

PROPOSED PLAN OF DISTRIBUTION

I. GENERAL

Plaintiffs respectfully request that the Court approve the Plan of Distribution (“Plan”) set forth below regarding a proposed distribution of the Settlement Fund.

II. DEFINITIONS

Each term in this Plan shall have the same meaning as defined in the Agreements (defined below) with Defendants. If there is any discrepancy between a term’s use in this document and its use in the Agreement, the Agreement shall control.

1. **1-800 Settlement Class** means all persons in the United States who do not timely exclude himself, herself, or themselves and who made at least one online purchase of contact lenses from 1-800 from January 1, 2004 to September 12, 2019 or any of the following entities during the specified time period: (i) Vision Direct, Inc. (“Vision Direct”), Walgreens Boots Alliance, Inc., Walgreen Co. (“Walgreens,” collectively with Vision Direct referred to as “WAG/VD”) from January 1, 2004 to September 12, 2019; (ii) Arlington Contact Lens Service, Inc. or National Vision Inc. (collectively, “AC Lens/NVI”) from March 10, 2010 to September 19, 2017; or (iii) Luxottica of America, Inc. (f/k/a Luxottica Retail North America, Inc.) (“Luxottica”) from December 23, 2013 to July 5, 2019. Excluded from the Settlement Class are Defendants, their parent companies, subsidiaries and affiliates, any alleged Agreement Counterparties, governmental entities and instrumentalities of government, states and their subdivisions, agencies and instrumentalities.

2. **AC Lens/NVI Settlement Class** means all persons in the United States who made at least one online purchase of contact lenses from 1-800 Contacts, Inc. or AC Lens/NVI from March 10, 2010 through September 19, 2017, who do not timely exclude themselves from the Class. Excluded from the AC Lens/NVI Settlement Class are Defendants, their parent companies,

subsidiaries and affiliates, any alleged co-conspirators, government entities and instrumentalities of government, states and their subdivisions, agencies and instrumentalities.

3. **Allowed** means approved and authorized for payment by the Settlement Administrator or the Court. **Allowed Claim** means a Qualified Claim that has been Allowed. **Allowed Purchases** means the amount of claimed contact lens purchases qualifying and Allowed for payment. **Allowed Claimant** means a Qualified Claimant whose claim has been Allowed.

4. **Claim Form** means a completed form submitted by a Settlement Class Member verifying the total contact lenses purchased online during the Settlement Class Periods and accompanied by requisite supporting documentation.

5. **Distribution** means the process and procedures established by this Plan as effectuated by the Settlement Administrator for the Distribution Amount.

6. **Distribution Amount** means the balance of Settlement Fund allocated for Distribution for Allowed Claims, after all costs of Notice, Settlement Administration and Escrow of the Settlements, taxes and expenses, attorneys' fees, litigation expenses, service awards, and any other Court-ordered payments, are deducted.

7. **Escrow** means the account established at Western Alliance Bank, which holds the Settlement Amounts for administration under the Settlements.

8. **Luxottica Settlement Class** means all persons in the United States who made at least one online purchase of contact lenses from 1-800 Contacts, Inc. or Luxottica from December 23, 2013 through July 5, 2019, who do not timely exclude himself, herself, or themselves from the Class. Excluded from the Luxottica Settlement Class are Defendants, their parent companies, subsidiaries and affiliates, any alleged Advertising Agreement Counterparties,

governmental entities and instrumentalities of government, states and their subdivisions, agencies and instrumentalities.

9. **Notice** means the form of notice of the Agreements to the Class, issued directly to class members via e-mail on or before July 8, 2020, published online via display advertisements and through social media, the information contained on the website dedicated to the Settlements, and, and any future notices to the Class related to the Settlements, as approved by the Court under Rule 23 of the Federal Rules of Civil Procedure.

10. **Payment Amount** means the amount paid to an Allowed Claimant based upon its *pro rata* share of all Allowed Purchases relative to the Distribution Amount.

11. **Qualified Claim** means a timely and compliant Claim Form submitted by a Settlement Class Member to the Settlement Administrator supported by such evidence as required by the Settlement Administrator, signed under penalty of perjury by an authorized person and that complies with this Plan, the Agreements and any other applicable orders of the Court.

12. **Qualified Claimant** means a Settlement Class Member who submits a Qualified Claim.

13. **Settlement Administration** means actions carried out by CPT Group, Inc. in its capacity as Settlement Administrator.

14. **Settlement Administrator** means CPT Group, Inc.

15. **Settlement Class Periods** means, with respect to:

(a) the 1-800 Settlement Class, purchases made from the following entities during the specified time periods: (i) 1-800 from January 1, 2004 to September 12, 2019; (ii) Vision Direct, Inc. (“Vision Direct”), Walgreens Boots Alliance, Inc., Walgreen Co. (“Walgreens,” collectively with Vision Direct referred to as “WAG/VD”) from January 1, 2004 to

September 12, 2019; (iii) Arlington Contact Lens Service, Inc. or National Vision Inc. (collectively, “AC Lens/NVI”) from March 10, 2010 to September 19, 2017; or (iv) Luxottica of America, Inc. (f/k/a Luxottica Retail North America, Inc.) (“Luxottica”) from December 23, 2013 to July 5, 2019;

(b) the Walgreens Settlement Class, the period from January 1, 2004 through September 12, 2019;

(c) the Luxottica Settlement Class, the period from December 23, 2013 through July 5, 2019; and

(d) with respect to the AC Lens/NVI Settlement Class, the period from March 10, 2010 through September 19, 2017.

16. **Settlement Classes** means the 1-800 Settlement Class, Walgreens Settlement Class, Luxottica Settlement Class and AC Lens/NVI Settlement Class, collectively.

(a) **Settlement Class Members** means a member of the Settlement Classes that does not timely elect to be excluded from the Settlement Classes under the terms of the Court’s Notice Order granting leave to disseminate notice to the Settlement Classes, which requires Exclusions to be postmarked as of September 21, 2020.

(b) **Exclusion** means those members of the Settlement Classes who timely submit a compliant letter requesting to be excluded from the Settlement Classes. All requests for Exclusion are required to be postmarked by September 21, 2020.

(c) **Directly Purchased** means bought directly online from any of the Defendants, including their predecessors, affiliates, or subsidiaries rather than from an intermediary or a company that is not a Defendant in this lawsuit.

(d) **Defendants** means National Vision, Inc. (“NVI”); Arlington Contact Lens Service, Inc. (“AC Lens”); Luxottica of America Inc. (f/k/a Luxottica Retail North America, Inc.) (“Luxottica”); Vision Direct, Inc. (“Vision Direct”); Walgreens Boots Alliance, Inc. and Walgreen Co. (collectively “Walgreens” and together with Vision Direct “WAG/VD”); and 1-800 Contacts, Inc.

17. **Settlement Fund** means the Settlement Amounts collectively recovered through the Settlements of \$40,000,000 plus any accrued interest.

18. **Settlements** or **Agreements** refers to the following settlement agreements: (i) the settlement agreement entered into on September 19, 2017, between Plaintiffs, for themselves and on behalf of each Settlement Class Member, and National Vision, Inc. and Arlington Contact Lens Service, Inc. (“AC Lens/NVI”); (ii) the settlement agreement entered into on July 5, 2019, between Plaintiffs for themselves and on behalf of each Settlement Class Member, and Luxottica of America Inc. (f/k/a Luxottica Retail North America Inc.) (“Luxottica”); (iii) the settlement agreement entered into on September 12, 2019 between Plaintiffs, for themselves and on behalf of each Settlement Class Member, and Vision Direct, Inc. (“Vision Direct”), Walgreens Boots Alliance, Inc. and Walgreen Co. (“Walgreens,” collectively with “Vision Direct” referred to as “WAG/VD”); and (iv) the settlement agreement entered into on May 8, 2020 between Plaintiffs, for themselves and on behalf of each Settlement Class Member, and 1-800 Contacts, Inc.

19. **Walgreens Settlement Class** means all persons in the United States who made at least one online purchase of contact lenses from 1-800 Contacts, Inc. or WAG/VD from January 1, 2004 to September 12, 2019, who do not timely exclude himself, herself, or themselves from the Class. Excluded from the Walgreens Settlement Class are Defendants, their parent companies, subsidiaries and affiliates, any alleged Advertising Agreement Counterparties, governmental

entities and instrumentalities of government, states and their subdivisions, agencies and instrumentalities.

III. DISTRIBUTION PROCEDURES

The Settlement Fund shall be distributed as follows:

1. All costs for providing notice of the Settlements, Settlement Administration, and Escrow of the Settlement Fund shall be deducted and paid from the Settlement Fund;
2. All taxes and expenses related to filing and payment of taxes arising from the Settlements shall be deducted and paid from the Settlement Fund;
3. Any Court-approved attorneys' fees, litigation expenses, and service awards shall be deducted and paid from the Settlement Fund; and
4. After all costs of Notice, Settlement Administration and Escrow of the Settlements, taxes and expenses, any other Court-ordered payments and attorneys' fees are deducted from the Settlement Fund, the remaining balance will be allocated for payment of Allowed Claims.

IV. CLAIMS PROCEDURES

1. Settlement Class Members must have an Allowed Claim to participate in the Distribution. Settlement Class Members who do not submit a Qualified Claim or whose claim is not Allowed are not entitled to participate in the Distribution, but will otherwise be bound by the Agreements, including the terms of the final judgment entered and the releases provided, and will be enjoined from, and, upon the Order of the Court granting Final Approval of the Settlements, barred from bringing any action against the Defendants concerning the Released Claims.

2. Each Claim Form shall be submitted to and examined by the Settlement Administrator who, under the supervision of Co-Lead Class Counsel, shall determine whether it is a Qualified Claim, if the claim is to be Allowed, and if allowed, the amount of Allowed Purchases, consistent with the Plan and subject to Order of the Court. Claim Forms that do not meet the

submission requirements shall be rejected. Prior to rejection of a claim, the Settlement Administrator shall, promptly and in writing through a Claims Deficiency Notice, notify all Claimants whose claims are marked for rejection, in whole or in part, and state the reasons for the rejection. Claimants who receive a Claims Deficiency Notice may contest the rejection by, within 20 days after the date of mailing of the Claims Deficiency Notice, serving upon the Settlement Administrator a notice and statement of reasons indicating the Claimant's grounds for contesting the rejection along with any supporting documentation. If a dispute about a claim is not resolved to the satisfaction of the Settlement Administrator and Settlement Class Member, Co-Lead Class Counsel reserve the right to present such disputes to the Court.

3. After the time for filing claims has ended, the Settlement Administrator shall, within 180 days or as otherwise directed by Co-Lead Class Counsel, complete all work required to allow or deny a claim. It shall issue to Co-Lead Class Counsel a report of the number of approved claims, and the total amount of allowed claims. The Settlement Administrator shall calculate the amount available for Distribution by deducting the amount of Court-approved Notice, Settlement Administration and Escrow expenses; and taxes and expenses related to filing and payment of taxes arising from the Settlements, and approved attorneys' fees, litigation expenses, and service awards. The remaining balance available for Distribution will then be allocated as follows: 74% shall be allocated to Allowed Claimants on Allowed Purchases from 1-800 Contacts, Inc.; 20% shall be allocated to Allowed Claimants on Allowed Purchases from WAG/VD; 4% shall be allocated to Allowed Claimants on Allowed Purchases from AC Lens/NVI; and 2% shall be allocated to Allowed Claimants on Allowed Purchases from Luxottica.

4. The Settlement Administrator shall, after the expiration of 180-day period set forth in §IV.3 above, determine: (a) the total Allowed Purchases; (b) the Allowed Purchases within each

Allowed Claim as a percentage of the total of all Allowed Purchases; and (c) the Payment Amount, if any, for each Allowed Claim.

5. Distribution shall be made to each Allowed Claimant based on its Payment Amount as provided above.

6. Any Payment Amount to an Allowed Claimant that amounts to less than \$2.00 does not meet the minimum threshold for Distributions and no such payments shall be made. However, depending on the claim rate, Payment Amounts estimated by the Settlement Administrator, and processing costs to distribute payments, Co-Lead Class Counsel may at their discretion lower the minimum threshold before any Distributions are made.

V. REMAINDER

In the course of administration, it is not uncommon for Allowed Claimants to be undeliverable after the termination of a commercially reasonable period as determined by the Settlement Administrator. In such event, the Settlement Administrator shall make such efforts as are commercially reasonable to contact claimants to ask them to accept and receive the payment funds. If, notwithstanding such efforts by the Settlement Administrator, there are funds remaining and undistributed for 90 days, such funds shall be distributed under further Order of the Court upon application of Co-Lead Class Counsel.