

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into by Plaintiffs James Boswell, Michelle Salazar-Navarro, and June Keen (collectively, “Plaintiffs”) and Defendants Costco Wholesale Corporation (“Costco”) and LODC Group, Ltd. (“LODC”) d/b/a Lily of the Desert (collectively, “Defendants”).

I. RECITALS

1.1 WHEREAS, Defendants manufacture and sell Kirkland Signature Coconut Oil (the “Product”);

1.2 WHEREAS, Plaintiffs filed an action asserting the Product was misleadingly and unlawfully labeled;

1.3 WHEREAS, Defendants deny all of Plaintiffs’ allegations;

1.4 WHEREAS, based upon the discovery taken to date, investigation, and evaluation of the facts and law relating to the matters alleged in the pleadings, and considering the costs, risks, and uncertainties of litigation, as well as all factors bearing on the merits of settlement, the parties have, following private mediation, agreed to settle the claims asserted in the Action, pursuant to the provisions of this Settlement Agreement.

1.5 NOW, THEREFORE, in consideration of the covenants and agreements set forth herein, and of the releases and dismissals of claims described below, the Parties agree to this Agreement, subject to Court approval, under the following terms and conditions:

II. DEFINITIONS

Capitalized terms in this Agreement shall be defined as follows:

2.1 “Agreement” means this Settlement Agreement, including all exhibits hereto.

2.2 The “Allegations” means the allegations in Plaintiffs’ complaints in this Litigation.

2.3 “Attorneys’ Fees and Costs” means such funds as may be awarded by the Court to Class Counsel for their past, present, and future work, efforts, and expenditures in connection with this Litigation and settlement, including fees, costs, and expenses of any experts, consultants, or other individuals retained by, or who assisted, Class Counsel in connection with this Litigation and settlement, as described more particularly in Section VI of this Agreement.

2.4 “Claim Administrator” means the third-party administrator agreed to by the Parties in writing and approved by the Court. The Claim Administrator shall be responsible for, among other things, providing Class Notice, processing Claim Forms, and administering the Settlement Website, exclusion process, and Settlement Benefit claims process described herein (including receiving and maintaining on behalf of the Court and the Parties any Settlement Class Member correspondence regarding requests for exclusion from the Settlement Class).

2.5 “Claim Filing Deadline” means twenty-eight (28) days prior to the initially scheduled hearing date on Final Approval, or another date set by the Court.

2.6 “Claim Form” means a form in substantially the same form as Exhibit A hereto.

2.7 “Claim Period” means the period beginning on the Notice Date and continuing until the Claim Filing Deadline.

2.8 “Class” means all persons in the United States who purchased, for personal or household use, Kirkland Signature Organic Coconut Oil in 42.3-ounce jars.

2.9 “Class Counsel” means the Class Representatives’ counsel of record, The Law Office of Jack Fitzgerald, PC, and The Law Office of Paul K. Joseph, PC, and each of their attorneys.

2.10 “Class Notice” means notice to the Class pursuant to Fed. R. Civ. P. 23(c), of this Settlement Agreement, consistent with the Notice Plan.

2.11 “Class Period” means March 1, 2014 through the present.

2.12 “Class Representatives” means Plaintiffs James Boswell, Michelle Salazar-Navarro, and June Keen.

2.13 “Common Fund” means the qualified settlement fund identified in Paragraph 3.1.

2.14 “Court” means the United States District Court for the Central District of California.

2.15 “Court of Appeal” means the United States Court of Appeal for the Ninth Circuit.

2.16 “Postcard Notice” means the Court-approved postcard form of notice to Settlement Class Members, in substantially the same form as Exhibit B.

2.17 “Effective Date” means the first date by which any Judgment entered pursuant to this Settlement Agreement becomes final and non-appealable.

2.18 “Email Notice” means the Court-approved email form of notice to Settlement Class Members, in substantially the same form as Exhibit C.

2.19 “Excluded Persons” are (1) the Honorable David O. Carter; (2) the Honorable Leo S. Papas (Ret.); (3) members of their immediate families; (4) any government entity; (5) Defendants; (6) any entity in which Defendants have a controlling interest; (7) any of Defendants’ subsidiaries, parents, affiliates, and officers, directors, employees, legal representatives, successors, or assigns; (8) counsel for the Parties; and (9) any persons who timely exclude themselves from the Settlement Class.

2.20 “Exclusion Deadline” means twenty-eight (28) days prior to the initially scheduled hearing date on Final Approval, or another date set by the Court.

2.21 “Final Approval” means issuance of an order granting final approval of this Agreement as binding upon the Parties and the Class; holding this Agreement to be final, fair, reasonable, adequate, and binding on all Settlement Class Members who have not excluded themselves as provided below; ordering that the settlement relief be provided as set forth in this

Agreement; ordering the releases as set forth in Section VIII of this Agreement; entering judgment in this Litigation; and retaining continuing jurisdiction over the interpretation, implementation, and enforcement of the settlement.

2.22 “Household” means any number of natural persons occupying the same dwelling unit and/or where Costco’s records indicate that the persons’ Costco memberships are part of the same household.

2.23 “Incentive Award” means any award sought by application to the Court that is approved by the Court and payable to the Class Representatives to compensate them for their efforts in bringing this Litigation and achieving the benefits of this settlement on behalf of the Settlement Class.

2.24 “Litigation” means the action entitled *James Boswell, et al. v. Costco Wholesale Corporation, et al.*, Case No. 8:16-cv-00278-DOC (DFMx).

2.25 “Long Form Notice” means the Court-approved form of notice to Settlement Class Members in substantially the same form as Exhibit D.

2.26 “Notice Date” means the day on which the Claim Administrator initiates notice to the Settlement Class.

2.27 “Notice Plan” means the procedure for providing notice to the class, as set forth in Paragraph 5.3 herein.

2.28 “Objection Deadline” means twenty-eight (28) days prior to the initially scheduled hearing date on Final Approval, or another date set by the Court.

2.29 “Parties” means Plaintiffs and Defendants, collectively.

2.30 “Party” means any one of the Plaintiffs or Defendants.

2.31 “Person(s)” means any natural person or business entity.

2.32 “Preliminary Approval” means issuance of an order granting preliminary approval to this Agreement without any material modifications; approving Class Notice to the Settlement Class Members, as set forth in Section V below; and setting a hearing to consider Final Approval of the settlement and any objections thereto.

2.33 “Product” means the product that is the subject of this litigation, namely, Kirkland Organic Virgin Coconut Oil.

2.34 “Proof of Purchase” means an itemized retail sales receipt showing, at a minimum, the purchase of a Product, the purchase price, and the date and place of the purchase.

2.35 “Released Claims” means the claims released as set forth in Paragraphs 8.1 through 8.3 of this Agreement.

2.36 “Released Parties” means the Defendants, and each and all of their predecessors in interest, former, present and future direct and indirect subsidiaries, divisions, parents, owners, successors, and affiliated companies, and each and all of the foregoing entities’ present and former officers, directors, shareholders, partners, employees, agents, representatives, suppliers, resellers, retailers, wholesalers, distributors, vendors, customers, insurers (including Continental Casualty Company and its respective affiliated companies), assigns, servants, attorneys, assignees, and executors, whether specifically named and whether or not participating in the settlement by payment or otherwise.

2.37 “Released Plaintiff Persons” means Class Representatives James Boswell, June Keen, and Michelle Salazar-Navarro, and all their attorneys (including Class Counsel), spouses, domestic partners, and heirs.

2.38 “Settlement Benefits” means the benefits provided to Settlement Class Members as set forth in Paragraph 3.7 of this Agreement.

2.39 “Settlement Class” or “Settlement Class Members” means all natural persons who, purchased, in the United States, Kirkland Signature Organic Coconut Oil in 42.3-ounce jars.

2.40 “Settlement Costs” means all costs reasonably incurred by the Claim Administrator in providing notice of and administering the settlement (including the maintenance of the Settlement Website for 180 days after all Settlement Benefits are distributed), and any Attorneys’ Fees and Costs and Incentive Awards awarded by the Court.

2.41 “Settlement Website” means an internet website created and maintained by the Claim Administrator, appearing at the URL, www.CostcoCoconutOilSettlement.com.

2.42 “Termination Date” means the date that the Agreement is terminated as set forth in Paragraph 9.5.

2.43 “Unit” means one pack of two 42.3-fluid-ounce jars of the Product.

2.44 “Valid Claim” means a claim submitted in compliance with Section III of this Agreement and determined to be valid by the Claim Administrator.

III. MONETARY RELIEF AND CLAIMS ADMINISTRATION

3.1 Within thirty (30) days of Preliminary Approval, Defendants shall provide to the Claim Administrator a \$775,000 payment (the “Payment”) that shall be used to cover notice and administration, all fees (including Attorneys’ Fees and Costs), expenses, and any and all other payments associated with this Agreement, including preliminary and final settlement approval by the Court, which shall be placed in a qualified settlement fund (“Common Fund”). Under no circumstances shall Defendants be required to pay any amounts other than the Payment, whether to Plaintiffs, Class Counsel, the Claim Administrator, the Settlement Class, any other non-party, or otherwise.

3.2 Subject to the rights and limitations set forth in this Agreement, every Settlement Class Member shall have the right to submit a claim for Settlement Benefits. A claim shall be a

Valid Claim only if submitted on the Claim Form pursuant to, and in compliance with, the procedures set forth herein. Submission of a claim, regardless of whether it is determined to be a Valid Claim, shall confer no rights or obligations on any Party, any Settlement Class Member, or any other Person, except as expressly provided herein.

3.3 At the election of the Settlement Class Member, Claim Forms may be submitted in paper via first class mail or online at the Settlement Website. Claim Forms must be postmarked or submitted online no later than the Claim Filing Deadline, or will not be Valid Claims.

3.4 The Claim Form will be substantially the same form as Exhibit A hereto.

3.5 On the Claim Form, the Settlement Class Member, or a Person with authority to sign and bind the Settlement Class Member, must provide and certify the truth and accuracy of the following information, including by signing the Claim Form physically or by e-signature, or the claim will not be considered a Valid Claim by the Claim Administrator:

(a) The Settlement Class Member's name, mailing address, and membership number at Costco if applicable, or an indication that the Settlement Class Member either is not a Costco member, or did not purchase the Product at a Costco store;

(b) The Settlement Class Member's email address (unless the Settlement Class Member requests a claim form by mail, in which case an email address is optional); and

(c) An affirmation that the Class Member purchased all Units of the Product claimed for personal or household use and did not return any Units claimed.

3.6 For Settlement Class Members who provide their Costco membership number, the Claim Administrator will check the Class Member-claimant's Costco membership number against records provided by Costco pursuant to Paragraph 5.3(a), to determine the number of Units purchased by the Class Member, and to calculate the total number of Units claimed.

3.7 Each Settlement Class Member who submits a Valid Claim, as determined by the Claim Administrator, shall receive a Settlement Benefit based on the number of Units purchased (up to 5 units) during the Class Period. The Settlement Benefit amount distributed to each Settlement Class Member shall be determined by following formula: $\text{Settlement Benefit} = (\$775,000 - \text{Settlement Costs}) \div (\text{total number of Units validly claimed by all Settlement Class Members}) \times (\text{Units validly claimed by the individual Settlement Class Member})$. Therefore, the Settlement Benefit for each Settlement Class Member who makes a valid and timely claim is the Settlement Class Member's pro rata share of the total payments to Settlement Class Members based on the number of Units validly claimed by all Settlement Class Members. In the event that a Proof of Purchase indicates a purchase of a single 42.3 ounce jar of the Product (e.g., from a third-party), then the Claim Administrator will provide that claimant credit for half a Unit.

3.8 The Claim Administrator will use adequate and customary procedures and standards to prevent the payment of fraudulent claims and to pay only Valid Claims. The Claim Administrator shall approve or deny all claims, and its decision shall be final and binding. No Person shall have any claim against Plaintiffs, Defendants, Class Counsel, Defendants' counsel or the Claim Administrator based on any determination of a Valid Claim, distributions, and/or awards made in accordance with this Agreement and the exhibits hereto. Neither Plaintiffs nor Defendants, nor their counsel, shall have any liability whatsoever for any act or omission of the Claim Administrator. In the event that this agreement is terminated, no Settlement Benefits shall be paid.

3.9 Valid Claims shall be paid by check to the Settlement Class Member and mailed to the address provided on the Claim Form, as updated in the National Change of Address Database, within thirty (30) days after the Effective Date.

3.10 All settlement checks shall be subject to a ninety (90) day void period, after which the checks shall no longer be negotiable. If a settlement check is not negotiated, the Settlement Class Member shall not be entitled to any payment under this Agreement. If the check is returned as undeliverable, the Claim Administrator shall send an email to the claimant, if one was provided with the claim, to attempt to obtain a better address, and, if obtained, shall mail the check to the new address, but shall have no other obligation to skip-trace or obtain an updated address. The return or failure to cash checks shall have no effect on a Settlement Class Member's release of claims, obligations, representations, or warranties as provided herein, which shall remain in full effect. One hundred eighty (180) days after the payment of Valid Claims, the parties may apply to have funds from uncashed checks remaining in the Common Fund that have not been paid out in fees or otherwise awarded *cy pres* to the American Heart Association.

3.11 The fees and expenses incurred by the Claim Administrator in administering claims and performing the other tasks set forth in this Agreement shall be made from the Common Fund.

IV. CHANGED PRACTICES

4.1 Defendants represent that, as of approximately June 2016, in response to the Action, they have ceased selling the Product with the words "health" and "healthful" on the label.

4.2 Defendants agree not to use the terms "health" or "healthful," or any other derivative of the term "healthy," on the label for the Product, absent a change in the law that permits such use.

4.3 Defendants are not required to remove or recall any Product that may remain in the marketplace that bears the terms "health" or "healthful" on the label (e.g., 42.3 ounce jars of Kirkland Coconut Oil that were already purchased by third-parties for resale).

V. NOTICE

5.1 The fees and expenses incurred by the Claim Administrator in making Notice shall be made from the Common Fund.

5.2 Prior to the Notice Date, the Claim Administrator shall establish the Settlement Website, which shall contain the Long Form Notice in both downloadable PDF format and HTML format; answers to frequently asked questions; a Contact Information page that includes the address for the Claim Administrator and addresses and telephone numbers for Class Counsel and Defendants' Counsel; the Agreement; the signed order of Preliminary Approval; a downloadable and online version of the Claim Form; a downloadable version of the form by which Settlement Class Members may exclude themselves from the Settlement Class; and (when they become available) the motion for final approval and Plaintiffs' application(s) for Attorneys' Fees, Costs and an Incentive Award. The Settlement Website shall remain accessible until one hundred eighty (180) days after all Settlement Benefits are distributed.

5.3 Notice shall be provided as follows:

(a) Within fourteen (14) days after Preliminary Approval and the execution of a mutually-agreeable confidentiality agreement with the Claim Administrator,¹ Costco shall provide the Claim Administrator with (1) the names, addresses, and email addresses (if available) of every Costco member with at least one net purchase of 42.3 ounce jars of Kirkland Coconut Oil identified on his or her account (i.e., where the number of purchases exceeds the number of returns); (2) the names of other persons identified as a part of the foregoing members' households; and (3) the total number of Units purchased (hereinafter, the "Member Records"). Plaintiffs and Plaintiffs' Counsel agree that they shall not be entitled to receive or review, and that they shall not request from the Claim Administrator,

¹ The confidentiality agreement shall include provisions that preclude the Claim Administrator from disclosing the Member Records (defined herein) to any Party and/or non-party; require the Claim Administrator to provide Costco with copies of all communications with Costco's members; and to promptly destroy any Member Records, communications with Costco's members, or any other documents containing information in the Member Records upon the issuance of Final Approval and/or the termination of this Settlement Agreement.

the Member Records, and/or any other documents containing such information, including correspondence between the Claim Administrator and Costco's members and any information concerning Opt Out Members (defined below), aside from the total number of Opt Out Members, unless the Parties otherwise agree in writing.

(b) Direct Notice of Settlement. For Member Records with an email address available, the Claim Administrator will notify such members of the proposed Settlement by sending a short-form Email Notice, substantially in the form annexed hereto as Exhibit C, to their e-mail address of record. In the event a "bounce-back" e-mail or other indication that the Product purchaser may not have received the Notice e-mail, or where an email address is not available in the Member Records, Notice will be alternatively effected by sending a postcard short-form Postcard Notice, substantially in the form annexed hereto as Exhibit B, to the mailing address in the Member Records, provided that only one notice will be mailed per household.

(c) Digital Notice. The Class Administrator shall also effect Notice, beginning no later than the date provided in the Preliminary Approval Order, by executing a digital media plan. The media plan shall direct viewers to the Settlement Website, which website shall contain the long-form Notice and other information about the case, the Settlement, and the claims process, including claims and opt-out forms.

5.4 CAFA Notice. Defendants shall comply with the notice requirements of 28 U.S.C. § 1715, and shall provide to Plaintiffs' Counsel, no later than twenty-eight (28) days before the Final Approval hearing date, a certification that notice has been made. Defendants shall also be responsible for providing to Plaintiffs' Counsel any response by any state to the notice.

VI. ATTORNEYS' FEES, EXPENSES AND CLASS REPRESENTATIVE PAYMENT

6.1 Attorneys' Fees & Costs. Class Representatives and Class Counsel will seek court approval for an award of Attorneys' Fees and Costs to be paid from the Common Fund. The Claim Administrator shall pay to Class Counsel the amount of Attorneys' Fees and Costs awarded by the Court within seven (7) calendar days of the Court's order granting Final Approval. In the event this order is overturned on appeal and/or this Agreement is otherwise terminated after Attorneys' Fees and Costs are paid to Class Counsel, Jack Fitzgerald and Paul Joseph agree to repay all Attorneys' Fees and Costs to Defendants, and agree that they will be personally and jointly and severally liable for doing so. In the event that this agreement is terminated, no Attorneys' Fees or Costs shall be paid.

6.2 Incentive Award. Class Representatives and Class Counsel will seek court approval for Incentive Awards, to be paid from the Common Fund to the Class Representatives. The Claim Administrator shall pay to the Class Representatives the amount of the Incentive Awards awarded by the Court within seven (7) calendar days of the Effective Date. In the event that this agreement is terminated, no Incentive Awards shall be paid.

6.3 Defendants shall be responsible for paying their own attorneys' fees and expenses.

VII. CLASS SETTLEMENT PROCEDURES

7.1 Amendment of the Third Amended Complaint. Within fourteen (14) days after the execution of this Agreement, the Parties shall sign, and Plaintiffs shall file in the Court, a stipulation that, upon Preliminary Approval, Plaintiffs shall be granted leave to file an amended complaint, to amend the class definition to correspond with the definition of the Settlement Class. The stipulation shall provide that Defendants' deadlines and/or any other obligations to respond to the amended complaint shall be held in abeyance and, if Preliminary Approval is denied, Final Approval is denied, or a remittitur is issued reversing an award of Final Approval, the amended complaint shall

be immediately and automatically deemed withdrawn, and the Litigation shall continue on the prior complaint as if the amended complaint were never filed and the Settlement Class never certified, and no reference to the amended complaint or Settlement Class or any documents related thereto shall be made or used against Defendants for any purpose in this Litigation or any other action, lawsuit, or proceeding of any kind whatsoever.

7.2 Settlement Approval. As soon as practicable after the signing of this Agreement, Plaintiffs shall move for Preliminary Approval. Defendants may, but shall have no obligation to make separate filings in support of the motion.

7.3 Final Approval Order and Judgment. No later than twenty-eight (28) days prior to the hearing on Final Approval, or on such other date as the Court requires, Plaintiffs shall move for Final Approval. Defendants may, but shall have no obligation to make separate filings in support of the motion.

7.4 Exclusions and Objections. The Class Notice shall advise prospective Settlement Class Members of their rights to forego the benefits of this settlement and pursue an individual claim; to object to this settlement individually or through counsel; and to appear at the final approval hearing.

(a) If any Settlement Class Member wishes to be excluded from (in other words, opt out of) this settlement and Litigation, the Settlement Class Member may do so by downloading and submitting to the Claim Administrator a completed Opt-Out Form. Requests to exclude must be postmarked by the Exclusion Deadline or shall not be valid. Settlement Class Members who elect to exclude themselves from this settlement and Litigation shall not be permitted to object to this settlement or to intervene. Settlement Class

Members shall be encouraged, but not required, to provide their email addresses in their requests for exclusion.

(b) If any Settlement Class Member wishes to object to the settlement, the Settlement Class Member must electronically file via the Court's ECF system, or deliver to the Clerk of the Court by mail, express mail, or personal delivery, a written objection. To be timely, the objection must be *received* by the Clerk of the Court (not just postmarked or sent) prior the Objection Deadline. An objection must contain (a) a caption or title clearly identifying the action, and that the document is an objection, (b) information sufficient to identify and contact the objecting Class Member or his or her attorney, and (c) a clear and concise statement of the Class Member's objection, as well as any facts and law supporting the objection. Failure to include documents or testimony sufficient to establish membership in the Settlement Class shall be grounds for overruling and/or striking the objection on grounds that the objector lacks standing to make the objection. Failure to include any of the foregoing information or documentation set forth in this paragraph also shall be grounds for overruling an objection.

(c) If any objection is received by the Claim Administrator, the Claim Administrator shall forward the objection and all supporting documentation to counsel for the Parties. At least fourteen (14) days prior to the hearing on Final Approval, Class Counsel shall file all such objections and supporting documentation with the Court. The failure of the Settlement Class Member to comply with the filing requirements of Paragraph 7.4(b) shall be grounds for striking and/or overruling the objection, even if the objection is submitted to the Claim Administrator.

(d) At least fourteen (14) days prior to the hearing on Final Approval, the Claim Administrator shall prepare a list of the names of the persons who, pursuant to the Long Form Notice, have excluded themselves from the Settlement Class in a valid and timely manner, and provide that list to Costco (the “Opt Out Members”).

(e) If a Settlement Class Member submits both a Claim Form and an exclusion request, the Claim Form shall take precedence and be considered valid and binding, and the exclusion request shall be deemed to have been sent by mistake and rejected.

(f) A Settlement Class Member who objects to the settlement may also submit a Claim Form on or before the Claim Filing Deadline, which shall be processed in the same way as all other Claim Forms. A Settlement Class Member shall not be entitled to an extension to the Claim Filing Deadline merely because the Settlement Class Member has also submitted an objection.

7.5 Effect if Settlement Not Approved or Agreement is Terminated. This Agreement was entered into only for purposes of settlement. In the event that Preliminary or Final Approval of this settlement and this Agreement does not occur for any reason, or if Final Approval is reversed on appeal, and/or the Agreement is otherwise terminated pursuant to Paragraph 9.5 (e.g., the Opt Out Threshold is met or exceeded), then no term or condition of this Agreement, or any draft thereof, or discussion, negotiation, documentation, or communication relating to this Agreement, or any other part or aspect of the Parties’ Agreement or settlement discussions shall have any effect, nor shall any such matters be admissible in evidence for any purpose in the Litigation, or in any other proceeding (unless Class Counsel and Defendants mutually agree in writing to proceed with this Agreement); the amended complaint set forth in Paragraph 7.1 shall be deemed automatically withdrawn; and the Litigation shall continue as if the settlement had not occurred. The Parties agree that any and all

drafts, discussions, negotiations, communications (including with potential class members), documentation or other information prepared, sent or received in relation to this Agreement, and the Parties' settlement discussions, shall be treated as strictly confidential and may not, absent a court order, be disclosed to any Person other than the Parties' counsel (unless otherwise prohibited by this Agreement), and only for purposes of the Litigation.

VIII. RELEASES

8.1 Nature of Release. As set forth more fully in Paragraphs 8.2 and 8.3 below, the obligations incurred by Defendants pursuant to this Agreement shall be a full and final disposition and settlement of all claims, actions, suits, obligations, debts, demands, rights, causes of action, liabilities, controversies, costs, expenses, and attorneys' fees, known or unknown, which actually were, and/or could have been, asserted in the Litigation against them, whether individual, class, representative, legal, equitable, administrative, direct or indirect, or any other type or in any other capacity, all of which shall be finally and irrevocably compromised, settled, released, and discharged with prejudice, as set forth in Paragraphs 8.2 and 8.3 below.

8.2 Release Regarding Released Parties. Upon the Effective Date, Plaintiffs (for purposes of this Paragraph 8.2, Plaintiffs includes Plaintiffs and their agents, assigns, attorneys, beneficiaries, heirs, and members of their respective families) shall release and forever discharge the Released Parties from, and shall be forever barred from instituting, maintaining, or prosecuting:

- (a) any and all claims, liens, demands, actions, causes of action, rights, duties, obligations, damages or liabilities of any nature whatsoever, whether legal or equitable or otherwise, known or unknown, that actually were, or could have been, asserted in the Litigation, whether arising under any international, federal, state or local statute, ordinance, common law, principle of equity or otherwise, that arise directly or indirectly out of, or in any way relate to, the allegations, claims, or contentions that actually were, or could have

been, asserted in the Litigation, that Plaintiffs have had in the past, or now have, related in any manner to the Released Parties' products, services or business affairs at issue in the Litigation;

(b) any and all other claims, liens, demands, actions, causes of action, rights, duties, obligations, damages or liabilities of any nature whatsoever, whether legal or equitable or otherwise, known or unknown, that Plaintiffs have had in the past or now have, related in any manner to any and all Released Parties' products, services or business affairs. Plaintiffs expressly understand and acknowledge that it is possible that unknown losses or claims exist or that present losses may have been underestimated in amount or severity. Plaintiffs explicitly took that into account in entering into this Agreement, and a portion of the consideration and the mutual covenants contained herein, having been bargained for between Plaintiffs and Defendants with the knowledge of the possibility of such unknown claims, were given in exchange for a full accord, satisfaction, and discharge of all such claims. Plaintiffs expressly waive all provisions, rights and benefits of California Civil Code section 1542 (and equivalent, comparable, or analogous provisions of the laws of the United States or any state or territory thereof, or of the common law). **Section 1542 provides:**

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his settlement with the debtor.”

(c) Each and every term of this Section shall be binding upon Plaintiffs, and inure to the benefit of the Released Parties, and/or any of their respective heirs, guardians, executors, administrators, representatives, agents, attorneys, partners, owners, successors,

predecessors-in-interest, and assigns, which persons are intended to be beneficiaries of this Section.

8.3 Release Regarding Settlement Class Members and Released Parties.

(a) Upon the Effective Date, Settlement Class Members (except any such person that has filed a proper and timely request for exclusion from the Settlement Class) shall release and forever discharge the Released Parties from any and all claims, liens, demands, actions, causes of action, rights, duties, obligations, damages or liabilities of any nature whatsoever, whether legal or equitable or otherwise, known or unknown, whether arising under any international, federal, state or local statute, ordinance, common law, regulation, principle of equity or otherwise, that arise out of or relate to the Allegations and were, or could have been, asserted in the Litigation.

(b) Each Settlement Class Member shall be deemed to have waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of California Civil Code section 1542 (and equivalent, comparable, or analogous provisions of the laws of the United States or any state or territory thereof, or of the common law).

Section 1542 provides:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his settlement with the debtor.”

The Parties expressly understand and acknowledge that it is possible that unknown losses or claims exist or that present losses may have been underestimated in amount or severity. The Parties explicitly took that into account in entering into this Agreement, and a portion of the

consideration and the mutual covenants contained herein, having been bargained for between the Parties with the knowledge of the possibility of such unknown claims, were given in exchange for a full accord, satisfaction, and discharge of all such claims.

(c) Each and every term of this Section shall be binding upon the Settlement Class Members and any of their heirs, guardians, executors, administrators, representatives, agents, attorneys, partners, successors, predecessors-in-interest, heirs, and assigns, and inure to the benefit of the Released Parties, and any of their heirs, guardians, executors, administrators, representatives, agents, attorneys, partners, owners, successors, predecessors-in-interest, and assigns, who are intended to be beneficiaries of this Section.

(d) The Parties shall be deemed to have agreed that the release set forth herein will be and may be raised as a complete defense to and will preclude any action or proceeding based on the Released Claims.

(e) Nothing in this Paragraph 8.3 shall operate to bar any defense, cross-claim or counter-claim in any action initiated by any of the Released Parties against any Settlement Class Member.

8.4 Release of Released Plaintiff Persons. Upon the Effective Date, Defendants will be deemed to have, and by operation of the judgment will have fully, finally, and forever released, relinquished, and discharged the Released Plaintiff Persons, from all claims, demands, rights, suits, liabilities, and causes of action of every nature and description whatsoever, known or unknown, matured or unmatured, at law or in equity, existing under federal or state law, that Defendants have or may have against the Released Plaintiff Persons arising out of or related in any way to the transactions, occurrences, events behaviors, conduct, practices, and policies alleged in the Litigation,

and in connection with the conduct of the Litigation, that have been brought, could have been brought, or are currently pending in any forum in the United States.

8.5 Effectuation of Settlement. None of the above releases include releases of causes of action to enforce the terms of the settlement or any releases respecting the repayment of Attorneys' Fees and Costs, as provided for in Paragraph 6.1.

8.6 No Admission of Liability. This Agreement nor the releases given herein, nor any consideration therefor, nor any actions taken to carry out this Agreement are intended to be, nor may they be deemed or construed to be, an admission or concession of liability or that this action meets the requirements for a class action, and/or the validity of any claim or defense on the part of any Party. Defendants deny all of Plaintiffs' Allegations and charges of wrongdoing or liability against them arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged against them, in the Litigation, and the Parties agree that the fact that Defendants did not object to certification of the Settlement Class shall not be used against Defendants by any Party or non-party for any purpose in this Litigation or any other action, lawsuit, or proceeding of any kind whatsoever.

IX. ADDITIONAL PROVISIONS

9.1 Best Efforts. Subject to the limitations expressed herein, Class Counsel shall use their best efforts to cause the Court to give Preliminary Approval to this Agreement and settlement as promptly as practicable, to take all steps contemplated by this Agreement to effectuate the settlement on the stated terms and conditions, to cooperate in addressing any objections, and to obtain Final Approval of this Agreement. If the Court requires changes to the Agreement as a prerequisite to Preliminary Approval or Final Approval, the Parties shall negotiate in good faith regarding such changes, but under no circumstances shall Defendants have any obligation to pay

additional amounts into the Common Fund, to Class Counsel, to Plaintiffs, and/or otherwise and/or agree to a reduction in the scope of the releases as set forth herein.

9.2 Media. To avoid contradictory, incomplete or confusing information about the settlement during the Claim Period, the Parties agree that they will not make any statements to the media respecting this Agreement.

9.3 Non-Disparagement. Except as may be contrary to Rule 1-500 of the California Rules of Professional Conduct, in the event that it impinges on the ability of Class Counsel to practice law and to fully and vigorously represent any present or future clients, Plaintiffs and Class Counsel shall make no statements, including statements to the press or any other public statements, that disparage Defendants, any Released Party, or the Product, or accuse Defendants or any Released Party of any wrongdoing regarding this Settlement or Litigation or the subject matter thereof.

9.4 Changes of Time Periods. The time periods and/or dates described in this Agreement with respect to the giving of notices and hearings are subject to approval and change by the Court or by the written agreement of Class Counsel and Defendants' Counsel, without notice to Settlement Class Members, except that the Claim Administrator shall ensure that such dates are posted on the Settlement Website.

9.5 Termination Rights. Except for changes to the time periods as set forth in the prior paragraph, all other terms and limitations set forth in this Agreement and in the documents referred to or incorporated herein (including but not limited to the Long Form Notice and/or the Claim Form) shall be deemed material to the Parties' agreement, and in the event any such other term is altered or amended by the Court (including if the Court refuses to certify the Settlement Class, modifies the definition of the Settlement Class, modifies the amount of Defendants' Payment, or modifies the scope of the releases herein), or any other court, or if any federal or state authority objects to or

requires modifications to the Agreement, a Party may terminate this Agreement upon written notice to the other Parties. Moreover, in the event that Costco and the Claim Administrator are not able to execute a mutually-agreeable confidentiality agreement, then the parties will work in good faith to identify another Claim Administrator that is mutually-agreeable and, if they are unable to do so, then the Parties shall have the right to terminate this Agreement. Furthermore, in the event that five percent (5%) or more of the Settlement Class Members elect to opt out of the settlement (the “Opt Out Threshold”), then the parties shall meet and confer in good faith to determine whether the Agreement shall be terminated and/or otherwise modified. The termination of the Agreement shall be deemed effective five (5) days after the provision of notice pursuant to this paragraph, or at a later date agreed in writing by the Parties (“Termination Date”), and any amounts remaining in the Common Fund shall revert to Defendants.

9.6 Governing Law. This Agreement is intended to and shall be governed by the laws of the State of California, without regard to conflicts of law principles.

9.7 Entire Agreement. The terms and conditions set forth in this Agreement constitute the complete and exclusive statement of the agreement between the Parties hereto relating to the subject matter of this Agreement, superseding all previous negotiations and understandings, and may not be contradicted by evidence of any prior or contemporaneous agreement. The Parties further intend that this Agreement constitutes the complete and exclusive statement of its terms as between the Parties hereto, and that no extrinsic evidence whatsoever may be introduced in any agency or judicial proceeding, if any, involving this Agreement. Any amendment or modification of the Agreement must be in writing signed by each of the Parties and their counsel.

9.8 Advice of Counsel. The determination of the terms of, and the drafting of, this Agreement have been by mutual agreement after negotiation, with consideration by and participation

of all Parties hereto and their counsel. The presumption found in California Civil Code section 1654 that uncertainties in a contract are interpreted against the party causing an uncertainty to exist is hereby waived by all Parties.

9.9 Binding Agreement. This Agreement shall be binding upon and inure to the benefit of the respective heirs, successors and assigns of the Parties hereto.

9.10 No Waiver. The waiver by any Party of any provision or breach of this Agreement shall not be deemed a waiver of any other provision or breach of this Agreement.

9.11 Execution in Counterparts. This Agreement shall become effective upon its execution by all of the undersigned. The Parties may execute this Agreement in counterparts and/or by fax or electronic mail, and execution of counterparts shall have the same force and effect as if all Parties had signed the same instrument.

9.12 Captions. Captions and section or paragraph numbers herein are inserted merely for the reader's convenience, and in no way define, limit, construe, or otherwise describe the scope or intent of the provisions of this Agreement.

9.13 Extensions of Time. The Parties reserve the right, by agreement and subject to the Court's approval, to grant any reasonable extension of time that might be needed to carry out any of the provisions of this Agreement.

9.14 Enforcement of this Agreement. The Court shall retain jurisdiction to enforce, interpret, and implement this Agreement. All Parties hereto submit to the jurisdiction of the Court for these purposes.

9.15 Notices. All notices to the Parties or counsel required by this Agreement shall be made in writing and communicated by mail and fax or email to the following addresses: If to Plaintiffs or Class Counsel:

Jack Fitzgerald, Esq.
The Law Office of Jack Fitzgerald, PC
Hillcrest Professional Building
3636 Fourth Avenue, Suite 202
San Diego, CA 92103
Telephone: (619) 692-3840
Facsimile: (619) 362-9555
E-mail: jack@jackfitzgeraldlaw.com

and

Paul K. Joseph, Esq.
The Law Office of Paul K. Joseph, PC
4125 W. Pt. Loma Boulevard, No. 206
San Diego, CA 92110
Telephone: (619) 767-0356
Facsimile: (619) 331-2943
E-mail: paul@pauljosephlaw.com

If to Costco:

Mark D. Baute, Esq.
Frank J. Broccolo, Esq.
Baute Crochetiere & Gilford LLP
777 South Figueroa Street, Suite 4900
Los Angeles, CA 90017
Telephone: (213) 630-5000
Facsimile: (213) 683-1225
E-mail: fbroccolo@bautelaw.com

and

General Counsel
Costco Wholesale Corporation
999 Lake Drive
Issaquah, WA 98027
Telephone: (425) 313-8100
E-mail: jpruitt@costco.com

If to LODC:

Baxter W. Banowsky, Esq.
Banowsky & Levine, P.C.
12801 N. Central Expressway, Suite 1700
Dallas, TX 775243
Telephone: (214) 871-1300
Facsimile: (214) 871-0038
E-mail: bwb@banowsky.com

9.16 Protective Orders. All orders and designations regarding the confidentiality of documents and information ("Protective Orders") remain in effect, and all Parties and counsel remain bound to comply with the Protective Orders, including the provision to certify the destruction of "Confidential" documents.

IN WITNESS WHEREOF the undersigned, being duly authorized, have caused this Agreement to be executed on the dates shown below and agree that it shall take effect on the last date it is executed by all of the undersigned.

APPROVED AS TO FORM:

DATED: May 1, 2017

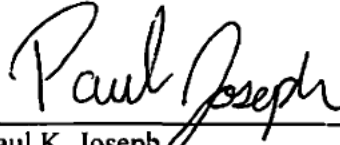
THE LAW OFFICE OF JACK FITZGERALD, PC



Jack Fitzgerald
Attorney for Plaintiffs
JAMES BOSWELL MICHELLE SALAZAR-
NAVARRO, JUNE KEEN, *et al.*

DATED: May 1, 2017

THE LAW OFFICE OF PAUL K. JOSEPH, PC



Paul K. Joseph
Attorney for Plaintiffs
JAMES BOSWELL MICHELLE SALAZAR-
NAVARRO, and JUNE KEEN, *et al.*

DATED: May __, 2017

BAUTE CROCHETIERE & GILFORD LLP

Frank J. Broccolo
Attorneys for Defendant
COSTCO WHOLESALE CORPORATION

DATED: May __, 2017

BANOWSKY & LEVINE, P.C.

Baxter W. Bariowsky
Attorneys for Defendant
LODC GROUP, LTD. d/b/a Lily of the Desert

APPROVED AND AGREED:

DATED: May __, 2017

JAMES BOSWELL

DATED: May __, 2017

MICHELLE SALAZAR-NAVARRO

DATED: May __, 2017

JUNE KEEN


DATED: May __, 2017

THE LAW OFFICE OF PAUL K. JOSEPH, PC

Paul K. Joseph
Attorney for Plaintiffs
JAMES BOSWELL MICHELLE SALAZAR-
NAVARRO, and JUNE KEEN, *et al.*

DATED: May 2, 2017

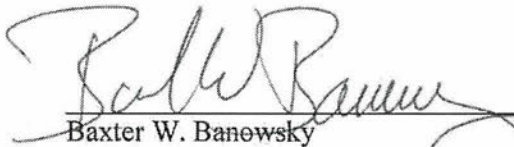
BAUTE CROCHETIERE & GILFORD LLP



Frank J. Broccolo
Attorneys for Defendant
COSTCO WHOLESALE CORPORATION

DATED: May __, 2017

BANOWSKY & LEVINE, P.C.



Baxter W. Banowsky
Attorneys for Defendant
LODC GROUP, LTD. d/b/a Lily of the Desert

APPROVED AND AGREED:

DATED: May __, 2017

JAMES BOSWELL

DATED: May __, 2017

MICHELLE SALAZAR-NAVARRO

DATED: May __, 2017

JUNE KEEN

DATED: May 1, 2017

THE LAW OFFICE OF PAUL K. JOSEPH, PC

Paul K. Joseph
Attorney for Plaintiffs
JAMES BOSWELL MICHELLE SALAZAR-
NAVARRO, and JUNE KEEN, *et al.*

DATED: May 1, 2017

BAUTE CROCHETIERE & GILFORD LLP

Frank J. Broccolo
Attorneys for Defendant
COSTCO WHOLESALE CORPORATION

DATED: May 1, 2017

BANOWSKY & LEVINE, P.C.

Baxter W. Banowsky
Attorneys for Defendant
LODC GROUP, LTD. d/b/a Lily of the Desert

APPROVED AND AGREED:

DATED: May 1, 2017



JAMES BOSWELL

DATED: May 1, 2017

MICHELLE SALAZAR-NAVARRO

DATED: May 1, 2017

JUNE KEEN

DATED: May __, 2017

THE LAW OFFICE OF PAUL K. JOSEPH, PC

Paul K. Joseph
Attorney for Plaintiffs
JAMES BOSWELL MICHELLE SALAZAR-
NAVARRO, and JUNE KEEN, *et al.*

DATED: May __, 2017

BAUTE CROCHETIERE & GILFORD LLP

Frank J. Broccolo
Attorneys for Defendant
COSTCO WHOLESALE CORPORATION

DATED: May __, 2017

BANOWSKY & LEVINE, P.C.

Baxter W. Banowsky
Attorneys for Defendant
LODC GROUP, LTD. d/b/a Lily of the Desert

APPROVED AND AGREED:

DATED: May __, 2017

JAMES BOSWELL

DATED: May _1st_, 2017



MICHELLE SALAZAR-NAVARRO

DATED: May __, 2017

JUNE KEEN

DATED: May 1, 2017

THE LAW OFFICE OF PAUL K. JOSEPH, PC

Paul K. Joseph
Attorney for Plaintiffs
JAMES BOSWELL, MICHELLE SALAZAR-
NAVARRO, and JUNE KEEN, *et al.*

DATED: May 1, 2017

BAUTE CROCHETIERE & GILFORD LLP

Frank J. Broccolo
Attorneys for Defendant
COSTCO WHOLESALE CORPORATION

DATED: May 1, 2017

BANOWSKY & LEVINE, P.C.

Baxter W. Banowsky
Attorneys for Defendant
LODC GROUP, LTD. d/b/a Lily of the Desert

APPROVED AND AGREED:

DATED: May 1, 2017

JAMES BOSWELL

DATED: May 1, 2017

MICHELLE SALAZAR-NAVARRO

DATED: May 1, 2017


JUNE KEEN

DATED: May 1, 2017



Jack Fitzgerald

DATED: May __, 2017

Paul K. Joseph

DATED: May __, 2017

COSTCO WHOLESALE CORPORATION

By: _____

Name: _____

Its: _____

DATED: May __, 2017

LODC GROUP, LTD. d/b/a Lily of the Desert

By: _____

Name: _____

Its: _____

DATED: May __, 2017

Jack Fitzgerald

DATED: May 1, 2017

Paul Joseph
Paul K. Joseph

DATED: May __, 2017

COSTCO WHOLESALE CORPORATION

By: _____

Name: _____

Its: _____

DATED: May __, 2017

LODC GROUP, LTD. d/b/a Lily of the Desert

By: _____

Name: _____

Its: _____

DATED: May __, 2017

Jack Fitzgerald

DATED: May __, 2017

Paul K. Joseph

DATED: May 2, 2017

COSTCO WHOLESALE CORPORATION

By: _____

Name: _____

Its: _____

DATED: May __, 2017

LODC GROUP, LTD. d/b/a Lily of the Desert

By: _____

Name: _____

Its: _____