

## PLAN OF ALLOCATION

### 1. The Net Settlement Fund and Authorized Claimants

The Net Settlement Fund<sup>1</sup> in this case shall be distributed on behalf of or to Class Members who (1) either have been identified as such by Southwest or who have been determined by the Settlement Administrator to be Class Members, and (2) have not successfully opted out of the Settlement (“Authorized Claimants”).

### 2. Sick Leave Payments for Class Members No Longer Employed

Before any shares of the Net Settlement Fund are allocated for Class Members’ claims related to USERRA make-up contributions, each Authorized Claimant who is no longer employed by Southwest 30 days after the Effective Date of the Settlement shall be allocated a \$1,000 share of the Net Settlement Fund, except that if a Class Member has elected to exchange accrued sick leave for continued health coverage upon retirement and the Class Member is still receiving those continued benefits on the date of the distribution of sick leave, that Class Member will receive additional accrued sick leave in the same manner as current Southwest employees. The \$1,000 shares of the Net Settlement Fund shall not reduce the amount of supplemental retirement contributions or payments the Authorized Claimant who is no longer employed by Southwest at the time of the Effective Date of the Settlement is entitled to receive under this Plan of Allocation. The total amount of these \$1,000 shares allocated to Authorized Claimants who are no longer employed by Southwest 30 days after the Effective Date of the Settlement shall be referred to as the “Former Employee Sick Leave Settlement Shares.”

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<sup>1</sup> Unless otherwise defined in this Plan of Allocation, capitalized terms have the meanings ascribed to them in the Settlement Agreement. In all instances of discrepancy or ambiguity in definitions or otherwise, the terms of the Settlement Agreement shall control.

**3. Recognized Claims**

The Settlement Administrator shall determine each Authorized Claimant's pro rata share of the Net Settlement Fund less the Former Employee Sick Leave Settlement Shares based upon each Authorized Claimant's "Recognized Claims." Each Authorized Claimant's Recognized Claims shall be determined based upon the aggregate of the potential matching retirement contributions described in Section 2(A) and 2(B) below.

**A. Potential Matching Retirement Contributions for Short-Term Military Leave From 2008 to 2013**

Based upon the personnel data provided by Southwest for the period of January 1, 2008 through December 31, 2013, for every period in which an Authorized Claimant took Short-Term Military Leave and dropped one or more trips between January 1, 2008 and December 31, 2013, the Authorized Claimant shall have potential matching retirement contributions based on the following calculation:

(1) Each day of Short-Term Military Leave in which a trip was dropped shall be multiplied by 7.1 TFP, then multiplied by the average base wage rate of the pilot in the same year, and then multiplied by the maximum percentage of a pilot's pensionable pay that Southwest would match under the CBA during the same year<sup>2</sup> ("matching make-up contributions per period of Short-Term Military Leave").

(2) For each year from 2008 to 2013, sum the matching make-up contributions per period of Short-Term Military Leave; however, for any single year in which the sum of the matching make-up contributions per period of Short-Term Military Leave plus the amount of matching

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<sup>2</sup> Southwest matched 7.3% of pensionable pay between January 1, 2001 and December 31, 2008, 7.8% of pensionable pay between January 1, 2009 and December 31, 2009, and 9.3% of pensionable pay between January 1, 2010 and December 31, 2014.

retirement contributions that Southwest made for that pilot during that year exceeds \$25,000, then in that year the Authorized Claimant shall have potential matching retirement contributions equal to \$25,000 minus the amount of matching retirement contributions that Southwest previously made for that pilot during that year.<sup>3</sup>

(3) Sum the annual amounts of matching retirement contributions calculated in (2).

**B. Potential Matching Retirement Contributions for Short-Term Military Leave From 2001 to 2007**

The potential matching retirement contributions for periods between January 1, 2001 and December 31, 2007 shall be calculated based upon the number of days of Short-Term Military Leave that Authorized Claimants identify as having taken between January 1, 2001 and December 31, 2007, in timely claim forms submitted to and approved by the Settlement Administrator, based upon the following calculation:

(1) For each month between January 1, 2001 and December 31, 2007 in which an Authorized Claimant identified himself or herself as having taken Short-Term Military Leave, the Authorized Claimant will be deemed to have dropped one-half of a day of trips for every day in which he or she took Short-Term Military Leave, but no Authorized Claimant shall be deemed to have dropped trips for more than 7 days of Short-Term Military Leave in that month,<sup>4</sup> and no

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<sup>3</sup> For example, if an Authorized Claimant already received \$24,000 of matching retirement contributions from Southwest in 2013, and in 2013 the Authorized Claimant had an aggregate of \$1,500 of matching make-up contributions per period of Short-Term Military Leave, then the Authorized Claimant's potential matching retirement contributions for 2013 would be \$1,000 (the \$25,000 maximum annual matching contribution minus the \$24,000 retirement contribution the pilot already received that year), rather than \$1,500.

<sup>4</sup> Thus, if an Authorized Claimant claimed to have taken ten 10 days of Short-Term Military Leave in a specific month between January 1, 2001 and December 31, 2007, the Authorized Claimant shall be deemed to have dropped trips on 5 days in that month. But if an Authorized Claimant claimed to have taken 20 days of Short-Term Military Leave in a specific month between January

Authorized Claimant shall be deemed to have dropped more than 21 days of Short-Term Military Leave in a single year between January 1, 2001 and December 31, 2007 (“monthly dropped trip days from 2001 to 2007”). Dropped days of Short-Term Military Leave in excess of twenty-one (21) days will be eliminated from the earliest months in a year.<sup>5</sup>

(2) For any month between January 1, 2001 and October 31, 2004, the Authorized Claimant’s monthly dropped trip days from 2001 to 2007 shall be reduced by two-thirds to reflect Southwest’s defense that USERRA claims that accrued on or after October 10, 2004 are not timely in this action (“monthly dropped trip days from 2001 to 2007 with SOL discount”).

(3) For each month between January 1, 2001 and December 31, 2007, multiply the monthly dropped trip days from 2001 to 2007 with SOL discount by 7.1 TFP, then multiply the resulting figure by the average base wage rate of the pilot in the same year, and then multiply the resulting figure by the maximum percentage of a pilot’s pensionable pay that Southwest would match under the CBA during the same year (7.3%).

(4) Sum the monthly amounts of matching retirement contributions calculated in (2).

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1, 2001 and December 31, 2007, the Authorized Claimant would only be deemed to have dropped trips on 7 days in that month.

<sup>5</sup> For example, if an Authorized Claimant reports that he took 14 days of Short-Term Military Leave in June 2004, 14 days of Short-Term Military Leave in November 2004, 14 days of Short-Term Military Leave in September 2004, and 14 days of Short-Term Military Leave in December 2004, the Authorized Claimant will hit the annual cap of dropped days of Short-Term Military Leave and will receive credit for 21 days of dropped trip days of Short-Term Military Leave in 2004 (this is because 56 days of Short-Term Military Leave converts in to 28 days of dropped days of Short-Term Military Leave for the year). Accordingly, the Authorized Claimant’s 21 days of dropped trip days of Short-Term Military Leave in 2004 will be allocated among the later months that he took Short-Term Military Leave (7 dropped trip days in September 2004, 7 dropped trip days in November 2004, and 7 dropped trip days in December 2004). And the dropped trip days from June 2004 would not be counted towards the Authorized Claimant’s 21 dropped trip days that year.

**3. Allocation and Distribution of USERRA Make-Up Contributions**

Each Authorized Claimant shall receive a pro rata share of the Net Settlement Fund less the Former Employee Sick Leave Settlement Shares based on each Authorized Claimant's total Recognized Claims as compared to the total Recognized Claims for all Authorized Claimants. Each Authorized Claimant's pro rata share of the Net Settlement Fund less the Former Employee Sick Leave Settlement Shares shall constitute the payment—other than the accrued sick leave benefits and Former Employee Sick Leave Settlement Shares—that the Authorized Claimant shall receive under the Settlement Agreement. Pursuant to the Settlement Agreement, the Authorized Claimant shall receive some or all of the payment—other than the Former Employee Sick Leave Settlement Shares—as an employer contribution to the Authorized Claimant's 401(k) account subject to the Internal Revenue Service's guidance in response to Southwest's application for correction under the Employee Plan Compliance Resolution System, as set forth in Revenue Procedure 2016-51, or later guidance. Whatever amount of the Authorized Claimant's payment is not permitted to be contributed to the Authorized Claimant's 401(k) account on a tax-deferred basis shall be paid directly to the Authorized Claimant, subject to tax reporting and withholdings, including the withholding of any employee and employer payroll taxes, which shall be paid out of the Settlement Fund. The distributions of these payments—other than Former Employee Sick Leave Settlement Shares—into the Authorized Claimant's 401(k) accounts and/or directly to the Authorized Claimant shall be made by deadlines established by the Settlement Agreement or modified by the Court.

**4. Remaining Funds After the Distribution**

If any funds remain in the Net Settlement Fund by reason of uncashed checks or otherwise after 180 days after checks have been mailed to Authorized Claimants, the remaining

funds shall be distributed to non-sectarian, non-profit 501(c)(3) charitable organization recommended by Class Counsel and approved by the Court.