

**EXHIBIT 2**



WHEREAS:

A. On January 31, 2008, Plaintiffs Diallo Johnson, Mary Rafter, and Linda Stanley filed Johnson, et al. v. United States Sugar Corporation, et al., Case No. 08-80101 Civ-Middlebrooks/Johnson in the Southern District of Florida, which was subsequently amended on May 2, 2008. The Johnson action, along with the actions styled Matura v. United States Sugar Corporation, et al., Case No. 08-80711 Civ-Middlebrooks/Johnson, Texton v. United States Sugar Corporation et al., Case No. 08-80778 Civ-Ryskamp/Vitunac, and Roland v. United States Sugar Corporation et al., Case No. 08-80780 Civ-Ryskamp/Vitunac, were consolidated as In re United States Sugar Corporation Litigation, Case No. 08-80101 Civ-Middlebrooks on October 6, 2008, and are all hereinafter referred to as the “Action”.

B. The various complaints in the Action allege that the Defendants, and certain former defendants, breached various fiduciary duties, including the duty of loyalty and good faith, the duty against self-dealing, the duty against oppression of minority shareholders, and the duty of care; conversion; and breach of several ERISA provisions, including failure to prudently and loyally manage the ESOP (to be defined later), failure to provide complete and accurate information to the ESOP participants, failure to monitor ERISA fiduciaries, breach of an alleged duty to avoid conflicts, engaging in prohibited self-dealing transactions, and unlawful interference with the attainment of benefits.

C. Plaintiff Michael Roland voluntarily dismissed his claim on December 9, 2008.

D. Mediations were conducted on August 15, 2008, September 29, 2008, and May 28, 2009 with Bruce Greer.

E. After a Consolidated Amended Complaint was filed by the Plaintiffs, Defendant U.S. Trust filed its Motion to Dismiss on October 15, 2008. All other Defendants and former defendants filed their Motions to Dismiss on October 27, 2008.

F. The Parties and former parties to the Action conducted extensive discovery including the production and review of tens of thousands of documents and the depositions of over twenty witnesses.

G. On April 27, 2009, Judge Middlebrooks entered an Order granting in part and denying in part Defendants' Motions to Dismiss.

H. The Motions to Dismiss were resolved by the Court on April 27, 2009 in the following manner:

**Count I** (Breach of Fiduciary Duty, Duty of Loyalty and Good Faith) claims made by the ESOP Plaintiffs<sup>2</sup> were dismissed with prejudice as to the Defendants named in Count I. Plaintiff Mary Rafter's ("Rafter") claim in Count I was not dismissed.

**Count II** (Breach of Fiduciary Duty, Self-Dealing) claims made by the ESOP Plaintiffs were dismissed with prejudice as to all Defendants and former defendants named in Count II. Plaintiff Rafter's Count II claims were dismissed without prejudice, except that Rafter's Count II claim against former defendant Charles Stewart Mott Foundation was dismissed with prejudice.

**Count III** (Breach of Fiduciary Duty, Majority/Controlling Shareholder Oppression of Minority Shareholders) claims were dismissed with prejudice.

**Count IV** (Breach of Fiduciary Duty, Duty of Care) claims were dismissed without prejudice.

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<sup>2</sup> As identified in the Court's April 27, 2009 Order, the ESOP Plaintiffs are Johnson, Stanley, Maturana, and Texton, because those Plaintiffs are alleged to be or to have been participants in the U.S. Sugar ESOP, as defined below. Plaintiff Mary Rafter ("Rafter"), however, alleges that she is a direct shareholder of U.S. Sugar.

**Count V** (Conversion) claims made by the ESOP Plaintiffs were dismissed with prejudice. Rafter's Count V claim against former defendant Charles Stewart Mott Foundation was dismissed with prejudice, and her Count V claim against William White was dismissed without prejudice.

**Count VI** (ERISA Breach of Fiduciary Duty, Failure to Prudently and Loyal Manage the Plan) claims were dismissed without prejudice for failure to exhaust administrative remedies.

**Count VII** (ERISA Breach of Fiduciary Duty, Failure to Provide Complete and Accurate Information to ESOP Participants) claims were dismissed without prejudice for failure to exhaust administrative remedies.

**Count VIII** (ERISA Breach of Fiduciary Duty, Failure to Monitor ERISA Fiduciaries Appointed by Board of Directors) claims were dismissed without prejudice for failure to exhaust administrative remedies.

**Count IX** (ERISA Breach of Fiduciary Duty, Breach of Duty to Avoid Conflicts) claims were dismissed without prejudice for failure to exhaust administrative remedies.

**Count X** (ERISA Co-Fiduciary Liability) claims were dismissed without prejudice for failure to exhaust administrative remedies.

**Count XI** (Violation of ERISA § 406(b), Engaging in Prohibited Self-Dealing Transactions) claims were dismissed without prejudice for failure to exhaust administrative remedies.

**Count XII** (Removal of ESOP Fiduciaries and Trustee under ERISA § 409) claims were dismissed without prejudice for failure to exhaust administrative remedies.

**Count XIII** (Unlawful Interference With the Attainment of Benefits Under ERISA § 510) claims were dismissed without prejudice for failure to exhaust administrative remedies.

I. The Released Parties (to be defined later) deny any wrongdoing whatsoever, and this Stipulation shall in no event be construed or deemed to be evidence of an admission or concession on the part of the Released Parties with respect to any claim or of any fault or liability or wrongdoing or damage whatsoever, or any infirmity in the defenses that the Released Parties have asserted. The parties to this Stipulation recognize, however, that the litigation has been filed by Plaintiffs and defended by the Released Parties in good faith, in accordance with Federal Rule of Civil Procedure 11, that the litigation is being voluntarily settled after advice of counsel, and that the terms of the Settlement (to be later defined) are fair, adequate and reasonable. This Stipulation shall not be construed or deemed to be a concession by any Plaintiff of any infirmity in the claims asserted in the Action nor shall it be deemed a concession by the Released Parties of any infirmity in their defenses;

J. Plaintiffs' Class Counsel have conducted an investigation relating to the claims and the underlying events and transactions alleged in the Action. Plaintiffs' Class Counsel have conducted extensive pre-trial discovery, analyzed the evidence adduced thereby, employed expert witnesses, and have researched the applicable law with respect to the claims of Plaintiffs and the Classes against the Released Parties and regarding potential defenses thereto;

K. Plaintiffs, by their counsel, have conducted extensive discussions and arm's length negotiations with counsel for the Released Parties with respect to a compromise and settlement of the Action as against the Released Parties with a view to settling the issues in dispute and achieving the best relief possible consistent with the interests of the Classes; and

L. Based upon their investigation and discovery as set forth above, Plaintiffs and Plaintiffs' Class Counsel have concluded that the terms and conditions of this Stipulation are fair, reasonable, and adequate to Plaintiffs and the Classes, and in their best interests, and have agreed to settle the claims raised in the Action pursuant to the terms and provisions of this

Stipulation, after considering (a) the benefits that Plaintiffs and the members of the Classes will receive from settlement of the Action, (b) the attendant risks of litigation, and (c) the desirability of permitting the Settlement to be consummated as provided by the terms of this Stipulation. Specifically, Plaintiffs' Class Counsel have considered the following factors and analyzed (1) the likelihood of success at trial; (2) the range of possible recovery; (3) the point on or below the range of possible recovery at which a settlement is fair, adequate and reasonable; (4) the complexity, expense and duration of litigation; (5) the substance and amount of opposition to the Settlement; and (6) the stage of proceedings at which the Settlement was achieved. Plaintiffs' Class Counsel have also considered and analyzed (1) whether the Settlement was a product of fraud or collusion; (2) the stage of the proceedings and the amount of discovery completed; (3) the factual and legal obstacles to prevailing on the merits; (4) the certainty of damages; and (5) the respective opinions of the participants, including class counsel, class representative, and the absent class members.

NOW THEREFORE, without any admission or concession on the part of Plaintiffs of any lack of merit of the Action whatsoever, and without any admission or concession of any liability or wrongdoing or lack of merit in the defenses whatsoever by the Released Parties, it is hereby **STIPULATED AND AGREED**, by and among the parties to this Stipulation, through their respective attorneys, subject to approval of the Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, in consideration of the benefits flowing to the parties hereto from the Settlement, that all Released Claims for Settlement Payment (as defined below) and Released Claims for Additional Settlement Payment (as defined below) as against the Released Parties shall be compromised, settled, released and dismissed with prejudice, upon and subject to the following terms and conditions:

## **CERTAIN DEFINITIONS**

1. As used in this Stipulation, the following terms shall have the following meanings:

(a) “Claims Administrator” shall mean The Garden City Group, Inc., 105 Maxess Road, Mellville, NY 11747.

(b) “Classes” shall mean both the Shareholder Class and the Participant Class.

(c) “Class Member” shall mean any individual member of either the Shareholder Class or the Participant Class.

(d) “Class Members” shall mean all members of both the Shareholder Class and the Participant Class.

(e) “Closing Date” shall mean the date on which the Closing referred to in Paragraph 7 hereof occurs.

(f) “Counsel for Defendants” shall mean the law firms of Gunster, Yoakley & Stewart, P.A., Akerman Senterfitt, P.A., Alston & Bird, LLP, Greenberg Traurig, P.A., King & Spalding LLP, and Liebler, Gonzalez & Portuando.

(g) “Counsel for the Released Parties” shall mean any counsel that appeared in the Action on behalf of the respective party that is included among the Released Parties.

(h) “Defendants” shall mean William S. White, Robert H. Buker, Jr., John Butler, Frederick Kirkpatrick, Roy E. Peterson, W. Archibald Piper, William H. Piper, Lloyd E. Reuss, Horace Wilkins, Ridgway White, Gerard Bernard, Bank of America, N.A. (as successor to United States Trust Company, N.A.), and U.S. Sugar.

(i) “Effective Date of Settlement” or “Effective Date” means the date upon which the Settlement contemplated by this Stipulation shall become effective, as set forth in Paragraph 35 below.

(j) The “ESOP” shall mean the United States Sugar Corporation Employee Stock Ownership Plan, which was the subject of the Action with respect to the Participant Class.

(k) “ESOP Committee” means the “named fiduciary” and “plan administrator” of the ESOP, as those terms are defined in ERISA, and includes the following individuals: R. Keith Causseaux, Bryan E. Cross, Charles F. Shide, Gerard A. Bernard, Carl Stringer and Luke Humphries, and any U.S. Sugar current or former employee who served on the ESOP Committee during the Participant Class Period, as defined herein, as reflected by any ESOP records or documents or U.S. Sugar’s internal records or documents.

(l) “Independent Fiduciary” shall mean a person appointed by the ESOP Committee, as named fiduciary of the Plan, who has no relationship to, or interest in, any of the Parties and whose fees and expenses shall be paid by U.S. Sugar, to consider whether to approve and authorize in writing the Settlement in accordance with United States Department of Labor Prohibited Transaction Exemption 2003-39.

(m) “Notice” means the Notice of Pendency of Class Action, Proposed Settlement and Fairness Hearing, which is to be sent to members of the Classes substantially in the form attached hereto as Exhibit A.

(n) “Order and Final Judgment with Respect to the Settlement” means the proposed order to be entered approving the Settlement substantially in the form attached hereto as Exhibit C.

(o) “Participant Class” shall mean a class pursuant to Fed. R. Civ. P. 23(b)(1), certified for settlement purposes only as a non opt-out class, consisting of all participants and beneficiaries of the ESOP during the Participant Class Period. Excluded from the Participant Class are Gerard A. Bernard and Robert H. Buker, Jr.

(p) “Participant Class Period” shall mean the period beginning on January 31, 2002 and ending on the date of execution (September 24, 2009) of this Stipulation.

(q) “Plaintiffs’ Lead Counsel” means the law firm of Colson Hicks Eidson.

(r) “Plaintiffs’ Class Counsel” means Plaintiffs’ Lead Counsel as well as the law firms of Squitieri & Fearon, LLP, Hort Soper, Esq. and Vianale & Vianale, LLP.

(s) “Plan of Allocation” shall mean the formula pursuant to which the Settlement Payment or Additional Settlement Payment, is allocated among Class Members of their respective class as set forth under paragraphs 11 through 21 hereof, including the allocation of expenses or Taxes under paragraph 9 hereof.

(t) “Preliminary Approval Order” means the proposed order preliminarily approving the Settlement and directing notice thereof to the Classes substantially in the form attached hereto as Exhibit B.

(u) “Released Claims for Additional Settlement Payment” shall have the meaning afforded to it in Paragraph 8 below.

(v) “Released Claims for Settlement Payment” shall have the meaning afforded to it in Paragraph 4 below.

(w) “Released Parties” shall mean William S. White, Robert H. Buker, Jr., John Butler, Frederick Kirkpatrick, Roy E. Peterson, W. Archibald Piper, William H. Piper, Lloyd E. Reuss, Horace Wilkins, Claire Mott White, Ridgway White, Gerard Bernard, the ESOP Committee, the Charles Stewart Mott Foundation, United States Trust Company, N.A.,

Bank of America, N.A. (as successor to United States Trust Company, N.A.), Evercore Trust Company, N.A. (as the current Trustee of the ESOP, and which succeeded Bank of America, N.A. as Trustee of the ESOP), United States Sugar Corporation, and for all of the above, all predecessors, successors and assigns or any current or former affiliate, partner, principal, directors, officers, representatives, insurers, attorneys, agents and accountants and, in the case of individuals, their respective heirs, beneficiaries, executors, administrators, successors, and legal representatives.

(x) “Settlement” means the settlement contemplated by this Stipulation.

(y) “Settlement Fund” shall mean those monies paid to the Claims Administrator for allocation and disbursement as provided for in this Stipulation, and shall be comprised of the Settlement Payment Fund and the Additional Settlement Payment Fund, as those terms are defined in Paragraphs 6 and 7 hereof, respectively.

(z) “Settlement Payment” (to be later defined) and “Additional Settlement Payment” (to be later defined) comprise the entire amount of monetary consideration provided to the Classes.

(aa) “Shareholder Class” shall mean a class pursuant to Fed. R. Civ. P. 23(b)(3), certified for settlement purposes only as an opt-out class, consisting of all owners of Class A common stock of U.S. Sugar at any time during the Shareholder Class Period, including, but not limited to (1) Evercore Trust Company, N.A. (which succeeded Bank of America, N.A., which succeeded U.S. Trust, N.A.), as Trustee for the ESOP with regard to the ESOP’s shares and on behalf of any participants to whose accounts such shares were allocated at any time during the Shareholder Class Period; and (2) the Charles Stewart Mott Foundation. Excluded from the Shareholder Class are William S. White, Ridgway White and John Butler and any trusts in which (1) William S. White is both the trustee and sole beneficiary; (2)

Ridgway White is both the trustee and sole beneficiary; or (3) John Butler is both the trustee and sole beneficiary.

(bb) “Shareholder Class Period” shall mean the period beginning on August 4, 2005 and ending on the date of execution (September 24, 2009) of the Stipulation.

(cc) “Shares” shall mean Class A Common Shares issued by U.S. Sugar.

(dd) “Trustee for the ESOP” shall mean Evercore Trust Company, N.A. (as successor to Bank of America, N.A., as successor to U.S. Trust, N.A.).

### **SCOPE AND EFFECT OF SETTLEMENT**

2. Pursuant to the Order and Final Judgment with Respect to the Released Parties, upon the Effective Date of this Settlement, Plaintiffs and the Class Members on behalf of themselves, their heirs, executors, administrators, successors and assigns, shall, with respect to each and every Released Claims for Settlement Payment and Released Claims for Additional Settlement Payment, release and forever discharge, and shall forever be enjoined from prosecuting, any Released Claims for Settlement Payment and Released Claims for Additional Settlement Payment against any of the Released Parties; provided, however, if the Additional Settlement Payment is not made, then the release of the Released Claims for Additional Settlement Payment shall not be effective.

### **THE SETTLEMENT CONSIDERATION**

3. U.S. Sugar shall pay a total of \$8,400,000 into the Settlement Fund for distribution to the Classes, inclusive of all plaintiffs’ attorneys’ fees and all litigation expenses (the “Settlement Payment”), in exchange for, among other things, the releases, described below, in favor of the Released Parties.

4. The releases for the Settlement Payment (hereinafter “Released Claims for Settlement Payment”) include releases of any and all claims of any nature whatsoever (including claims for any and all losses, damages, unjust enrichment, attorney fees, disgorgement of fees, litigation costs, injunction, declaration, contribution, indemnification or any other type or nature of legal or equitable relief) for losses suffered by Class Members, whether accrued or not, whether already acquired or acquired in the future, whether known, unknown, or unsuspected, asserted or unasserted, in law or equity, as well as any claim or right obtained by assignment, brought by way of demand, complaint, cross-claim, counterclaim, third party claim or otherwise, arising out of any or all of the acts, omissions, facts, matters, transactions or occurrences, based on, arising from or related to any action or inaction of any or all of the Released Parties through and including the date of the execution (September 24, 2009) of this Stipulation that [1] are, were or could have been alleged or asserted based on the facts set forth in any of the complaints styled Johnson, et al. v. United States Sugar Corporation, et al., Case No. 08-80101 Civ-Middlebrooks/Johnson, Matura v. United States Sugar Corporation, et al., Case No. 08-80711 Civ-Middlebrooks/Johnson, Texton v. United States Sugar Corporation et al., Case No. 08-80778 Civ-Ryskamp/Vitunac, Roland v. United States Sugar Corporation et al., Case No. 08-80780 Civ-Ryskamp/Vitunac, and In re United States Sugar Corporation Litigation, Case No. 08-80101 Civ-Middlebrooks, plus all facts alleged in any answers or affirmative defenses to any of those complaints, [2] would be barred by principles of res judicata if the claims were asserted and if the Action had been fully litigated and resulted in a final judgment in Defendants' favor, arising out of the allegations in or that could have been asserted in, and based on the facts alleged in the complaints styled: Johnson, et al. v. United States Sugar Corporation, et al., Case No. 08-80101 Civ-Middlebrooks/Johnson, Matura v. United States Sugar Corporation, et al., Case No. 08-80711 Civ-Middlebrooks/Johnson, Texton v. United States Sugar Corporation et al., Case No.

08-80778 Civ-Ryskamp/Vitunac, Roland v. United States Sugar Corporation et al., Case No. 08-80780 Civ-Ryskamp/Vitunac, and In re United States Sugar Corporation Litigation, Case No. 08-80101 Civ-Middlebrooks, plus all facts alleged in any answers or affirmative defenses to any of those complaints, or [3] were raised in the February 27, 2009 letter from Lewis S. Eidson to Robert Hackleman and that arise out of the allegations in or that could have been asserted in, and based on the facts alleged in the complaints styled: Johnson, et al. v. United States Sugar Corporation, et al., Case No. 08-80101 Civ-Middlebrooks/Johnson, Matura v. United States Sugar Corporation, et al., Case No. 08-80711 Civ-Middlebrooks/Johnson, Texton v. United States Sugar Corporation et al., Case No. 08-80778 Civ-Ryskamp/Vitunac, Roland v. United States Sugar Corporation et al., Case No. 08-80780 Civ-Ryskamp/Vitunac, and In re United States Sugar Corporation Litigation, Case No. 08-80101 Civ-Middlebrooks, plus all facts alleged in any answers or affirmative defenses to any of those complaints, including but not limited to any allegations of any action or inaction arising out of or in connection with, or relating to, any and all of the transactions contemplated, discussed or considered between U.S. Sugar and the South Florida Water Management District (“SFWMD”), including, without limitation, the structuring and negotiations by U.S. Sugar's Directors and/or U.S. Sugar's Officers directly, and indirectly through professional advisors, of the terms, conditions and timing thereof; the authorization and approval by U.S. Sugar's Directors of U.S. Sugar's execution and delivery of the agreement that is set forth in the Amended and Restated Agreement for Sale and Purchase, between U.S. Sugar, SBG Farms, Inc., Southern Gardens Groves Corporation, and SFWMD, dated May 13, 2009 (the “SFWMD Transaction”) and all of the agreements, instruments, applications, filings, registrations, reports, communications, statements and recommendations to U.S. Sugar's shareholders and employees made by U.S. Sugar in connection therewith; and U.S. Sugar's Directors' and Officers' review and consideration of, and deliberations, due diligence

investigation of any kind and oversight of U.S. Sugar's Officers and professional advisors with respect to the SFWMD Transaction and all proposed and potential alternative transactions, whether with SFWMD or other entities or individuals, involving U.S. Sugar and its capital stock and/or assets which were or may have been available to U.S. Sugar and its shareholders before the execution and announcement of the SFWMD Transaction and which were or may have been available to U.S. Sugar and its shareholders after the execution and delivery of the SFWMD Transaction at any time through and including the date of execution of this Stipulation.

5. The Released Claims for Settlement Payment do not and will not include releases by any member of the Participant Class of any claims relating to personal injury or wrongful death or any claims based on wrongful termination or employment discrimination (other than claims arising under ERISA). Released Claims also do not and will not include any participant or beneficiary claim brought pursuant to 29 U.S.C. section 1132(a)(1)(B), ERISA section 502(a)(1)(B), unless the claim is based, in whole or in part, on the valuation of employer securities or arises out of the allegations in or that [1] are, were or could have been alleged or asserted based on the facts set forth in any of the complaints styled Johnson, et al. v. United States Sugar Corporation, et al., Case No. 08-80101 Civ-Middlebrooks/Johnson, Matura v. United States Sugar Corporation, et al., Case No. 08-80711 Civ-Middlebrooks/Johnson, Texton v. United States Sugar Corporation et al., Case No. 08-80778 Civ-Ryskamp/Vitunac, Roland v. United States Sugar Corporation et al., Case No. 08-80780 Civ-Ryskamp/Vitunac, and In re United States Sugar Corporation Litigation, Case No. 08-80101 Civ-Middlebrooks, plus all facts alleged in any answers or affirmative defenses to any of those complaints, [2] would be barred by principles of res judicata if the claims were asserted and if the Action had been fully litigated and resulted in a final judgment in Defendants' favor, arising out of the allegations in or that could have been asserted in, and based on the facts alleged in the complaints styled: Johnson, et

al. v. United States Sugar Corporation, et al., Case No. 08-80101 Civ-Middlebrooks/Johnson, Matura v. United States Sugar Corporation, et al., Case No. 08-80711 Civ-Middlebrooks/Johnson, Texton v. United States Sugar Corporation et al., Case No. 08-80778 Civ-Ryskamp/Vitunac, Roland v. United States Sugar Corporation et al., Case No. 08-80780 Civ-Ryskamp/Vitunac, and In re United States Sugar Corporation Litigation, Case No. 08-80101 Civ-Middlebrooks, plus all facts alleged in any answers or affirmative defenses to any of those complaints, or [3] were raised in the February 27, 2009 letter from Lewis S. Eidson to Robert Hackleman and that arise out of the allegations in or that could have been asserted in, and based on the facts alleged in the complaints styled: Johnson, et al. v. United States Sugar Corporation, et al., Case No. 08-80101 Civ-Middlebrooks/Johnson, Matura v. United States Sugar Corporation, et al., Case No. 08-80711 Civ-Middlebrooks/Johnson, Texton v. United States Sugar Corporation et al., Case No. 08-80778 Civ-Ryskamp/Vitunac, Roland v. United States Sugar Corporation et al., Case No. 08-80780 Civ-Ryskamp/Vitunac, and In re United States Sugar Corporation Litigation, Case No. 08-80101 Civ-Middlebrooks, plus all facts alleged in any answers or affirmative defenses to any of those complaints, including but not limited to any allegations of any action or inaction arising out of or in connection with, or relating to, any and all of the transactions contemplated, discussed or considered between U.S. Sugar and the South Florida Water Management District (“SFWMD”), including, without limitation, the structuring and negotiations by U.S. Sugar's Directors and/or U.S. Sugar's Officers directly, and indirectly through professional advisors, of the terms, conditions and timing thereof; the authorization and approval by U.S. Sugar's Directors of U.S. Sugar's execution and delivery of the agreement that is set forth in the Amended and Restated Agreement for Sale and Purchase, between U.S. Sugar, SBG Farms, Inc., Southern Gardens Groves Corporation, and SFWMD, dated May 13, 2009 (the “SFWMD Transaction”) and all of the agreements, instruments, applications, filings,

registrations, reports, communications, statements and recommendations to U.S. Sugar's shareholders and employees made by U.S. Sugar in connection therewith; and U.S. Sugar's Directors' and Officers' review and consideration of, and deliberations, due diligence investigation of any kind and oversight of U.S. Sugar's Officers and professional advisors with respect to the SFWMD Transaction and all proposed and potential alternative transactions, whether with SFWMD or other entities or individuals, involving U.S. Sugar and its capital stock and/or assets which were or may have been available to U.S. Sugar and its shareholders before the execution and announcement of the SFWMD Transaction and which were or may have been available to U.S. Sugar and its shareholders after the execution and delivery of the SFWMD Transaction at any time through and including the date of execution (September 24, 2009) of this Stipulation.

6. U.S Sugar will pay the Settlement Payment into the Settlement Fund on January 10, 2010 (or such later date as the parties may agree or the Court may order). The Claims Administrator shall credit the Settlement Payment to a separate bookkeeping account (the "Settlement Payment Fund") within the Settlement Fund. Upon receipt of the Class Distribution Order (defined below), the Claims Administrator shall disburse the amount of the Settlement Payment Fund, increased by any income earned by the Settlement Payment Fund, and reduced by the expenses and Taxes allocable to the Settlement Payment Fund under Paragraph 9 hereof, to the Classes in accordance with the Plan of Allocation and Distribution in Paragraphs 11 through 21 hereof.

7. U.S. Sugar shall pay a total of \$7,500,000, inclusive of all plaintiffs' attorneys' fees and all litigation expenses, into the Settlement Fund for distribution to the Shareholder Class (the "Additional Settlement Payment") if and only if U.S. Sugar closes on the SFWMD Transaction or any other transaction involving a sale of assets of U.S. Sugar and/or its

subsidiaries for a purchase price of at least \$500,000,000 that closes on or before December 31, 2011 (the “Closing”).<sup>2</sup> U.S Sugar will make any payment required by this paragraph within 60 calendar days of the Closing Date. The Claims Administrator shall credit the Additional Settlement Payment to a separate bookkeeping account (the “Additional Settlement Payment Fund”) within the Settlement Fund. Upon receipt of an Order from the Court directing the disbursement of the Additional Settlement Payment Fund, the Claims Administrator shall disburse the amount of the Additional Settlement Fund, increased by any income earned by the Additional Settlement Payment Fund, and reduced by the expenses and Taxes allocable to the Additional Settlement Payment Fund under Paragraph 9 hereof, to the Shareholder Class in accordance with the Plan of Allocation and Distribution in Paragraphs 11 through 21 hereof.

8. In exchange for the Additional Settlement Payment, the Shareholder Class will release the Released Parties (the “Released Claims for Additional Settlement Payment”) from any and all claims of any nature whatsoever (including claims for any and all losses, damages, unjust enrichment, attorney fees, disgorgement of fees, litigation costs, injunction, declaration, contribution, indemnification or any other type or nature of legal or equitable relief) for losses suffered by the members of the Shareholder Class whether accrued or not, whether already acquired or acquired in the future, whether known, unknown, or unsuspected, asserted or unasserted, in law or equity, as well as any claim or right obtained by assignment, brought by way of demand, complaint, cross-claim, counterclaim, third party claim or otherwise, arising out of any or all of the acts, omissions, facts, matters, transactions or occurrences, based on, arising from or related to any action or inaction of any or all of the Released Parties beginning immediately after the execution of this Stipulation and continuing through and including the Closing Date arising out of or in connection with, or relating to, any and all of the transactions

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<sup>2</sup> An electronic copy of the Amended and Restated Agreement for Sale and Purchase is available on the South

contemplated by, discussed or considered between U.S. Sugar and SFWMD, including, without limitation, the structuring and negotiations by U.S. Sugar's Directors and/or U.S. Sugar's Officers directly, and indirectly through professional advisors, of the terms, conditions and timing thereof; the authorization and approval by U.S. Sugar's Directors of U.S. Sugar's execution and delivery of the SFWMD Transaction and all of the agreements, instruments, applications, filings, registrations, reports, communications, statements and recommendations to U.S. Sugar's shareholders and employees made by U.S. Sugar in connection therewith; and U.S. Sugar's Directors' and Officers' review and consideration of, and deliberations, due diligence investigation of any kind and oversight of U.S. Sugar's Officers and professional advisors with respect to the SFWMD Transaction and all proposed and potential alternative transactions, whether with SFWMD or other entities or individuals, involving U.S. Sugar and its capital stock and/or assets which were or may have been available to U.S. Sugar and its shareholders before the execution and announcement of the SFWMD Transaction and which were or may have been available to U.S. Sugar and its shareholders after the execution and delivery of the SFWMD Transaction at any time through and including the Closing Date. Of the funds going to the Shareholder Class, any unclaimed or undistributable funds shall be distributed by the Claims Administrator to the remaining shareholders from the Shareholder Class on a *pro rata* basis. In the event that the Additional Settlement Payment is not made, then the release of the Released Claims for Additional Settlement Payment shall not be effective.

9. (a) The Claims Administrator shall pay the following expenses, in amounts allocable to each Fund, from the Settlement Payment Fund and Additional Settlement Payment Fund (if created), net of any Taxes (as defined below) on the income thereof: (i) any attorney's fees and expense award authorized by the Court, and (ii) any other administrative expenses

expressly permitted to be paid from the Funds under this Stipulation. The Claims Administrator shall control any sums it receives for deposit into the Settlement Payment Fund or Additional Settlement Payment Fund (if created), and any income thereon, pursuant to the terms of this Stipulation until the Funds are fully and finally distributed. All Settlement Payment and Additional Settlement Payment (if created) funds shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time as the funds shall be distributed to the Classes or returned to U.S. Sugar and/or its insurers, as applicable, pursuant to this Stipulation and/or further order of the Court.

(b) Until such time as the Settlement Payment Fund or Additional Settlement Payment Fund (if applicable) is distributed to Class Members or returned to U.S. Sugar pursuant to this Stipulation, the Claims Administrator shall invest any funds in excess of \$250,000 in short term United States Agency or Treasury Securities, and shall collect and reinvest all interest accrued thereon. Any funds held in escrow in an amount of less than \$250,000 may be held in an interest bearing bank account insured by the FDIC. Nothing herein shall be construed to require the Settlement Payment Fund and Additional Settlement Payment Fund (if created) to be administered concurrently.

(c) The parties hereto agree that the Settlement Fund is intended to be a Qualified Settlement Fund within the meaning of Treasury Regulation § 1.468B-1 and the Claims Administrator as administrator of the Settlement Fund within the meaning of Treasury Regulation §1.468B-2(k)(3), shall be responsible for filing tax returns for the Settlement Fund and paying from the Settlement Fund any Taxes owed with respect to the Settlement Fund. Counsel for Defendants shall provide promptly to the Claims Administrator the statement described in Treasury Regulation § 1.468B-3(e). After the Effective Date, the Claims Administrator shall have sole control over the Settlement Fund.

(d) All (i) taxes on the income of the Settlement Payment Fund and Additional Settlement Payment Fund (if applicable) and (ii) expenses and costs incurred in connection with the taxation of the Settlement Payment Fund and Additional Settlement Payment Fund (if applicable) (including, without limitation, withholding taxes, if any, and expenses of tax attorneys and accountants) (collectively “Taxes”) shall be paid out of the Settlement Payment Fund and Additional Settlement Payment Fund (if applicable), respectively, to which those Taxes relate, as determined by the Claims Administrator, and shall be considered to be a cost of administration of the Settlement and shall be timely paid by the Claims Administrator without prior Order of the Court, so long as said amount does not exceed the income of the Settlement Payment and Additional Settlement Payment (if applicable).

#### **ATTORNEYS’ FEES AND EXPENSES**

10. Plaintiffs’ Class Counsel may apply to the Court for an award from the Settlement Payment and Additional Settlement Payment of attorneys’ fees and reimbursement of reasonable expenses; provided, however, that no award of fees allocable to the Additional Settlement Payment shall be paid until ten (10) business days after the Additional Settlement Payment Fund is established (if ever). The Released Parties agree to not object to the amount sought as attorneys’ fees in Plaintiffs’ Class Counsel fee application so long as the amount sought as attorneys’ fees in connection with the recovery of the Settlement Payment is less than or equal to 30% of the Settlement Payment, and the amount sought as attorneys’ fees in connection with the recovery of Additional Settlement Payment is less than or equal to 30% of the Additional Settlement Payment. The Claims Administrator shall pay any such attorneys’ fees ultimately awarded by the Court, and any expenses ultimately awarded by the Court, from the Settlement Payment Fund and Additional Settlement Payment Fund (if created), as applicable, and as delineated in the order awarding the fees and expenses. The Claims Administrator shall pay

Plaintiff's Class Counsel any fees or expenses awarded in connection with the recovery of the Settlement Payment within ten (10) business days after Plaintiffs' Class Counsel provides it a copy of the award order, notwithstanding the existence of any timely filed objections thereto, or potential for appeal therefrom, or collateral attack on the Settlement or any part thereof, subject to Plaintiffs' Class Counsel's obligation to make appropriate refunds or repayments without demand to the Claims Administrator, plus accrued interest at the same net rate as is earned by the Settlement Payment Fund, if and when, as a result of any appeal and/or further proceedings on remand, or successful collateral attack, the fee or cost award is reduced or reversed. The Claims Administrator shall pay Plaintiff's Class Counsel any fees or expenses awarded in connection with the recovery of the Additional Settlement Payment within ten (10) business days after the creation of the Additional Settlement Payment Fund, notwithstanding the existence of any timely filed objections thereto, or potential for appeal therefrom, or collateral attack on the Settlement or any part thereof, subject to Plaintiffs' Class Counsel's obligation to make appropriate refunds or repayments without demand to the Claims Administrator, plus accrued interest at the same net rate as is earned by the Additional Settlement Payment Fund, if and when, as a result of any appeal and/or further proceedings on remand, or successful collateral attack, the fee or cost award is reduced or reversed. Any Court ordered modification of the award of attorneys' fees contemplated herein shall not constitute a material modification of the terms of this Stipulation sufficient to allow anyone the right to terminate this Stipulation and the resulting Settlement.

#### **PLAN OF ALLOCATION AND DISTRIBUTION**

11. The Settlement Payment Fund shall be allocated among the Class Members. However, in order to avoid double counting, for the purposes of the Settlement Payment Fund, the ESOP shall not be treated as a member of the Shareholder Class, and former participants in the ESOP who had any Shares allocated to their ESOP accounts shall not be treated as members

of the Shareholder Class if and only to the extent that they acquired their Shares from the ESOP during the Participant Class Period. The Class Members who are to be treated as members of the Shareholder Class for this purpose as described above are sometimes hereinafter referred to as the “Non-ESOP Shareholders”. The portion of the Settlement Payment Fund allocable to the Non-ESOP Shareholders (the “Non-ESOP Shareholder Portion”) shall be equal to the Settlement Payment Fund multiplied by a fraction, the numerator of which is the sum of the highest number of Shares owned by each Non-ESOP Shareholder during the Shareholder Class Period and the denominator of which is the sum of (i) the highest number of Shares owned by all Non-ESOP Shareholders at any time during the Shareholder Class Period and (ii) the highest number of Shares allocated to the accounts of all participants or former participants in the ESOP at any time during the Participant Class Period. The portion of the Settlement Payment Fund that shall be allocated to the Participant Class (the “ESOP Portion”) shall be equal to the Settlement Payment Fund multiplied by a fraction, the numerator of which is the sum of the highest number of Shares allocated to the accounts of each participant or former participant in the ESOP at any time during the Participant Class Period and the denominator of which is (i) the sum of the highest number of Shares owned by all Non-ESOP Shareholders at any time during the Shareholder Class Period and (ii) the highest number of Shares allocated to the accounts of all participants or former participants in the ESOP at any time during the Participant Class Period.

12. The Non-ESOP Shareholder Portion of the Settlement Payment Fund shall be allocated among all Non-ESOP Shareholders (determined in the manner described in Paragraph 11 hereof) on a pro rata basis, based upon the ratio that the highest number of Shares owned by each Non-ESOP Shareholder at any time during the Shareholder Class Period bears to the sum of the highest number of Shares owned by all Non-ESOP Shareholders at any time during the Shareholder Class Period.

13. The ESOP Portion of the Settlement Payment Fund shall be allocated among all participants in the ESOP during the Participant Class Period, on a pro rata basis, based upon the ratio that the highest number of Shares allocated to the account of each participant in the ESOP at any time during the Participant Class Period bears to the sum of the highest number of Shares that were allocated to the accounts of all participants in the ESOP at any time during the Participant Class Period. No later than fourteen (14) calendar days after the entry of the Preliminary Approval Order, U.S. Sugar shall provide the Claims Administrator with (a) the names of the current ESOP participants, (b) the names and last known addresses of the eligible former ESOP participants. No later than 45 calendar days after the entry of the Preliminary Approval Order, U.S. Sugar shall provide the Claims Administrator with such other information available in its records that the Claims Administrator may reasonably require to provide the Trustee of the ESOP with directions concerning the proper amounts of the Settlement Payment Fund to be allocated to and among the ESOP accounts of the current and eligible former participants.

14. Upon receipt of the Class Distribution Order (defined below), the Claims Administrator shall distribute the ESOP portion of the Settlement Payment Fund to the Trustee of the ESOP. Along with the funds, the Claims Administrator shall provide the Trustee of the ESOP with instructions concerning the allocation among the current ESOP participants and the amount to be distributed to the eligible former ESOP participants, as contemplated in the preceding paragraph. The portion of the Settlement Payment Fund that is allocable to current participants shall be deposited into and held in a designated account within the ESOP until it can be allocated to the participants' respective individual accounts in accordance with the instructions provided by the Claims Administrator. The portion of the Settlement Payment Fund that is allocable to the eligible former participants in the ESOP shall also be held in the

designated account until it can be allocated to the eligible former participants' individual accounts (or accounts established for such eligible former participants) in accordance with the instructions provided to the Trustee of the ESOP by the Claims Administrator, and thereafter distributed in accordance with the terms of the ESOP, and in accordance with ERISA and other applicable law.

15. Any part of the ESOP Portion of the Settlement Payment Fund that is unclaimed or undistributable, despite reasonable steps to locate the missing participants, shall be handled in accordance with the terms of the ESOP documents, ERISA and other applicable law. Any portion of the Non-ESOP Shareholder Portion of the Settlement Payment Fund that is unclaimed or undistributed shall be distributed by the Claims Administrator to those remaining Non-ESOP Shareholders to whom distributions can be made, on a pro-rata basis, based upon the ratio that the highest number of Shares owned by each such Non-ESOP Shareholder at any time during the Shareholder Class Period bears to the sum of the highest number of Shares owned by each such Non-ESOP Shareholder during the Shareholder Class Period. U.S. Sugar shall provide the Claims Administrator with the names and addresses of the Non-ESOP Shareholders within 14 calendar days after the entry of the Preliminary Approval Order. No later than 45 calendar days after the entry of the Preliminary Approval Order, U.S. Sugar shall provide the Claims Administrator with the additional information available from its records necessary for the Claims Administrator to make such distributions.

16. Upon receipt of the Class Distribution Order (defined below), the Claims Administrator shall distribute the portion of the Settlement Payment Fund that is allocable to any Non-ESOP Shareholder directly to that Class Member. U.S. Sugar shall provide the Claims Administrator the names and addresses of the Non-ESOP Shareholders within 14 calendar days after the entry of the Preliminary Approval Order. No later than 45 calendar days after the entry

of the Preliminary Approval Order, U.S. Sugar shall provide the Claims Administrator with the additional information available from its records necessary for the Claims Administrator to make such distributions no later than 45 calendar days after the entry of the Preliminary Approval Order.

17. The Additional Settlement Payment Fund, if applicable, shall be allocated among the Non-ESOP Shareholders and the ESOP on a pro rata basis, based upon the ratio that the number of Shares owned by each on the Closing Date bears to the total number of Shares owned by all of the Non-ESOP Shareholders and the ESOP on the date of the execution (September 24, 2009) of the Stipulation of Settlement. As a result of the foregoing allocation method, those former participants in the ESOP who had Shares allocated to their accounts during the Participant Class Period, but who did not have any Shares allocated to their accounts within the ESOP on the Closing Date, shall not be allocated any portion of the Additional Settlement Payment Fund on account of any Shares that they had previously acquired from the ESOP. That portion of the Additional Settlement Payment Fund that is allocated to the ESOP shall be distributed by the Claims Administrator, upon its receipt of the Class Distribution Order (defined below), to the Trustee of the ESOP, to be deposited into and held in the designated account until it can be allocated to the participants' accounts in accordance with the instructions provided by the Claims Administrator. The Claims Administrator shall provide the Trustee of the ESOP with instructions to allocate that portion among those participants who have Shares allocated to their accounts in the ESOP on the Closing Date, on a pro rata basis, based upon the ratio that the number of Shares allocated to each of their accounts in the ESOP on the Closing Date bears to the total number of Shares allocated to the accounts of all participants in the ESOP on the Closing Date. U.S. Sugar shall provide the Claims Administrator with the information available from its records necessary for the Claims Administrator to provide the Trustee of the ESOP with

the names of such participants and their portions of the Additional Settlement Payment Fund to be allocated among such participants (and such other information that the Trustee of the ESOP may reasonably require to make those allocations) within 45 calendar days following the Closing Date.

18. Any portion of the Additional Settlement Payment Fund that is allocated to the Non-ESOP Shareholders and that is unclaimed or undistributable shall be distributed by the Claims Administrator, upon receipt of the Class Distribution Order (defined below), to those Non-ESOP Shareholders to whom distributions can be made on a pro rata basis, based upon the ratio that the number of Shares owned by each such Non-ESOP Shareholder on the Closing Date bears to the total number of Shares owned by all such Non-ESOP Shareholders on the Closing Date.

19. The Plan of Allocation is not a necessary term of this Stipulation and it is not a condition of this Stipulation that the Plan of Allocation be approved. For that reason, modification by the Court of the Plan of Allocation shall not be deemed a material event sufficient to allow anyone to terminate this Stipulation and the resulting Settlement.

20. The Claims Administrator shall determine each Shareholder Class Member's pro rata share of the Settlement Payment and Additional Settlement Payment (if created) in accordance with the Plan of Allocation. Upon receipt of an order authorizing its distribution, and after the Parties inform the Claims Administrator that such order is final, the Claims Administrator shall distribute the portion of the Settlement Payment Fund and Additional Settlement Payment Fund (if created) allocable to the Shareholder Class directly to those Class Members.

21. This is not a claims-made settlement. U.S. Sugar shall not be entitled to a return of any of the Settlement monies once the Settlement becomes final.

## **ADMINISTRATION OF THE SETTLEMENT**

22. The Claims Administrator shall administer the Settlement under Plaintiffs' Lead Counsel's supervision and subject to the jurisdiction of the Court with regard to those payments that are to be directed to members of the Classes. The Released Parties shall have no responsibility for the administration of the Settlement and shall have no liability to the Classes in connection with such administration or the manner in which the Settlement Payment Fund or the Additional Settlement Payment Fund (if applicable) are invested, distributed or otherwise used. No portion of the Settlement Payment Fund or the Additional Settlement Payment Fund that is allocable to the Participant Class, however, shall be used in any manner contrary to the terms of the ESOP or in violation of ERISA.

23. The expenses associated with the Notice and incurred by the Claims Administrator (other than the Taxes as set forth in paragraph 9 above) shall be borne by U.S. Sugar and shall not be paid from the Settlement Payment Fund or the Additional Settlement Payment Fund. However, not less than seven (7) business days prior to paying any expense associated with the administration of the Settlement, including the Notice, the Claims Administrator shall submit an invoice containing a description of the expense to U.S. Sugar, in care of its counsel, for review and processing.

24. Within 14 calendar days of the entry of the Preliminary Approval Order, U.S. Sugar will provide the Claims Administrator with the address information available from its records necessary to serve the Notice. No later than ten (10) business days after its receipt of the information necessary to do so, the Claims Administrator shall cause the Notice to be sent to the Class Members by first class mail in accordance with the Preliminary Approval Order. The Notice shall also be posted on U.S. Sugar's website ([www.ussugar.com](http://www.ussugar.com)) concurrently with the Claims Administrator serving Notice as described herein. All costs incurred in connection with

the dissemination of the Notice shall be paid by U.S. Sugar and shall not be paid from the Settlement Payment Fund or the Additional Settlement Payment Fund.

25. (a) The Parties shall request that the Court conduct a Fairness Hearing no sooner than ninety (90) calendar days after the Class Action Fairness Act of 2005 notices are served. Any Member of the Shareholder Class may seek to be excluded from the Shareholder Class and the Settlement provided for by this Stipulation by submitting a written request for exclusion. (b) Any request for exclusion must be postmarked, or received by, the Claims Administrator forty-five (45) calendar days from the mailing of the Notice. Any Shareholder Class member so excluded shall not be bound by the terms of the Stipulation, not entitled to any of its benefits, and shall not be bound by any Order and Final Judgment and/or other order of the Court entered herein, whether pursuant to this Stipulation or otherwise. Copies of all requests for exclusion shall be filed with the Court by Plaintiffs' Lead Counsel at or before the Fairness Hearing.

26. Any Shareholder Class member who does not exclude himself, herself or itself from the Shareholder Class and the Settlement, and any Participant Class member, shall have the right to submit written objections concerning the Settlement, the Plan of Allocation, and/or Plaintiffs' Class Counsel's application for attorneys' fees, expenses and costs, which objections shall state all of the reasons for the objections (*e.g.*, a mere statement that "I object" shall not be deemed sufficient). Any written objection(s), and any brief, affidavits or other evidence submitted in support thereof, must be filed with the Clerk of the Court within forty-five (45) calendar days from the mailing of the Notice. All Persons desiring to attend the Fairness Hearing and be heard as objectors must have filed written objections as provided herein, as a condition of appearing and being heard at such hearing. Any Shareholder Class Member who does not timely file written objections to the Settlement pursuant to this Paragraph and the Notice shall not be permitted to object to the Settlement at the Fairness Hearing, and shall be

foreclosed from objecting to, challenging or otherwise seeking review of the Settlement by appeal or otherwise, in this Action or in any other action.

27. To retract or withdraw a request for exclusion, a Shareholder Class Member must send a written notice to the Claims Administrator on or before the date of the Fairness Hearing stating the person's or entity's desire to retract or withdraw his, her or its request for exclusion and that person's or entity's desire to be bound by any judgment or settlement in this Action; provided, however, that the filing of such written notice may be effected by Plaintiffs' Class Counsel. Plaintiffs' Class Counsel shall promptly notify Defendants' Counsel of any retraction or withdrawal of a request for exclusion.

28. After the payments of the Settlement Payment and Additional Settlement Payment (if applicable) are made to the Claims Administrator, the Defendants shall have no liability, obligation or responsibility for the administration of the Settlement or disbursement of the Settlement Payment and Additional Settlement Payment (if applicable).

29. Payment pursuant to this Stipulation shall be deemed final and conclusive against all Class Members who do not exercise their right to opt out of the Shareholder Class as set forth above.

30. The portion of the Settlement Payment Fund and the Additional Settlement Payment Fund (if applicable) allocable to the Non-ESOP Shareholders shall be distributed to the Non-ESOP Shareholders by the Claims Administrator within thirty (30) business days after its receipt of the Class Distribution Order directing distribution and the Parties informing it that the order is final.

31. The portion of the Settlement Payment Fund allocable to the Participant Class shall be distributed by the Claims Administrator to the Trustee for the ESOP, along with the allocation directions described above, within thirty (30) business days after the Claims

Administrator's receipt of the Class Distribution Order directing distribution and the Parties informing it that the order is final. Upon receipt of the distribution and the instructions according to the Plan of Allocation, the Trustee of the ESOP shall promptly allocate any and all such amounts to the ESOP accounts of Members of the Participant Class.

32. Promptly after the Effective Date, Plaintiffs' Class Counsel will instruct the Claims Administrator to mail to all Class Members a letter indicating the Class Member's allocation and Plaintiff's Class Counsel shall thereafter, no sooner than 45 calendar days after the aforementioned letters are mailed, apply to the Court, on notice to Counsel for the Released Parties, for an order (the "Class Distribution Order") approving the administrative determinations made by the Claims Administrator concerning the allocation of amounts to the Settlement Payment Fund and the Additional Settlement Payment Fund (if applicable) (and the allocation of income and expenses thereto); approving any fees and expenses not previously applied for and directing payment of the Settlement Payment Fund and Additional Settlement Payment Fund (if applicable) to Class Members in the manner set forth herein.

#### **TERMS OF PRELIMINARY APPROVAL ORDER**

33. Promptly after this Stipulation has been fully executed, Plaintiffs' Class Counsel shall apply to the Court for entry of a Preliminary Approval Order, substantially in the form annexed hereto as Exhibit B.

#### **TERMS OF ORDER AND FINAL JUDGMENT WITH RESPECT TO THE RELEASED PARTIES**

34. If the Settlement contemplated by this Stipulation is approved in all material respects by the Court, Plaintiffs' Class Counsel shall request that the Court enter an Order and Final Judgment with Respect to the Released Parties substantially in the form annexed hereto as Exhibit C.

**EFFECTIVE DATE OF SETTLEMENT, WAIVER OR TERMINATION**

35. The Effective Date of Settlement shall be the date when all of the following shall have occurred:

- (a) approval of the Settlement by an Independent Fiduciary.
- (b) approval of the Settlement by the Court, following notice to the Classes and a Fairness Hearing, as prescribed by Rule 23 of the Federal Rules of Civil Procedure; and
- (c) entry by the Court of an Order and Final Judgment with Respect to the Released Parties, in all material respects in the form set forth in Exhibit C annexed hereto, and the expiration of any time for appeal or review of such Order and Final Judgment with Respect to the Released Parties, or, if any appeal is filed and not dismissed, after such Order and Final Judgment with Respect to the Released Parties is upheld on appeal in all material respects and is no longer subject to review upon appeal or review by writ of certiorari. In the event that the Court enters an Order and Final Judgment with Respect to the Released Parties in a form other than that provided above in any material respect, with the exception of either or both the award of attorneys' fees or the Plan of Allocation to the Class Members under the Settlement ("Alternative Judgment") each of the parties hereto shall have the unilateral right to terminate the Settlement as provided in Paragraph 36 below, and the provisions of Paragraph 36 will apply. However, in the event that an Alternative Judgment is entered, and none of the parties hereto elect to terminate this Settlement, then the Effective Date shall be the date that such Alternative Judgment becomes final and no longer subject to appeal or review.

36. Counsel for the Released Parties or Plaintiffs' Lead Counsel shall have the right to terminate the Settlement and this Stipulation by providing written notice of their election to do so ("Termination Notice") to all other parties hereto within thirty (30) calendar days of: (a) the Court's declining to enter the Preliminary Approval Order in any material respect; (b) the

Court's refusal to approve this Stipulation or any material part of it; (c) the Court's declining to enter the Order and Final Judgment with Respect to the Released Parties in any material respect; (d) the date upon which the Order and Final Judgment with Respect to the Released Parties is modified or reversed in any material respect by the Court of Appeals or the Supreme Court; or (e) the date upon which an Alternative Judgment is modified or reversed in any material respect by the Court of Appeals or the Supreme Court. The parties agree that any Court imposed modification to the award of attorneys' fees, or the Plan of Allocation referenced herein, shall not be deemed to be a material modification as referenced in this Stipulation.

37. If the holders representing more than 10% of the outstanding Shares of U.S. Sugar, other than the Charles Stewart Mott Foundation, Claire Mott White, William S. White, Ridgway White and John Butler, and their immediate family members (spouses and children), including any shares owned by trusts for which they are either a trustee or beneficiary, opt out of the Shareholder Class settlement, the Released Parties shall have the option to declare the Settlement void within 30 calendar days of being notified that this provision had been triggered. If the Released Parties declare that the Settlement is void the parties shall be restored to their respective positions in the litigation immediately prior to May 28, 2009 and any cash amounts that have been paid for the Settlement Payment and Additional Settlement Payment (if applicable) shall be returned as set forth herein.

38. Except as otherwise provided herein, in the event the Settlement is terminated or fails to become effective for any reason, the parties to this Stipulation shall then be deemed to have reverted to their respective status in the Action immediately prior to May 28, 2009 and, except as otherwise expressly provided, the Parties shall proceed in all respects as if this Stipulation and any related orders had not been entered, and any portion of the Settlement Payment and Additional Settlement Payment (if applicable) previously paid, together with any

interest earned thereon, less any Taxes due with respect to such income, shall be returned to U.S. Sugar.

**NO ADMISSION OF WRONGDOING**

39. This Stipulation, whether or not consummated, and any proceedings taken pursuant to it:

(a) shall not be offered or received against the Released Parties as evidence of or construed as or deemed to be evidence of any presumption, concession, or admission by the Released Parties with respect to the truth of any fact alleged by Plaintiffs or the validity of any claim that had been or could have been asserted in the Action or in any litigation, or of any liability, negligence, fault, or wrongdoing of the Released Parties;

(b) shall not be offered or received against the Released Parties as evidence of a presumption, concession or admission of any fault, misrepresentation or omission with respect to any statement or written document approved or made by the Released Parties, or against the Plaintiffs and the Classes as evidence of any infirmity in the claims of the Plaintiffs and the Classes;

(c) shall not be offered or received against the Released Parties or against the Plaintiffs or the Classes as evidence of a presumption, concession or admission with respect to any liability, negligence, fault or wrongdoing, or in any way referred to for any other reason as against any of the parties to this Stipulation, in any other civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Stipulation; provided, however, that if this Stipulation is approved by the Court, the Released Parties may refer to it to effectuate the liability protection granted it hereunder;

(d) shall not be construed against the Released Parties or the Plaintiffs and the Classes as an admission or concession that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial; and

(e) shall not be construed as or received in evidence as an admission, concession or presumption against Plaintiffs or the Classes or any of them that any of their claims are without merit or that damages recoverable under the Complaint would not have exceeded the amount of the Settlement Payment and Additional Settlement Payment (if applicable).

### **MISCELLANEOUS PROVISIONS**

40. This Settlement is contingent upon an Independent Fiduciary's: (i) approving the settlement and giving a release, in its capacity as a fiduciary of the ESOP, for and on behalf of the ESOP coextensive with the Released Claims for Settlement Payment from the Plaintiffs and Class Members; (ii) authorizing the Settlement in accordance with the Prohibited Transaction Class Exemption 2003-39, and (iii) finding that the Settlement does not constitute a prohibited transaction under ERISA § 406(a). The ESOP Committee shall move promptly to retain an Independent Fiduciary and seek to obtain this authorization or finding. All parties shall cooperate in providing information to the Independent Fiduciary upon request. The Released Parties shall have the right to terminate this Settlement by providing written notice to Plaintiffs' Lead Counsel at any time before the commencement of the Final Approval Hearing if (a) the Independent Fiduciary has not issued its written determination whether to approve this Settlement, or (b) (i) the Independent Fiduciary has not issued its written determination whether to approve the Settlement by the fourteenth (14<sup>th</sup>) calendar day before the Final Approval Hearing, and (ii) the Court declines or refuses to enter an order continuing the Final Approval

Hearing (after a request by any of the Released Parties), by the end of the seventh (7<sup>th</sup>) calendar day before the date of the Final Approval Hearing.

41. The expenses of the Independent Fiduciary shall be borne by U.S. Sugar. None of the Released Parties, or Counsel for the Released Parties, shall have any involvement in the determinations made by the Independent Fiduciary regarding the acceptability of the terms of the Settlement, except to the extent requested by the Independent Fiduciary. Also, none of the Released Parties, or Counsel for the Released Parties, shall have any involvement in the determinations made by the Independent Fiduciary and the Claims Administrator regarding the rights and abilities of Class Members to receive any portion of the Settlement Payment or Additional Settlement Payment (if applicable). The fact that the Independent Fiduciary, the Trustee for the ESOP or the Claims Administrator might be paid for their services by a party in connection with this Settlement shall have no effect on any determinations made.

42. Pursuant to the Class Action Fairness Act of 2005 (“CAFA”), Defendants shall cause to be prepared and provided the notices required by CAFA, as specified by 28 U.S.C. § 1715, within ten (10) calendar days of filing the Motion for Preliminary Approval of Settlement. Plaintiffs’ Lead Counsel will be copied on any and all notices provided by the Defendants pursuant to this Paragraph.

43. All of the exhibits attached hereto are hereby incorporated by reference as though fully set forth herein.

44. With respect to any and all Released Claims, the parties stipulate and agree that upon the Effective Date, Plaintiffs shall expressly, and each Class Member shall be deemed to have, and by operation of the Judgment shall have, expressly waived any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle

of common law, which is similar, comparable, or equivalent to Cal. Civ. Code § 1542, 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.

Plaintiffs acknowledge, and Class Members by operation of law shall be deemed to have acknowledged, that the inclusion of “Unknown Claims” in the definition of Released Claims for Settlement Payment or Released Claims for Additional Settlement Payment was separately bargained for and was a key element of the Settlement.

44. If a case is commenced with respect to U.S. Sugar (or any insurer contributing funds to the Settlement) under Title 11 of the United States Code (Bankruptcy), or a trustee, receiver or conservator is appointed under any similar law, and in the event of the entry of a final order of a court of competent jurisdiction determining the transfer of money to the Settlement Payment Fund and Additional Settlement Payment Fund (if applicable) or any portion thereof by or on behalf of the Released Parties to be a preference, voidable transfer, fraudulent transfer or similar transaction and any portion thereof is required to be returned, and such amount is not promptly paid by others, then, at the election of Plaintiffs’ Lead Counsel, the Parties shall jointly move the Court to vacate and set aside the releases given and Judgment entered in favor of the Released Parties pursuant to this Stipulation, which releases and Judgment shall be null and void, and the Parties shall be restored to their respective positions in the litigation immediately prior to May 28, 2009 and any cash amounts that have been paid for the Settlement Payment and Additional Settlement Payment (if applicable) shall be returned as provided in paragraph 38 above.

45. The parties to this Stipulation intend the Settlement to be a final and complete resolution of all disputes asserted or which could be asserted by the Class Members against the

Released Parties with respect to the Released Claims for Settlement Payment and Released Claims for Additional Settlement Payment.

46. The Released Parties and Counsel for the Released Parties also hereby release Plaintiffs, Plaintiffs' Class Counsel, and Plaintiffs' experts in the Action of any and all claims of any nature whatsoever (including claims for any and all losses, damages, unjust enrichment, attorney fees, disgorgement of fees, litigation costs, injunction, declaration, contribution, indemnification, violation of Rule 11 of the Federal Rules of Civil Procedure, or any other type or nature of legal or equitable relief), whether accrued or not, whether already acquired or acquired in the future, whether known, unknown, or unsuspected, asserted or unasserted, in law or equity, arising out of any or all of the acts, omissions, facts, matters, transactions or occurrences, based on, arising from or related in any way to the Action or the conduct of the Action.

47. Plaintiffs and Plaintiffs' Class Counsel also hereby release the Released Parties, counsel for the Released Parties, and the Released Parties' experts in the Action of any and all claims of any nature whatsoever (including claims for any and all losses, damages, unjust enrichment, attorney fees, disgorgement of fees, litigation costs, injunction, declaration, contribution, indemnification, violation of Rule 11 of the Federal Rules of Civil Procedure, or any other type or nature of legal or equitable relief), whether accrued or not, whether already acquired or acquired in the future, whether known, unknown, or unsuspected, asserted or unasserted, in law or equity, arising out of any or all of the acts, omissions, facts, matters, transactions or occurrences, based on, arising from or related in any way to the Action or the conduct of the Action.

48. The parties hereto shall assert no claims of any violation of Rule 11 of the Federal Rules of Civil Procedure relating to the prosecution, defense, or settlement of the Action. The

Parties agree that the amount paid and the other terms of the Settlement were negotiated at arm's length in good faith by the Parties, and reflect a settlement that was reached voluntarily after consultation with experienced legal counsel.

49. This Stipulation may not be modified or amended, nor may any of its provisions be waived except by a writing signed by all Parties hereto or their successors-in-interest.

50. The headings herein are used for the purpose of convenience only and are not meant to have legal effect.

51. The administration and consummation of the Settlement as embodied in this Stipulation shall be under the authority of the Court and the Court shall retain jurisdiction for the purpose of entering orders providing for awards of attorneys' fees and expenses to Plaintiffs' Counsel and enforcing the terms of this Stipulation.

52. The waiver by one party of any breach of this Stipulation by any other party shall not be deemed a waiver of any other prior or subsequent breach of this Stipulation.

53. This Stipulation and its exhibits constitute the entire agreement among the Parties hereto concerning the Settlement of the Action, and no representations, warranties, or inducements have been made by any party hereto concerning this Stipulation and its exhibits other than those contained and memorialized in these documents.

54. This Stipulation may be signed in counterparts, each of which shall be deemed an original, and all such counterparts constituting one Stipulation. The exchange of copies of this Stipulation and of signature pages by facsimile transmission or email with pdf attachment shall constitute effective execution and delivery of this Stipulation as to the parties and may be used in lieu of the original Stipulation for all purposes. Signatures of the Parties transmitted by facsimile or by email with pdf attachment shall be deemed to be their original signatures for all purposes.

55. This Stipulation shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto.

56. The construction, interpretation, operation, effect and validity of this Stipulation, and all documents necessary to effectuate it, shall be governed by the internal laws of the State of Florida without regard to conflicts of laws, except to the extent that federal law requires that federal law governs.

57. The Plaintiffs and the Released Parties, and their respective counsel, hereby irrevocably submit to the exclusive jurisdiction of the Court for the specific purpose of, and only for the specific purpose of, any suit, action, proceeding or dispute arising out of or relating to this Stipulation, the applicability of this Stipulation or any issue related to fees or costs relating to this Stipulation.

58. This Stipulation shall not be construed more strictly against one party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the parties, it being recognized that it is the result of arm's-length negotiations between the parties and all parties have contributed substantially and materially to the preparation of this Stipulation.

59. All counsel and any other person executing this Stipulation and any of the exhibits hereto, or any related settlement documents, warrant and represent that they have the full authority to do so and that they have the authority to take appropriate action required or permitted to be taken pursuant to the Stipulation to effectuate its terms.

60. Plaintiffs' Lead Counsel and Counsel for the Released Parties agree to cooperate fully with one another in seeking Court approval of the Preliminary Approval Order, the Stipulation and Agreement of Settlement, and to promptly agree upon and execute all such

other documentation as may be reasonably required to obtain final approval by the Court of the Settlement.

61. Upon approval by an Independent Fiduciary and final approval by the Court of the Settlement (including the resolution of any appeals), the case shall be dismissed with prejudice, but the Court shall retain jurisdiction to the extent necessary to administer and enforce the Settlement.

62. U.S. Sugar agrees to provide an annual notice to current participants and beneficiaries of the ESOP that states that (1) the periodic fair market values determined by the Trustee for the ESOP and the ESOP Committee were determined by a method that the Trustee for the ESOP and the ESOP Committee deemed to be the most appropriate method under all relevant circumstances, and (2) there are a variety of methods available that might produce a range of values, some of which may be higher or lower than the values that have been determined by the Trustee for the ESOP and the ESOP Committee.

63. Plaintiffs' Counsel may make an application to the Court for an award to class representatives Diallo Johnson, Linda Stanley and Miguel Maturana, but not Plaintiffs Michael Roland and Michael Texton, of \$5,000 each, and for Mary Rafter of \$7,500, as class representative awards, to be paid out of, and at the time of the disbursement of, the Settlement Payment. As a condition of the Settlement, Plaintiff Mary Rafter shall surrender to U.S. Sugar all of her shares in U.S. Sugar within ten (10) business days of entry of the Order and Final Judgment with respect to the Settlement.

64. Until this Stipulation is filed with the Court, the Parties and their agents shall not disclose directly or indirectly the terms of this Settlement to the public except pursuant to a joint press release.

65. Any and all notices intended for any party to this Stipulation shall be in writing and shall be sent by facsimile and first class mail, or by electronic mail and first class mail, to each of the counsel identified below.

So Agreed:

/s/ Lewis S. Eidson  
Colson Hicks Eidson  
255 Aragon Avenue, 2<sup>nd</sup> FL  
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On behalf of Plaintiffs Johnson, Rafter  
and Stanley

/s/ Lee Squitieri  
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On behalf of Plaintiffs Texton and  
Maturana

/s/ Hort A. Soper  
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PO Box 300749  
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On behalf of Plaintiffs Johnson, Rafter  
and Stanley

/s/ David A. Coulson  
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On behalf of Defendants:  
Robert H. Buker, Jr.  
John Butler  
Gerard A. Bernard  
Frederick Kirkpatrick  
Roy E. Peterson  
W. Archibald Piper  
William H. Piper  
Lloyd E. Reuss and  
Horace Wilkins

/s/ H. Douglas Hinson  
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On behalf of Defendants:  
William S. White and  
Ridgway H. White

/s/ Robert S. Hackleman  
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On behalf of Defendant:  
United States Sugar Corporation

/s/ David Tetrick, Jr.  
King & Spalding LLP  
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On behalf of Defendant Bank of  
America, N.A. (as successor to  
United States Trust Company, N.A.)  
and Evercore Trust Company, N.A.