other eligible employer plan or in the form of checks, as provided in Paragraph 6.6 below.

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

6.4 Calculation of Settlement Payments. Payments to Authorized Former Participants and Current Participants (including Beneficiaries and Alternate Payees, all collectively referred to as "Participants" for purposes of this Paragraph 6.4 and Paragraphs 6.5 and 6.6) shall be calculated by the Settlement Administrator pursuant to the Plan of Allocation as follows:

- 6.4.1 The Settlement Administrator shall determine a "Settlement Allocation Score" for each Current Participant and Authorized Former Participant by determining the year-end account balances of each Current Participant and Authorized Former Participant during the Class Period and dividing the sum of each Current Participant's and Authorized Former Participant's year-end account balances during the Class Period by the total sum of year-end account balances for all Current Participants and Authorized Former Participants during the Class Period.
- 6.4.2 If the dollar amount of the settlement payment to an Authorized Former Participant is calculated by the Settlement Administrator to be \$5.00 or less, then that Authorized Former Participant's payment or pro rata share shall be zero for all purposes, because such an amount is *de minimis* and would cost more in processing than its value. All such amounts shall be retained in the Qualified Settlement Fund for distribution under Paragraph 6.12.
- 6.4.3 The Plan's recordkeeper (or its designee) shall provide the necessary data subject to its control as may be reasonably necessary to enable the Settlement Administrator to perform the above calculations.
- 6.4.4 The Settlement Administrator shall utilize the calculations required to be performed herein for (a) making the required payments to Authorized Former Participants under Paragraph 6.6 of the Settlement Agreement; and (b) instructing Defendants as to the amount of the Net Settlement Amount to be allocated to 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.
- 6.4.5 The total amount of all tax-qualified rollovers or checks to be written by the Settlement Administrator for Authorized Former Participants plus the total amount of all allocations that Defendants are instructed to make to Current Participants may not exceed the Net Settlement Amount. Nothing in this Paragraph 6.4 is intended to modify the requirements of Paragraph 6.7 below. In the event that the Settlement Administrator determines that the Plan of Allocation total would otherwise exceed the Net Settlement Amount, the Settlement Administrator is authorized to make such pro rata changes as are necessary to the Plan of Allocation such that said totals do not exceed the Net Settlement Amount.

6.5 Payments to Current Participants Generally. Current Participants will not be required to submit a Former Participant Claim Form to receive a settlement payment.

- 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 the Plan's recordkeeper, in a format and via a delivery method mutually agreed upon by the Settlement Administrator and the Plan's recordkeeper, with an Excel spreadsheet containing the name, Social

Security number (or alternative identifier(s) mutually acceptable), and amount of the settlement payment to be made into the Active Account(s) for each of the Current Participants. In the event the Excel spreadsheet includes Social Security numbers, the Settlement Administrator will transmit the spreadsheet in a manner to protect the confidentiality of the Current Participants' Social Security numbers.

6.5.2 Thereafter, within ten (10) business days' written notice to Kering and the Plan's recordkeeper, the Settlement Administrator shall effect a transfer from the Qualified Settlement Fund to the Plan of the aggregate amount of all settlement payments payable to Current Participants, as reflected in the spreadsheet provided by the Settlement Administrator. Kering (or its designee) shall direct the Plan's recordkeeper 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 who is an active employee or agent of Kering will be invested in accordance with and proportionate to such Current Participant's investment elections then on file for new contributions. If the Current Participant is no longer an active Kering employee or agent, or does not have an investment election on file, then such Current Participant shall be deemed to have directed such payment to be invested in the Plan's default investment option.

6.5.4 The Plan's recordkeeper shall process all Current Participant transactions within thirty (30) calendar days after the Plan receives the payment from the Qualified Settlement Fund and the Excel spreadsheet containing the agreed-upon information.

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

6.5.6 If, as of the date when payments pursuant to this Settlement Agreement are made, a Current Participant no longer has an Active Account, he or she will be treated as an Authorized Former Participant for purposes of the settlement distribution only and will receive his or her payment from the Settlement Administrator in the form of a check as described in Paragraph 6.6. A Current Participant who no longer has an Active Account on the date of his or her settlement distribution need not complete a Former Participant Claim Form.

6.6 Payments to Authorized Former Participants. Each Authorized Former Participant will have the opportunity to elect a tax-qualified rollover of his or her settlement payment to an individual retirement account or other eligible employer plan, which he or she has identified on the Former Participant Claim Form, provided that the Authorized Former Participant supplies adequate information to the Settlement Administrator to effect the

rollover. Otherwise, the Authorized Former Participant will receive his or her settlement payment directly by check. The distributions shall be issued as follows:

6.6.1 The Settlement Administrator will either effect the rollover from the Qualified Settlement Fund elected by the Authorized Former Participant in the Former Participant Claim Form (if the conditions for such rollover are satisfied) and any associated paperwork necessary to effect these settlement distributions by rollover, *or* issue a check from the Qualified Settlement Fund to the Authorized Former Participant and mail the check 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.

6.6.2 With respect to settlement payments that are not rolled over to a qualified account, 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 to the Internal Revenue Service and applicable state revenue agents; and (iii) issue appropriate tax forms to the Authorized Former Participants.

6.7 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 agree to promptly discuss modifications to the terms of this Plan of Allocation and present such modified terms 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 by the Settlement Administrator on the Settlement Website.

The Settlement Administrator shall be solely responsible for performing any calculations required by this Plan of Allocation.

6.8 Within ten (10) business days of completing all aspects of this Plan of Allocation, the Settlement Administrator shall send to Class Counsel and Defense Counsel one or more affidavits stating the following: (a) the name of each Class Member to whom the Settlement Administrator sent the Settlement Notice and/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 and/or the Former Participant Claim Form; (c) the name of each Class Member whose Settlement Notice and/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 and/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 payment from the Net Settlement Amount, together with the amount and form of the payment, the name of the payee, the date of payment, the amount of tax withholdings, if applicable, and the date of remittance of tax withholdings to the appropriate tax authority, if applicable.

- 6.9** The Settling Parties acknowledge that any payments to Class Members or their attorneys may be subject to applicable tax laws. Defendants and Defense Counsel 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.
- 6.10** 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, the Released Parties, Defense Counsel, Class Counsel, and the Settlement Administrator harmless from any tax liability, including penalties and interest, related in any way to payments under the Settlement Agreement, and shall hold Defendants, the Released Parties, Defense Counsel, Class Counsel, and the Settlement Administrator harmless from the costs (including, for example, attorneys' fees and disbursements) of any proceedings (including, for example, investigation and suit), related to such tax liability.
- 6.11** All checks issued pursuant to this Plan of Allocation shall expire 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.
- 6.12** No sooner than three hundred ninety-five (395) calendar days following the Settlement Effective Date, any Net Settlement Amount remaining in the Qualified Settlement Fund after payments, including costs and taxes, shall be paid to the Plan for the purpose of defraying administrative fees and expenses..
- 7. Article 7 – Attorneys' Fees and Costs**
- 7.1** Class Counsel will seek approval from the Court of their attorneys' fees not to exceed three hundred ninety-five thousand dollars (\$395,000) and litigation costs and expenses advanced and carried by Class Counsel during this litigation. Any such award shall be paid solely and exclusively from the Gross Settlement Amount. Defendants shall have no independent responsibility or liability for such attorneys' fees and costs and/or to any other person who may assert some claim thereto, or for any fee and expense award that the Court may make in the Action.
- 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 Approval Order for objections to the proposed settlement, which may be supplemented thereafter. Any such award shall be paid solely and exclusively from the Gross Settlement Amount. 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 Representative's Compensation that does not exceed five thousand dollars (\$5,000).

8. Article 8 – Release and Covenant Not to Sue

- 8.1** As of the Settlement Effective Date, the Plan (subject to Independent Fiduciary approval as required by Paragraph 3.1) and all Class Members (and their respective heirs, beneficiaries, executors, administrators, estates, past and present partners, officers, directors, agents, attorneys, predecessors, successors, and assigns) shall be deemed to have fully, finally, and forever settled, released, relinquished, waived, and discharged Defendants, the Plan, and all Released Parties from the Released Claims.
- 8.2** As of the Settlement Effective Date, Plaintiff and Class Members are enjoined from instituting, maintaining, prosecuting, or asserting any of the Released Claims against Defendants or any other Released Parties. 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** Plaintiff, Class Counsel, and the Class Members may hereafter discover facts in addition to or different from those that they know or believe to be true with respect to the Released Claims. Such facts, if known by them, might have affected the decision to settle with Defendants, the Plan, and the Released Parties, or the decision to release, relinquish, waive, and discharge the Released Claims, or the decision of a Class Member not to object to the Settlement. Notwithstanding the foregoing, each Class Member and the Plan shall expressly, upon the Effective date of the Final Approval Order, be deemed to have, and by operation of the Final Approval Order, shall have, fully, finally, and forever settled, released, relinquished, waived, and discharged any and all Released Claims. The Class Members and the Plan acknowledge and shall be deemed by operation of the Effective Approval Order to have acknowledged that the foregoing waiver was bargained for separately and is a key element of the Settlement embodied in this Settlement Agreement of which this release is a part.
- 8.4** Each of Plaintiff, Class Members, and the Plan hereby stipulate and agree with respect to any and all Released Claims that, upon the Effective Approval Order, the Class Members shall be conclusively deemed to, and by operation of the Effective Approval Order shall, settle, release, relinquish, waive and discharge any and all rights or benefits they may now have, or in the future may have, under any law relating to the releases of unknown claims, including specifically under 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, Plaintiff and Class Members with respect to the Released Claims shall, upon the Effective Approval Order, waive any and all provisions, rights and benefits conferred by

any law or of any state or territory within the United States or any foreign country, or any principle of common law, which is similar, comparable or equivalent in substance to Section 1542 of the California Civil Code.

9. Article 9 – Representations and Warranties

9.1 Plaintiff on behalf of herself and the Settlement Class represents:

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

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 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;

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; and

9.1.6 That Plaintiff and Class Counsel have not assigned or transferred any of the claims.

9.2 All of the above representations and warranties, express or implied, oral or written, shall be deemed continuing and shall survive the Settlement Effective Date.

9.3 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 – Termination, Conditions of Settlement, and Effect of Disapproval, Cancellation, or Termination

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

10.1.1 Pursuant to Paragraph 3.1, (1) either the Independent Fiduciary does not approve the release or the Settlement Agreement, or disapproves the release or the Settlement Agreement for any reason whatsoever, or any of the Parties

reasonably conclude that the Independent Fiduciary's approval does not include the determinations required by the PTE 2003-39; and (2) the Settling Parties do not mutually agree within thirty (30) days of the events in Paragraph 3.1(1) 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 2003-39. In the event that the Independent Fiduciary does not approve the release of the Settlement Agreement, any of the Parties, in their sole discretion, can decide to waive Independent Fiduciary approval but any such waiver shall only be effective if all Parties voluntarily choose to exercise such right to waive Independent Fiduciary approval;

- 10.1.2** The Preliminary Approval Order and the Final Approval Order are not entered by the Court in substantially the form submitted by the Settling Parties or in a form which is otherwise agreed to by the Settling Parties within thirty (30) days;
 - 10.1.3** The Settlement Class is not certified as defined herein or in a form which is otherwise agreed to by the Settling Parties within thirty (30) days;
 - 10.1.4** This Settlement Agreement is disapproved by the Court or fails to become effective for any reason whatsoever; or
 - 10.1.5** The Preliminary Approval Order or Final Approval Order is finally reversed on appeal, or is materially modified on appeal, and the Settling Parties do not mutually agree to any such material modifications within thirty (30) days of such reversal or material modification on appeal.
- 10.2** If the Settlement Agreement is terminated, deemed null and void, or deemed to have no further force or effect, the Action shall for all purposes with respect to the Settling Parties revert to its status as though the Settling Parties never executed the Settlement Agreement and Plaintiff never filed an amended complaint (which amended complaint shall be stricken and deemed inoperative). All funds deposited in the Qualified Settlement Fund, and any interest earned thereon, shall be returned to Defendants or their or insurers pro rata based on their payments to the Qualified Settlement Fund, within thirty (30) calendar days after the Settlement Agreement is finally terminated, deemed null and void, or deemed to have no further force or effect. Any Attorneys' Fees and Costs or Class Representative's Compensation, as well as any payments to the Settlement Class, must be returned to the Qualified Settlement Fund.
- 10.3** It shall not be deemed a failure to approve the Settlement Agreement (or an event resulting in termination of the Settlement Agreement) if the Court denies, in whole or in part, the applications for the requested Attorneys' Fees and Costs and/or Class Representative's Compensation.
- 10.4** In the event that the Settlement Agreement is terminated, deemed null and void, or deemed to have no further force or effect, Administrative Expenses incurred prior to the termination shall be paid first from the interest earned, if any, on the Qualified Settlement Fund, including on the initial \$100,000 deposited into the Qualified Settlement Fund, as

set forth in Paragraph 5.4. Administrative Expenses in excess of the interest earned on the Qualified Settlement Fund, including on the initial \$100,000 deposit, shall be split evenly and paid by Class Counsel, on the one hand and Defendants, on the other hand..

11. Article 11 - Public Comments and Confidentiality of Settlement

11.1 Except as explicitly set forth 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 Action and the Settlement Agreement.

11.2 Plaintiff and Class Counsel shall not make any public statements, whether through the press, social media, or any other means, including, but not limited to, no affirmative or responsive statements to the press, social media postings or promotions, publications or postings on law firm websites or otherwise, blog posts, or “blind items,” regarding the Settlement of the Action other than to the Court or in the Court-approved Settlement Notice and the Settlement Website.

11.2.1 Subject to Section 11.2.3 below, nothing in this Settlement Agreement restricts Class Counsel’s ability to respond, in a manner consistent with the terms of this Settlement Agreement, to inquiries regarding the Action made by the Independent Fiduciary, Settlement Administrator, Class Members, beneficiaries, or their representatives.

11.2.2 Nothing in this Settlement Agreement restricts the ability of Defendants to make disclosures regarding the Action and/or the Settlement Agreement in response to, or in connection with, any actual or threatened attempt to assert any of the Released Claims in connection with any legal claim, action, or proceeding.

11.2.3 Plaintiff and Class Counsel agree that they will not at any time disparage or encourage or induce others to disparage any of Defendants and other Released Parties. Defendants and Defendants’ Counsel agree that they will not at any time disparage or encourage or induce others to disparage Plaintiff.

12. Article 12 – General Provisions

12.1 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 or the Released Parties of any wrongdoing, fault, or liability whatsoever (including, without limitation, ERISA noncompliance) by any of Defendants or the Released Parties, or give rise to any inference of any wrongdoing, fault, or liability or admission of any wrongdoing, fault, or liability (including without limitation, ERISA noncompliance) in the Action or any other proceeding, and Defendants and the Released Parties admit no, and expressly deny any, wrongdoing or liability with respect to any of the allegations or claims in the Action and any express or implied allegations in respect of ERISA noncompliance. 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.

- 12.2** Defendants, the Released Parties, Class Counsel, and Defense Counsel shall have no responsibility for or liability whatsoever with respect to (i) any act, omission, or determination of the Settlement Administrator, or any of its respective designees or agents in connection with the administration of the Gross Settlement Amount or otherwise; (ii) any act, omission or 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 as to 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.
- 12.3** 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, New Jersey law.
- 12.4** The Settling Parties agree that the Court has personal jurisdiction over Plaintiff, Class Members, and Defendants.
- 12.5** 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.
- 12.6** 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.
- 12.7** 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."
- 12.8** Before 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 Final 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 Court.

- 12.9** This Settlement Agreement and the exhibits attached hereto constitute the entire agreement among Plaintiffs and the Class Members, on the one hand, and Defendants, on the other, 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.
- 12.10** 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.
- 12.11** 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.
- 12.12** 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 Approval Order; Exhibit 3 – Notice of Class Action Settlement and Fairness Hearing to Class Members; Exhibit 4 – Final Approval Order; and Exhibit 5 – CAFA Notice.
- 12.13** 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.
- 12.14** Any notice, demand, or other communication under this Settlement Agreement (other than the Settlement Notices, or other notices given at the direction of the Court) shall be in writing and shall be deemed duly given upon receipt if it is addressed to each of the intended recipients as set forth below and personally delivered, sent by registered or certified mail postage prepaid, or delivered by reputable express overnight courier:

IF TO THE CLASS REPRESENTATIVE:

James C. Shah
SHEPHERD FINKELMAN MILLER & SHAH LLP
475 White Horse Pike
Collingswood, New Jersey 08107

Attorneys for Plaintiff and the Settlement Class

IF TO DEFENDANTS:

Jeremy P. Blumenfeld
MORGAN, LEWIS & BOCKIUS LLP
1701 Market Street
Philadelphia, PA 19103

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

ON BEHALF OF PLAINTIFF Heather Janda Hay, Individually and as a Representative of the Class

Dated: June 21, 2019

Heather Janda Hay
Heather Janda Hay

James C. Shah
JAMES C. SHAH
& SHAH LLP
475 White Horse Pike
Collingswood, New Jersey 08107

Telephone: (610) 891-9880

*Attorneys for Plaintiff and Class
Representative*

ON BEHALF OF ALL DEFENDANTS

Dated: 6/21/2019

By: _____

Ewa Abrams

Its: General Counsel, Kering Americas, Inc.

By: _____

Laurent Claquin

Its: Head of Kering Americas, Inc.

By: _____

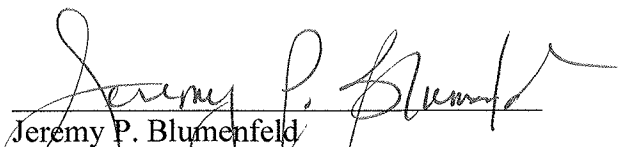
Nicole Marra

Its: VP General Counsel, Gucci America, Inc.

By: _____

Andrea Pini

Its: Chief Financial Officer, Gucci America, Inc.



Jeremy P. Blumenfeld
MORGAN, LEWIS & BOCKIUS LLP
1701 Market Street
Philadelphia, PA 19103
Tel: (215) 963-5258
Fax: (215) 963-5001

Attorneys for Defendants

ON BEHALF OF ALL DEFENDANTS

Dated: 6/21/2019

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Ewa Abrams

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Laurent Claquin

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