

Addendum to Settlement and Release Agreement

Comes now (i) Randall Sally (hereinafter “Plaintiff”), (ii) the Settlement Class as defined herein, and (iii) adidas America, Inc. (hereinafter “adidas” and/or “Defendant”), each individually a “Party,” and, collectively, the “Parties” after having executed the attached Settlement and Release Agreement on or about October 5, 2021 (“Settlement Agreement”), they wish to supplement the Settlement Agreement with this Addendum to Settlement and Release Agreement (hereinafter “Addendum”). The resolution memorialized in the Settlement Agreement and this Addendum shall be referred to as the “Settlement.”

After entering into the October 5, 2021 Settlement Agreement in *Randall Sally vs. adidas America, Inc.*, Cause No. 20SL-CC03903 (the “Action”), the Parties were able to secure \$674,317.11 from the MDOR refund claim process and additional \$18,745.81 from adidas to offset the amount of the reduction in the refund amount due to prompt payment incentives paid to Defendant; combined these amounts are the “**Settlement Fund**,” and total \$693,062.92 and now herein the Parties wish to further document their Settlement as follows:

DEFINITIONS

As used in this Addendum, the following terms have the meanings specified below:

- a. “**Action**” has the meaning set forth in the Recitals to this Addendum.
- b. “**Administrative Expenses**” as stated in paragraph 5, means costs, disbursements, and expenses reasonably incurred in the implementation of the Settlement by the Settlement Administrator, including, without limitation: the cost of disseminating the Notice to Settlement Class Members and the cost of distributing the Settlement Payments to Settlement Class Members.
- c. “**Administration Start Date**” is the date that the Preliminary Approval Motion is ordered on by the Court, preliminarily approving this Settlement.
- d. “**Class Counsel**” and “**Plaintiff’s Counsel**” mean Daniel J. Orlowsky, Esq. of Orlowsky Law, LLC and Adam M. Goffstein, Esq. of Goffstein Law, LLC.
- e. “**Class List**” means a list of persons who meet the definition of “Settlement Class,” below, and the following information for each person, to the extent reasonably available: a code uniquely identifying the person; the person’s first name; the person’s last name; the person’s email address; the person’s mailing or shipping address; and the person’s total amount of Potential Tax Overcharges.
- f. “**Class Representative**” means the named Plaintiff in this Action, Randall Sally.
- g. “**Court**” means the St. Louis County Circuit Court, Division 17, the Honorable Joseph L. Walsh presiding, or any court or judge who succeeds him as judge or division in this Action.

h. **“Days”** (whether or not beginning with a capital letter) means calendar days, unless otherwise expressly stated herein, and when computing any period of time prescribed or allowed by this Settlement Agreement, the day of the event from which the designated period of time begins to run will not be included.

i. **“Effective Date”** means the date described in Paragraph 38, if that date occurs.

j. **“Fee Award”** means the amount of attorneys’ fees, costs, and expenses awarded by the Court to Class Counsel in this action.

k. **“Final”** means one business day following the latest of the following dates: (i) the date upon which the time expires for filing or noticing any appeal of the Court’s Final Approval Order approving this Settlement Agreement; (ii) if there is an appeal or appeals, the date of completion, in a manner that finally affirms and leaves in place the Final Approval Order without any material modification, of all proceedings arising out of the appeal or appeals (including, without limitation, the expiration of all deadlines for motions for reconsideration or petitions for review or *certiorari*, all proceedings ordered on remand, and all proceedings arising out of any subsequent appeal or appeals following decisions on remand); or (iii) the date of final dismissal of all appeals or the final dismissal of all proceedings on *certiorari*.

l. **“Final Approval Hearing”** means the hearing before the Court where the Parties will request the Final Approval Order to be entered by the Court finally approving the Settlement Agreement, and the Court will determine the Fee Award and the Service Award.

m. **“Final Approval Order”** means the judgment and order to be entered by the Court finally approving this Settlement Agreement and dismissing the Action on the merits and with prejudice, substantially in the same form as Exhibit ____ .

n. **“MDOR”** means the Missouri Department of Revenue.

o. **“Net Settlement Proceeds Estimate”** is the amount of money adidas is required to put into the Settlement Fund less the amount of the Fee Award, the amount of the Service Award, and the amount of Administrative Expenses.

p. **“Notice”** means the Court-approved form of notice to the class, substantially in the same form as Exhibit ____ attached hereto, which will notify the Settlement Class Members of the settlement described in this Agreement and direct them to the settlement website for more information about the settlement. When not capitalized, or when context requires, “notice” has its ordinary meaning and can include, for example, notice from MDOR or notice between the Parties.

q. **“Notice Date”** means the date in paragraph 18, even if the Settlement Administrator disseminates all of the Notices in advance of that date.

r. **“Objection/Exclusion Deadline”** means the date by which an objection to or request for exclusion from this Settlement Agreement must be submitted or postmarked, as set forth in Paragraph 21.

s. **“Party”** and **“Parties”** have the meanings set forth on the first page of this Addendum.

t. **“Potential Tax Overcharges”** a calculation to determine the amount of tax that each person on the Class List was overcharged tax.

u. **“Preliminary Approval”** means the issuance of an order, in substantially the same form as Exhibit ___ attached hereto, that is consistent with and preliminarily approves this Settlement Agreement in all material respects.

v. **“Qualifying Purchase”** means a retail transaction for the purchase of tangible personal property from adidas for which all of the following are true: (a) the transaction was made either via adidas’ website, www.adidas.com, or via another remote sales channel for which adidas was responsible for calculating tax due on the purchase; (b) the transaction was completed between October 1, 2016 through October 31, 2020; (c) the purchased property was shipped by or on behalf of adidas from a location outside the state of Missouri; (d) the purchaser’s delivery address was within the state of Missouri; and (e) adidas charged the purchaser an amount of tax on the transaction that exceeded the Vendor’s Use Tax Amount for that transaction. Notwithstanding the foregoing sentence, any transaction on which the purchaser received a refund on the entire transaction will be excluded from Qualifying Purchases, and where a consumer received a partial refund on a transaction, only the portions of the transaction on which the purchaser did not receive a refund may be a Qualifying Purchase, provided that those portions, standing alone, meet the definition of Qualifying Purchase set forth in this Paragraph.

w. **“Released Claims”** means the Settlement Class Member Released Claims and the Class Representative Released Claims.

x. **“Released Parties”** means (i) adidas America, Inc.; and (ii) its past, present and future direct and indirect parents, subsidiaries, divisions, affiliates, companies, associates, predecessors, successors, successors in interest, officers, directors, managers, managing directors, present and former employees, representatives, administrators, holding companies, investors, shareholders, partners, principals, members, advisors, successors, assigns, insurers, attorneys, and each of them.

y. **“Releasing Parties”** means Settlement Class Members and Plaintiff, and their present or past spouses, children, beneficiaries, attorneys, heirs, executors, estates, administrators, predecessors, successors, assigns, parents, subsidiaries, associates, affiliates, employers, employees, agents, consultants, independent contractors, insurers, directors, managing directors, officers, partners, principals, members, any other agent or representative of any of these persons and entities, and anyone claiming through or on behalf of any of these persons and entities.

z. **“Service Award”** means the amount awarded by the Court to Plaintiff pursuant to the request described in Paragraph 29, in recognition of her services as class representative.

aa. **“Settlement Administrator”** means Atticus Administration, LLC or such other qualified, independent, third-party settlement administrator retained by Defendant, and agreeable to both Parties, to perform the duties of the Settlement Administrator set forth in this Agreement, as well as its employees and outside vendors working under its supervision. The fact that Defendant is retaining and supervising the Settlement Administrator does not affect or change the status of the Settlement Administrator as “independent.” Defendant understands that Plaintiff’s counsel represents the class and may request certain information and assurances from the Settlement Administrator, subject to this Addendum.

bb. **“Settlement Agreement,” “Settlement,” and “Addendum”** have the meaning set forth on the first page of this agreement.

cc. **“Settlement Fund”** has the meaning set forth on page 1 of this Addendum.

dd. **“Settlement Class”** means all persons who made at least one Qualifying Purchase, regardless whether such person is or might be a party to an arbitration agreement or class action waiver with adidas, but “Settlement Class” does not include any of the following: Defendant, any entity in which Defendant has a controlling interest or which has a controlling interest in Defendant, and Defendant’s legal representatives, predecessors, successors, assigns, and employees; Class Counsel and members of the immediate family of Class Counsel; the judge and staff to whom this case is assigned and any member of the judge’s immediate family. This definition supersedes the first paragraph in Section 4 of the Settlement Agreement.

ee. **“Settlement Class Member”** means a person who falls within the definition of “Settlement Class” and who has not submitted a timely and complete request for exclusion.

ff. **“Settlement Payment”** means a payment made to a Settlement Class Member pursuant to this Addendum, estimated as set forth in Paragraph 8b.

A. ADMINISTRATION

1. The Parties agree to use Atticus Administration, LLC (or other qualified independent administration company that is agreeable to both Parties) (hereinafter the “Settlement Administrator”) as well as the Settlement Administrator’s employees and outside vendors under its supervision to administer the settlement pursuant to the terms of this Settlement and Release Agreement and this Addendum. The Settlement Administrator is responsible for ensuring that it performs all of the duties set out in the Settlement Agreement and this Addendum. The parties may rely on the work performed by the Settlement Administrator and are not liable for any errors made by the Settlement Administrator.

2. The Settlement Administrator shall keep detailed records of its activities under the Settlement Agreement and Addendum and shall make such records available to the Parties upon request. The Settlement Administrator will provide records and information as agreed to by the

parties and ordered by the Court. The Settlement Administrator will not incur expenses beyond what is agreed to by the Parties and the Settlement Administrator.

3. The Settlement Administrator will sign an agreement that will require its personnel to keep all information it receives regarding the Settlement Class and Settlement Class Members strictly confidential, and limit its use of such information to performing its duties set forth in the Addendum; provided, however, that the Settlement Administrator may provide general, summary information to the Parties and the Court to update them on the status of the administration of the Settlement.

4. Except to the extent expressly required by this Addendum, in no event will Plaintiff or Class Counsel be entitled to receive, nor will the Settlement Administrator provide to any of them, the Class List or the first or last name or email address of any current or former Settlement Class Member. Plaintiff and Class Counsel will keep all information they receive regarding the Settlement Class and Settlement Class Members strictly confidential and will not use such information for any purpose other than consummating the Settlement.

B. SETTLEMENT FUNDS

5. All amounts required to be paid pursuant to the Settlement Agreement, including, without limitation, Settlement Payments, Administrative Expenses, the Fee Award, and the Service Award, will be paid from the Settlement Fund.

6. Once Defendant has put the required amount of money into the Settlement Fund, Defendant has no obligation to put any more money into the Settlement Fund. Defendant will keep records sufficient to show all amounts it pays into and out of the Settlement Fund.

7. The Settlement Fund have been or will be put into a trust account held by Defendant, and within seven (7) days after Preliminary Approval by the Court, the Settlement Fund will be transferred to the Settlement Administrator to be held in trust and ultimately distributed pursuant to the Settlement Agreement and Addendum.

8. The Settlement Administrator will pay no more than forty (40%) percent of the settlement fund to class counsel. The Settlement Administrator will pay no more than \$5,000.00 to Class Representative, Randall Sally, for his service award. Settlement Administration fees will be paid as they accrue (not in advance). The Settlement Administrator will subtract and pay its administrative fees and costs from the Settlement Fund. Attorneys' fees, Class Representative Award and Administrative Expenses will be paid from the Settlement Fund. The remaining amount of the Settlement Fund will be calculated and paid *pro rata* by the Settlement Administrator to each class members as follows:

- a. Payment for each Settlement Class Member is made by dividing the remaining amount of the Settlement Fund among the Settlement Class Members in proportion to the total Potential Tax Overcharges on each Settlement Class Member's Qualifying Purchases.

- b. As a simplified, hypothetical example solely for illustration purposes, suppose there are only three Settlement Class Members, Anna, Brian, and Cindy. Anna's Potential Tax Overcharges on her Qualifying Purchases totaled \$1; Brian's totaled \$4; and Cindy's totaled \$5. Suppose also that the remaining amount of the Settlement Fund totals \$5. Pursuant to the methodology in this Paragraph, Anna's final Settlement Payment would be \$0.50, Brian's would be \$2, and Cindy's would be \$2.50.
- c. The Settlement Administrator will issue the payment to the class members within seven (7) business days from the Effective Date. The payments will be delivered via electronic payment to the class members email addresses that are provided to administrator by Defendant. If the attempts to deliver the electronic

9. The Settlement Payments will remain valid for ninety (90) days from the date of their issuance. After this 90-day period, the payments will no longer be valid or negotiable and the Settlement Administrator will promptly cancel all payments that have not been redeemed. The Settlement Class Members will be clearly notified in **Exhibit ___** to this Addendum that the payments will fully expire after 90 days from the date of the issuance. In the event the Settlement Payment made to any Settlement Class Member expires, that Settlement Class Member shall nevertheless remain bound by the terms of the Settlement Class Members Released Claims.

10. Promptly after cancelling the last unredeemed Settlement Payment, the Settlement Administrator will restore to the Settlement Fund any amounts that it temporarily removed and set aside pursuant to the Settlement Agreement and this Addendum but did not use to reimburse Administrative Expenses. The Settlement Administrator will then pay out the entire remaining amount of the Settlement Fund (which will include, at a minimum, the value of all cancelled Settlement Payments and any amounts that previously were set aside to be used, but were not used, for Administrative Expenses) in a 50/50 split payable to "The Buddy Fund" and Legal Services of Eastern Missouri or, if that entity will not accept the funds, another 501(c)(3) non-profit to be agreed upon by the Parties.

C. NOTICE TO THE SETTLEMENT CLASS AND CALCULATION OF SETTLEMENT PAYMENTS

11. Before it sends Notices, the Settlement Administrator will purchase the internet domain name "www.missouritaxsettlementadidas.com" or, if that name is unavailable or unreasonably expensive, a substantially similar domain name agreed to by the Parties, and will establish at that location, and thereafter maintain until this Addendum is fully consummated or is terminated, a website with the following features and content:

- a. A "Home" webpage containing either the full text of a "Detailed Class Notice," as agreed to by the Parties, or a link to download such Detailed Class Notice; and also containing links to the other webpages making up the settlement website;

- b. A “Documents” webpage containing links to download (a) the Settlement Agreement, (b) the Court’s Preliminary Approval order, and (c) any filing or order thereafter made or entered in the Action relating to the settlement described in this Agreement;
- c. A webpage containing a fillable online “Opt-Out Form,” which Settlement Class Members may use to exclude themselves from the Settlement Agreement and Addendum;
- d. Optionally, and subject to further discussion and agreement by the Parties and the Settlement Administrator, a webpage containing a fillable online “Payment Method Selection Form,” which may be used by a Settlement Class Member to designate a method by which that Settlement Class Member’s Settlement Payment will be sent if the Effective Date occurs;
- e. A webpage containing a fillable online form which may be used to submit questions regarding the settlement described in this Agreement;
- f. A link to the Court’s calendar, which is available at <https://www.courts.mo.gov/cnet/calendarSearchResult.do?countyCode=&refreshForm=Y&courtCode=CT21SPACESLC&startDate=01%2F22%2F2023&searchType=J&searchLength=7&judgeId=35969&judgeSortBy=cn&mobarNumber=&attySortBy=cn> ; and
- g. Any other features or content agreed to by the Parties and relating to the settlement described in this Agreement.

12. Within seven (7) days after the Administration Start Date, Defendant will prepare the Class List and provide it to the Settlement Administrator. ‘

13. The Settlement Administrator may, in its reasonable business judgment, elect to use cost-effective means to verify and, if necessary, make reasonable changes or updates to any or all of the email addresses and mailing or shipping addresses on the Class List to promote accuracy or ease of sending Notice or to reduce the expense of sending Notice. The Parties agree that if an email addresses are available, then the Settlement Administrator will use email for sending Notice. The Settlement Administrator will send at least two reminder emails with payment links to those who have not accessed their electronic funds or requested payment by check.

14. The Settlement Administrator will calculate an estimated Settlement Payment for each Settlement Class Member by dividing the Net Settlement Proceeds Estimate among the Settlement Class Members in proportion to the total Potential Tax Overcharges on each Settlement Class Member’s Qualifying Purchases. An example is in paragraph 8(b) above.

15. The Settlement Administrator will update the Class List to include the amount of each Person’s estimated Settlement Payment and provide the updated Class List to Defendant.

Defendant will then promptly provide Class Counsel with a copy of the Class List that has been modified to remove all first and last names and email addresses.

16. The Settlement Administrator will cause or prepare a computer program to generate a unique copy of the “Short-Form Class Notice,” in substantially the same form as agreed to by the Parties, for each person on the Class List; each person’s copy of the Notice will include the following information:

- a. A code uniquely identifying the person (if the codes used by the Settlement Administrator are different from the codes provided by Defendant on the Class List, the Settlement Administrator will update the Class List to include the new codes);
- b. The person’s first and last names;
- c. The person’s total amount of Potential Tax Overcharges;
- d. The person’s estimated Settlement Payment; and
- e. A statement describing how the person will or may receive the person’s Settlement Payment if the Effective Date occurs.

17. As soon as reasonably practicable after receiving the Class List, but no later than forty-two (42) days after the Administration Start Date, the Settlement Administrator will send the Notices to their intended recipients by one of the following two methods: for all recipients for whom the Class List contains an email address, via email; and for all recipients for whom the Class List does not contain email address, via postcard using a reputable, cost-effective mailing method.

18. The Settlement Administrator will then identify all Persons on the Class List for whom its email software program has reported that the Notice sent by email was not delivered. The Settlement Administrator will promptly report to the Parties the number of such persons. As soon as reasonably practicable, but no later than fifty-six (56) days after the Administration Start Date (such 56th day is the “Notice Date”), the Settlement Administrator will send Notices to such persons via postcard using a reputable, cost effective mailing method.

19. On the date that is fourteen (14) days after the Notice Date, the Settlement Administrator will report to the Parties the number of postcard Notices that were returned undeliverable as of the date of the report. The Settlement Administrator has no obligation to make a further attempt to send such Notices to their intended recipients so long as the total number of Notices returned undeliverable is less than fifteen percent (15%) of the total number of Notices mailed.

D. REQUESTS FOR EXCLUSION AND OBJECTIONS

20. The Notice will direct Settlement Class Members to the settlement website for more information about the settlement. The settlement website will include the “Detailed Class

Notice,” which will advise Settlement Class Members of their rights: (a) to exclude themselves from this Settlement and forgo its benefits but preserve any rights they may have to pursue claims against Defendant; and (b) to object to this Settlement personally or through counsel. The settlement website will include a fillable online “Opt-Out Form” that Settlement Class Members may use to exclude themselves from the Settlement.

21. Any Settlement Class Member other than Plaintiff may request to be excluded from this Settlement by completing and submitting the fillable online “Opt-Out Form” on the settlement website on or before the date that is forty-nine (49) days after the Notice Date (such 49th day after the Notice Date is the “Objection/Exclusion Deadline”) or by mailing a letter via first class mail to the Settlement Administrator postmarked on or before the Objection/Exclusion Deadline. For a letter to be a “complete” exclusion request, it must include the Settlement Class Member’s first and last names, the unique identifying code from the Settlement Class Member’s Notice, a statement that the Settlement Class Member requests to be excluded from the settlement, and the Settlement Class Member’s signature. An exclusion request submitted via the “Opt-Out Form” will be deemed a “complete” exclusion request so long as all required fields are filled in with the requested information, which will include: the Settlement Class Member’s first and last names, the unique identifying code from the Settlement Class Member’s Notice, and a checkbox or similar field serving as the electronic equivalent of a signature and affirming that the Settlement Class Member requests to be excluded from the settlement. A request for exclusion may only be brought on behalf of the individual Settlement Class Member making the request, and “mass” or “class” requests for exclusion will not be valid and will have no effect. Any Settlement Class Member who submits a timely and complete exclusion request pursuant to the requirements of this Paragraph will no longer be a Settlement Class Member, will not be bound by this Settlement or the Final Approval Order, will not be entitled to any rights, relief, or benefits under or by virtue of this Settlement, and will not be entitled to object to or otherwise contest this Settlement. Any Settlement Class Member who fails to submit a timely and complete exclusion request will continue to be a Settlement Class Member, will not be excluded from this Settlement, and will be bound by this Settlement upon the issuance of the Final Approval Order.

22. Any Settlement Class Member other than Plaintiff may object to this Settlement by mailing a letter via first class mail to the Settlement Administrator postmarked on or before the Objection/Exclusion Deadline. To be a “complete” objection (without regard to whether the objection has factual or legal merit), the letter must include the Settlement Class Member’s first and last names; the unique identifying code from the Settlement Class Member’s Notice; all arguments, citations, and evidence supporting the objection (including copies of any documents relied upon); the name and contact information of the Settlement Class Member’s counsel, if any; a statement whether the Settlement Class Member or counsel intends to appear at the Final Approval Hearing; and the Settlement Class Member’s signature. Any person who fails to submit a timely and complete objection pursuant to the requirements of this Paragraph will be deemed to have waived any and all objections and will not be permitted to object to this Settlement in any manner, in the Action or any other proceeding.

23. Plaintiff is conclusively deemed to be a Settlement Class Member and is not permitted to object to or request exclusion from this Settlement, and any such objection or exclusion request will not be valid and will have no effect.

24. On the date that is fourteen (14) days after the Objection/Exclusion Deadline, the Settlement Administrator will provide to the Parties a declaration attesting to the completing of the Notice process set forth in this Addendum, list of the unique identifying codes corresponding to the persons who have submitted timely and complete requests for exclusion, and a summary of any disputes raised by any Class Members. The Settlement Administrator will supplement the list from time to time to the extent it receives further timely and complete requests for exclusion. The declaration and any supplements shall be filed with the Court by Class Counsel along with a motion requesting final approval of the Settlement.

25. Should the Settlement Administrator receive any requests for exclusion that it believes are not timely or are not complete, it will notify the Parties and will provide copies of the materials received, and reports summarizing the materials received, to the Parties upon request.

26. Should the Settlement Administrator receive any objections, whether or not timely or complete, it will promptly provide the Parties with copies of the materials received.

27. Should the Settlement Administrator receive any other correspondence in connection with administering this Settlement, it will promptly provide the Parties with copies of the materials received.

28. The Parties agree that compliance with the procedures described in this Addendum constitutes due and sufficient notice to Class Members of the Settlement and the Final Approval Hearing, and satisfies the requirements of due process, and nothing else shall be required of Plaintiffs, Class Counsel, Defendants, Defense Counsel, or the Settlement Administrator to provide notice to Class Members of the Settlement and the Final Approval Hearing, unless ordered by the Court.

E. FEE AWARD AND SERVICE AWARD

29. No later than the date that is twenty-one (21) days after the Notice Date, Class Counsel may file a motion that the Court, if it grants final approval of the Settlement, include in the Final Approval Order an order for a Fee Award to Class Counsel, to be paid out of the Settlement Fund, in an amount up to but not exceeding the amount described in paragraph 8 of this Addendum. Defendant will not oppose the Fee Award motion so long as it does not seek more than that amount and is filed within the foregoing timeframe. In no event will Class Counsel request or move for any payment to be made to them in excess of that amount.

30. Plaintiff may include in the motion for final approval of the Settlement a request for a Service Award, to be paid out of the Settlement Fund, in an amount up to but not exceeding the amount stated in Paragraph 8 of this Addendum and subject to Paragraph 7 of the Settlement Agreement. Defendant will not oppose the Service Award request so long as it does not seek more than that amount. In no event will Plaintiff request or move for any payment to be made to him in excess of that amount.

31. Other than as expressly stated herein with respect to the Fee Award, the Released Parties will have no responsibility for, and no liability with respect to, payment of Plaintiff's or any Settlement Class Member's attorneys' fees, costs, or expenses. The Released Parties also will have no responsibility for, and no liability with respect to, the allocation of the Fee Award and Service Award among Plaintiff and Class Counsel or any disputes regarding such allocation. Plaintiff and Class Counsel each agree to indemnify and hold harmless all of the Released Parties in connection with any such claim or dispute. Plaintiff and Class Counsel are solely responsible for any income or other tax payable by any of them resulting from the receipt of any portion of the Fee Award or Service Award.

32. Except as expressly provided herein with respect to the Fee Award, Plaintiff and Class Counsel will bear their own fees, costs, and expenses relating to the Action and the Settlement, including, without limitation, the activities necessary to consummate the Settlement.

F. APPROVAL AND EFFECTIVE DATE OF THE CLASS SETTLEMENT

33. Before making any filing with the Court in connection with consummating the settlement described in the Settlement Agreement and Addendum, the Party that intends to make the filing will share a draft of the complete filing with the other Party and will give the other Party seven (7) days to review the draft and propose revisions.

34. Plaintiff will immediately begin preparing and, within twenty-one (21) days after execution of this Addendum, will submit to the Court, a motion for Preliminary Approval of this Settlement with supporting papers and a proposed Preliminary Approval order, which: (a) preliminarily approves the necessary portions of this Settlement Agreement and Addendum in all material respects; (b) conditionally certifies the Settlement Class for settlement purposes only; (c) appoints Plaintiff as class representative for settlement purposes only; (d) appoints Class Counsel as class counsel for settlement purposes only; (e) appoints the Settlement Administrator to perform the Settlement Administrator's duties set forth in this Agreement; (f) authorizes the Parties, without further approval from the Court, to make reasonable modifications to this Addendum (including its Exhibits) by written agreement, so long as the modifications do not materially limit the rights of Settlement Class Members; (g) sets a date for the Final Approval Hearing that is a sufficient number of days after the date of Preliminary Approval to account for the events detailed in this Addendum that must occur before final approval; (h) sets the date referred to in Paragraph 28 of this Addendum as the deadline for Class Counsel's Fee Award motion; (i) incorporates any other provisions, consistent with the material terms of this Settlement Agreement and Addendum, as the Court deems necessary and just; and (j) to the extent the Court finds it appropriate, preliminarily addresses matters relating to the anticipated Administration Expenses, the Refund Amount, the Net Settlement Proceeds Estimate, Class Counsel's anticipated Fee Award motion, and Plaintiff's anticipated request for the Service Award.

35. Following the Court's order granting preliminary approval of the Settlement, the Settlement Administrator shall disseminate the Notice of Class Action Settlement in the form attached hereto as Exhibit ___ to the Class Members.

36. At least fourteen (14) days before the date of the Final Approval Hearing, Plaintiff will file a Motion for Final Approval of the Settlement. The motion will reiterate the amount requested for the Fee Award in the motion filed pursuant to Paragraph 8, will state the amount requested for the Service Award, pursuant to Paragraph 8, and will include supporting papers and a proposed Final Approval Order, which: (a) finally approves the Settlement Agreement and Addendum; (b) finds that the Parties have met all applicable legal requirements relating to notifying the Settlement Class of the Settlement of the Action and providing an opportunity to object or request exclusion from the Settlement Class; (c) finds that the Settlement Agreement and Addendum meet all applicable legal requirements for a class settlement and is final and binding on all Settlement Class Members; (d) states the amount, if any, of the Settlement Fund that will be paid to Plaintiff as his Service Award; (e) states the amount, if any, of the Settlement Fund that will be paid to Class Counsel as their Fee Award; (f) orders that the remaining amount of the Settlement Fund be paid out as set forth in this Agreement; (g) orders that the releases set forth in this Agreement will become effective upon the Effective Date; (h) dismisses the Action on the merits and with prejudice, without fees or costs to any party except as provided in this Agreement; (i) without affecting the finality of the Final Approval Order for purposes of appeal, retains jurisdiction regarding all matters relating to the further administration and enforcement of the Settlement Agreement and the Final Approval Order until such time as the Court determines that the Settlement Agreement is fully consummated; (j) continues to authorize the Parties, without further approval from the Court, to make reasonable modifications to the Settlement Agreement or Addendum (including its Exhibits) by written agreement, so long as the modifications are consistent with the Final Approval Order and do not materially limit the rights of Settlement Class Members; and (k) incorporates any other provisions, consistent with the material terms of the settlement, as the Court deems necessary and just.

37. If the Court grants final approval of the Settlement, the Settlement Administrator shall post notice of final judgment on its website within seven (7) calendar days of entry of the Final Order and Judgment.

38. The Effective Date of the Class Settlement will occur after each and every one of the following events is completed, and will be the first business day after the last in time all of the following events is completed:

- a. This Addendum has been fully executed;
- b. The Funds have been transferred to adidas and then to the Settlement Administrator;
- c. The Court has entered an order granting Preliminary Approval of this Settlement Agreement; and
- d. The Court has entered the Final Approval Order; and the Final Approval Order has become Final.

39. If the Court for any reason does not approve the Settlement, this Settlement shall be considered null and void and the Parties to this Settlement shall stand in the same position, without prejudice, as if the Settlement had been neither entered into nor filed with the Court.

Invalidation of any material provision of the Settlement shall invalidate the Settlement in its entirety unless the Parties agree in writing that the remaining provisions shall remain in full force and effect.

G. RELEASES

40. Settlement Class Member Released Claims: Upon the Effective Date, each Settlement Class Member and that Settlement Class Member's Releasing Parties will be deemed to have, and by operation of the Final Approval Order will have, fully, finally, and forever, irrevocably and unconditionally released, acquitted, relinquished, and discharged the Released Parties from and against all of the following, through and including (but not beyond) the Effective Date: any and all debts, obligations, losses, costs, controversies, suits, liabilities, judgments, damages, expenses, filings, complaints, grievances, claims, demands, actions, and causes of action of any kind or nature whatsoever, whether at law or equity, asserted or unasserted, express or implied, real or imaginary, suspected or unsuspected, known or unknown, direct, indirect, or consequential, liquidated or unliquidated, foreseen or unforeseen, developed or undeveloped, arising under common law, regulatory law, statutory law, or otherwise, whether based on federal, state or local law, statute, ordinance, regulation, code, contract, common law, or any other source, that the Settlement Class Member or any of the Settlement Class Member's Releasing Parties ever had, have, may have, or claim or assert to have against any of the Released Parties arising out of or relating to the facts alleged in the Amended Complaint in this Action, including, without limitation, (a) the claims that were pleaded therein; and (b) all claims arising out of or relating to the amount of tax adidas charged on purchases that are shipped to a Missouri address from a location outside Missouri ("**Settlement Class Member Released Claims**").

41. Upon the Effective Date, each Settlement Class Member and that Settlement Class Member's Releasing Parties will be deemed to have, and by operation of the Final Approval Order will have, represented, covenanted, and agreed not to bring any claim, action, suit, or proceeding of any nature whatsoever in any venue (including in any court, with any regulatory or governmental agency, via arbitration or otherwise) against any of the Released Parties with respect to the Settlement Class Member Released Claims to the fullest extent permitted by applicable law.

42. A Settlement Class Member may hereafter discover facts in addition to or different from those which the Settlement Class Member now knows or believes to be true with respect to the subject matter of the Settlement Class Member Released Claims, but the Settlement Class Member will be deemed to have, and by operation of the Final Approval Order will have, fully, finally, and forever settled and released any and all Settlement Class Member Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which then exist, or heretofore have existed upon any theory of law or equity now existing or coming into existence in the future, including, without limitation, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. If Section 1542 of the Civil Code of the State of California, or any comparable law or regulation, applies to this Agreement, then Settlement Class Members will be deemed to have waived any rights under that statute (and under any comparable law or regulation) and thus to have waived

any claims that they do not now know or suspect to exist in their favor that would materially affect the settlement.

43. Class Counsel further represent that that they understand and acknowledge, and accept on behalf of the Settlement Class Members, the consequence of this express waiver of Section 1542 of the Civil Code of the State of California, which reads as follows:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

44. All Settlement Class Members will be bound by this release unless they timely submit a complete request for exclusion from this Settlement Agreement by following the procedures set forth in Paragraphs 21 and 22 of this Addendum.

45. Class Representative Released Claims: Upon the Effective Date, the Class Representative and his Releasing Parties will be deemed to have, and by operation of the Final Approval Order will have, fully, finally, and forever, irrevocably and unconditionally released, acquitted, relinquished, and discharged the Released Parties from and against all of the following, through and including (but not beyond) the Effective Date: any and all debts, obligations, losses, costs, controversies, suits, liabilities, judgments, damages, expenses, filings, complaints, grievances, claims, demands, actions, and causes of action of any kind or nature whatsoever, whether at law or equity, asserted or unasserted, express or implied, real or imaginary, suspected or unsuspected, known or unknown, direct, indirect, or consequential, liquidated or unliquidated, foreseen or unforeseen, developed or undeveloped, arising under common law, regulatory law, statutory law, or otherwise, whether based on federal, state or local law, statute, ordinance, regulation, code, contract, common law, or any other source, that the Class Representative or any of the Class Representative's Releasing Parties ever had, have, may have, or claim or assert to have against any of the Released Parties arising out of or relating to the facts stated in the First Amended Petition.

46. Upon the Effective Date, the Class Representative and his Releasing Parties will be deemed to have, and by operation of the Final Approval Order will have, represented, covenanted, and agreed not to bring any claim, action, suit, or proceeding of any nature whatsoever in any venue (including in any court, with any regulatory or governmental agency, via arbitration or otherwise) against any of the Released Parties with respect to the Class Representative Released Claims to the fullest extent permitted by applicable law.

H. ADDITIONAL PROVISIONS

47. Cooperation. The Parties: (a) acknowledge that it is their intent to consummate the Settlement described in this Release and Settlement Agreement and Addendum to the Release and Settlement Agreement; and (b) agree, subject to their fiduciary and other legal obligations, to cooperate and to use their reasonable best efforts to consummate the settlement described in this Addendum.

48. Court-requested Modifications. If the Court asks the Parties to modify any aspect of the Settlement Agreement, or if it appears that a modification of the Settlement Agreement might resolve an issue identified by the Court as an impediment to its granting Preliminary Approval or final approval of the Settlement Agreement or Addendum, then the Parties will meet and confer in good faith to consider potentially modifying the Settlement Agreement or Addendum to resolve any issues identified by the Court. Any such modification of the Settlement Agreement or Addendum will be by mutual written consent of the Parties, and no Party will be obligated to accept modifications without its consent.

49. No Assertions of Bad Faith or Lack of Reasonable Basis. The Parties intend this Settlement Agreement and Addendum to be a final and complete resolution of all disputes between them. Accordingly, the Parties agree not to assert in any forum that the Action was brought by Plaintiff or defended by adidas in bad faith or without a reasonable basis in any respect.

50. Voluntary, Arm's Length Settlement. The Parties represent and agree that the terms of this Addendum were negotiated at arm's length and in good faith by the Parties and reflect a settlement that was reached voluntarily based upon adequate information and sufficient investigation and after consultation with experienced legal counsel.

51. Mutual Drafting and Intent to Be Bound. The determination of the terms of, and the drafting of, this Addendum have been by mutual agreement after negotiation, with consideration by and participation of the Parties and their counsel. This Addendum accordingly will not be construed more strictly against one Party than the other. The Parties have read and understand fully this Addendum and have been fully advised as to the legal effect hereof by counsel of their own selection and intend to be legally bound by the same.

52. Arbitration Agreements and Class Action Waivers Do Not Affect This Settlement. No arbitration agreement or class action waiver between Defendant and any Settlement Class Member will have any effect upon whether this Settlement Agreement applies to any Settlement Class Member.

53. Class Certification Solely for Settlement Purposes. The Parties agree and acknowledge that Defendant's agreement to the conditional certification of the Settlement Class described herein is for purposes of this Settlement Agreement and Addendum only. Should, for whatever reason, the Effective Date not occur, then the Parties' stipulation to certification of the Settlement Class will become null and void *ab initio* and will have no bearing on, and will not be admissible in connection with, the issue of whether or not certification is proper or appropriate in the Action or in any other court or adversarial proceeding. Defendant expressly reserves its right to, and declares that it intends to, oppose class certification should this Settlement not become final.

54. Dispute Resolution. In the event of a bona fide dispute between the Parties regarding the meaning, interpretation, validity, or enforceability of any term or aspect of this Addendum, either Party may file a motion with the Court seeking a ruling on the disputed issue.

All deadlines in this Addendum will be tolled from the date of filing of the motion until the date both Parties have received notice of the Court's decision.

55. Signatories' Representations. Each Person signing this Addendum on behalf of a Party hereby warrants and represents that such Person has the full authority to sign this Addendum on behalf of that Party and has the authority to take appropriate action required or permitted to be taken by that Party pursuant to the Settlement Agreement and this Addendum to effectuate its terms. Each attorney signing this Addendum warrants and represents that he has the full authority to sign on behalf of both himself and the law firm listed in his signature block and has the authority to take appropriate action required or permitted to be taken by Class Counsel (for Mr. Orlowsky and Mr. Goffstein), or by Defendant's Counsel (for Mr. Rawles), pursuant to this Addendum to effectuate its terms.

56. No Anticipated Cases. Each Class Counsel represents and agrees that neither he nor any of his principals, employees, or agents has or has knowledge of current or prospective undisclosed clients with claims against Defendant, or any of Defendant's affiliated entities, regarding the claims asserted, or that could have been asserted, in this Action. Each Class Counsel further represents that neither he nor any of his principals, employees, or agents has any present intention to represent or assist in representing any plaintiffs in a use tax v. sales tax lawsuit other than this Action against adidas or any of adidas's affiliated entities. For the avoidance of doubt, this Paragraph does not prevent Class Counsel from representing any client in any litigation or other legal matter.

57. Calculation of Time. If the date for performance of any act required by or under this Settlement Agreement falls on a Saturday, Sunday, federal holiday, or Court holiday, that act may be performed on the next business day with the same effect as if it had been performed on the day or within the period of time specified by or under this Addendum or Settlement Agreement.

58. Change of Time Periods. Any time period, date, or deadline described in this Addendum or the Settlement Agreement may be modified, without notice to the Settlement Class, if set by agreement of the parties or by a Court order, as applicable. The settlement website will advise Settlement Class Members that they may check the Court's calendar, which is available at:

www.courts.mo.gov/cnet/calendarSearchResult.do?countyCode=&refreshForm=Y&courtCode=CT21SPACESLC&startDate=01%2F22%2F2023&searchType=J&searchLength=7&judgeId=35969&judgeSortBy=cn&mobarNumber=&attySortBy=cn

to confirm whether certain Court-ordered time periods, dates, or deadlines have been changed, including the date for the Final Approval Hearing. If one of the Parties requests that a timeline or deadline be extended for good cause, then the Parties agree to be reasonably agreeable in an effort to work together to extend the timeline or deadline (especially if the extension does not require the moving of other deadlines).

59. Governing Law. This Addendum is intended to and will be governed by the laws of the state of Missouri, without giving effect to any conflicts of law principles

60. Sections, Paragraphs, Recitals, and Exhibits Incorporated. All of the Sections, Paragraphs, Recitals, and Exhibits to this Addendum are material and integral parts of the Settlement between the Parties and are hereby fully incorporated into the Settlement Agreement. If any Exhibit to this Addendum or Settlement Agreement has not been drafted as of the date of execution of this Addendum, upon being drafted and agreed upon by the Parties such Exhibit will become a material and integral part of the settlement between the Parties and will hereby be fully incorporated into this Addendum or Settlement Agreement, as appropriate..

61. Entire Agreement/Use of term Agreement. The Settlement Agreement, Addendum, Recitals and Exhibits, together set forth the entire agreement and understanding of the Parties with respect to the matters set forth herein and supersedes all prior negotiations, agreements, arrangements, and undertakings with respect to the matters set forth herein. No representations, warranties, or inducements have been made to any party concerning this Settlement other than the representations, warranties and covenants contained and memorialized within the documents referenced in this paragraph.

62. Modification. This Addendum may be amended or modified only by written instrument signed by or on behalf of both Parties or their respective successors-in-interest.

63. Binding Agreement. This Addendum will be binding upon and inure to the benefit of the Parties' respective heirs, successors, and assigns.

64. Notices. All notices required by this Addendum must be made in writing and communicated either (a) by overnight delivery to all of the applicable mailing addresses below, in which event the notice will be deemed given on the first business day after the date of sending; or (b) by email to all of the applicable email addresses below, in which event the notice will be deemed given on the date of sending. The applicable mailing and email addresses are as follows:

If the notice is to Plaintiff or Class Counsel:

Daniel J. Orlowsky Orlowsky Law, LLC
7777 Bonhomme, Suite 1910 St. Louis, MO 63105 dan@orlowskylaw.com

-and-

Adam M. Goffstein Goffstein Law, LLC
7777 Bonhomme, Suite 1910 St. Louis, MO 63105 adam@goffsteinlaw.com

If the notice is to Defendant or Defendant's Counsel:

Douglas C. Rawles, Reed Smith LLP
355 South Grand Avenue, Suite 2900, Los Angeles, CA 90071; drawles@reedsmith.com

65. Execution in Counterparts. The signatories may execute this Addendum in counterparts, and such execution will have the same force and effect as if all signatories had

signed the same instrument. The Parties may exchange the counterparts in electronic format, such as PDF, and by electronic means, such as email.

66. Going Forward Relief: adidas' Representation Regarding Its Tax Compliance Methodology. Defendant represents that it has amended its tax compliance methodology to conform with Plaintiff's theory that Missouri use tax applies to retail transactions for the purchase of tangible personal property for which all of the following are true: (a) the transaction is made either via adidas' website, www.adidas.com, or via another remote sales channel for which adidas is responsible for calculating tax due on the purchase; (b) the purchased property was shipped by or on behalf of Defendant from a location outside the state of Missouri; and (c) the purchaser's delivery address is within the state of Missouri.

67. Drafting the Exhibits. The Parties acknowledge that this Addendum is being signed without having drafted any of the Exhibits, and that the Parties intend to jointly draft and agree upon the form and contents of those Exhibits at a later date, which will be before filing the motion for Preliminary Approval. The Parties agree that each of Exhibits will have a form and contents that are reasonably effective in achieving its intended purpose and will be consistent with this Addendum to Settlement and Release Agreement and to the extent any dispute arises between the Parties during the drafting of any of the Exhibits regarding the form or contents of such Exhibit, no Party may terminate the Settlement Agreement or Addendum solely on the basis of such dispute, but either Party may file a motion with the Court seeking an order resolving the dispute. The Court may make any order it deems appropriate regarding the form or contents of any such disputed Exhibit, except that the Court will not have the power to modify the terms of this Agreement and, accordingly, may not order that any Exhibit have a form or contain any content that is inconsistent with the Settlement Agreement, Addendum, or any term of either.

68. Headings for Convenience Only. The headings used herein are for convenience only and are not intended to have legal effect.

IN WITNESS WHEREOF the undersigned, being duly authorized, have caused this Addendum to Settlement and Release Agreement to be executed on the dates shown below.

[Signature page follows]

AGREED TO AND ACCEPTED:

Randall Sally

RANDALL SALLY, on behalf of himself
and all others similarly situated

Dated: MARCH 1, 2023

ADIDAS AMERICA, INC.

The undersigned are authorized to sign for and bind Defendant

Signature

Dated: _____

Name: _____

Title: _____

Signature

Dated: _____

Name: _____

Title: _____

D. J. Orlowsky

Daniel J. Orlowsky
Orlowsky Law, LLC
7777 Bonhomme, Suite 1910
St. Louis, Missouri 63105
dan@orlowskylaw.com
Attorney for Plaintiff Sally

Dated: 3.1.2023

Adam M. Goffstein
Adam M. Goffstein
Goffstein Law, LLC
7777 Bonhomme, Suite 1910
St. Louis, Missouri 63105
adam@goffsteinlaw.com
Attorney for Plaintiff Sally

Dated: 3.1.2023

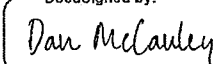
AGREED TO AND ACCEPTED:

RANDALL SALLY, on behalf of himself
and all others similarly situated

Dated: _____

ADIDAS AMERICA, INC.

The undersigned are authorized to sign for and bind Defendant

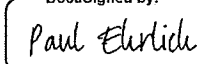
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Signature

Dated: 27.02.2023

Name: Dan McCauley

Title: SVP eCommerce

DocuSigned by:

51CA9296C2EF408...

Signature

Dated: 17.02.2023

Name: Paul Ehrlich

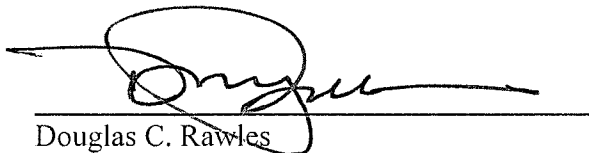
Title: General Counsel

Daniel J. Orłowsky
Orłowsky Law, LLC
7777 Bonhomme, Suite 1910
St. Louis, Missouri 63105
dan@orłowskylaw.com
Attorney for Plaintiff Sally

Dated: _____

Adam M. Goffstein
Goffstein Law, LLC
7777 Bonhomme, Suite 1910
St. Louis, Missouri 63105
adam@goffsteinlaw.com
Attorney for Plaintiff Sally

Dated: _____



Douglas C. Rawles
Reed Smith LLP
355 South Grand Avenue, Suite 2900
Los Angeles, CA 90071
drawles@reedsmith.com
Attorney for Defendant adidas America, Inc.

Dated: 3-1-2023