

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into between Plaintiff Almany Ismael Bangoura (“Plaintiff” or “Class Representative”) and Defendants Beiersdorf, Inc. and Bayer Healthcare, LLC (collectively, “Defendants”).

I. RECITALS

1.1. On January 18, 2022, Plaintiff Almany Ismael Bangoura commenced a putative class action in the Eastern District of New York alleging claims as to Defendants’ Coppertone Defend and Care Whipped Ultra Hydrate SPF 50 sunscreen product. *Bangoura v. Beiersdorf, Inc. and Bayer Healthcare, LLC*, Case No. 1:22-cv-00291-BMC (E.D.N.Y.). On March 24, 2022, Plaintiff amended his Complaint to include the following additional products: Coppertone Pure & Simple Spray SPF 50, Coppertone Pure & Simple Kids Spray SPF 50, Coppertone Pure & Simple Baby Spray SPF 50, Coppertone Mineral Spray SPF 50, and Coppertone Sport Spray SPF 50 (travel-size).

1.2. Plaintiff alleges that the Covered Products contain benzene and that Defendants failed to test and improperly marketed and sold the Covered Products (defined below in Section 2.28) that allegedly contained benzene in violation of state law and seeks injunctive relief and compensation for alleged economic losses sustained by U.S. consumer purchasers of the Covered Products. Plaintiff seeks to represent a nationwide class of consumers who purchased the Covered Products.

1.3. On June 3, 2022, Defendants filed their letter requesting a pre-motion conference on an anticipated motion to dismiss the Litigation. Defendants argued, *inter alia*, that (i) Plaintiff lacks Article III standing because he has not suffered an injury in fact, (ii) Plaintiff’s claims are expressly preempted by federal law; (iii) Plaintiff’s state law claims fail because they

do not state either a cognizable omissions theory or a misrepresentation theory; (iv) Plaintiff's warranty claims fail for, among other things, a lack of an express warranty regarding benzene; and (v) Plaintiff's negligent misrepresentation claim fails because Plaintiff failed to allege the requisite "special relationship" between Plaintiff and Defendants.

1.4. The Settlement was reached as a result of extensive arms-length negotiations between the Parties and counsel, facilitated by an all-day mediation with a respected mediator, the Honorable Judge Steven Gold (Ret.), on June 28, 2022. Before and during these settlement discussions and mediation, the Parties had arms-length exchange of sufficient information to permit Plaintiff and his counsel to evaluate the claims and potential defenses and to meaningfully conduct informed settlement discussions. The Parties did not discuss Attorneys' Fees and Costs or any potential Incentive Award until they first agreed on the substantive terms of this settlement.

1.5. On June 30, 2022, after the Parties advised the Court that they had settled the putative class claims, the Court stayed the deadline for Defendants to file their motion to dismiss in light of the Parties' settlement.

1.6. Defendants deny all of Plaintiff's allegations and all 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. They contend that the Products have always been safe for use.

1.7. The undersigned Parties agree, subject to approval by the Court, that the Litigation between Plaintiff and Settlement Class Members, on the one hand, and Defendants, on the other hand, shall be fully and finally compromised, settled, and released on the terms and conditions set forth in this Agreement.

1.8. Plaintiff, as class representative, and his Counsel believe that the claims settled have merit, but Plaintiff and his counsel recognize and acknowledge the risks, uncertainty, and expense of continued proceedings necessary to prosecute the claims through trial and appeal.

1.9. Plaintiff's Counsel has analyzed and evaluated the merits of all Parties' contentions and this settlement as it affects all Parties and the Settlement Class Members. Among the risks of continued litigation are the possibility that Plaintiff will be unable to prove liability, damages, or entitlement to injunctive relief at trial on a classwide or individual basis. In addition to taking into account the uncertain outcome and risk of the litigation, Plaintiff's Counsel considered the difficulties and delay inherent in such litigation.

1.10. Plaintiff and Plaintiff's Counsel, after taking into account the foregoing, along with the risks and costs of further litigation, are satisfied that the terms and conditions of this Agreement are fair, reasonable, adequate, and equitable, and that a settlement of the Litigation and the prompt provision of effective relief to the Settlement Class are in the best interests of the Settlement Class Members.

1.11. Defendants, while continuing to deny all allegations of wrongdoing and disclaiming any liability with respect to any and all claims, consider it desirable to resolve the Litigation on the terms stated herein, in order to avoid further expense, inconvenience, and interference with ongoing business operations, and to dispose of burdensome litigation. Therefore, Defendants have determined that settlement of this Litigation on the terms set forth herein is in their best interests.

1.12. Defendants hereby consent, solely for the purposes of the settlement set forth herein, to the certification of the Settlement Class and appointment of Plaintiff's Counsel as counsel for the Settlement Class and Plaintiff as a representative of the Settlement Class;

provided, however, that if this Agreement fails to receive Court approval or otherwise fails to be executed, including but not limited to, the judgment not becoming final as provided in this Agreement, then Defendants retain all rights they had immediately preceding the execution of this Agreement to object to the propriety of class certification in all other contexts and for all other purposes, and the Litigation will continue as if the Settlement Class had never been certified. The fact that Defendants conditionally consented herein 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.

1.13. This Agreement is contingent upon the issuance by the Court of both Preliminary Approval and Final Approval. Should the Court not issue Preliminary Approval and Final Approval, Defendants do not waive, and instead expressly reserve, all rights to defend this Litigation.

1.14. This Agreement reflects a compromise between the Parties, and shall in no event be construed as or be deemed an admission or concession by any Party of the truth, or lack thereof, of any allegation or the validity, or lack thereof, of any purported claim or defense asserted in any of the pleadings or filings in the Litigation, or of any fault on the part of any Defendant, and all such allegations are expressly denied. Nothing in this Agreement shall constitute an admission of liability or be used as evidence of liability, by or against any Party hereto.

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. “Attorneys’ Fees and Costs” means such funds as may be awarded by the Court consistent with the terms of this Agreement to Plaintiff’s 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 co-counsel, local counsel, experts, consultants, or other individuals retained by, or who assisted Plaintiff’s Counsel in connection with this Litigation and settlement, as described more particularly in Section VI of this Agreement.

2.3. “Available Settlement Funds” means that the Settlement Fund net of notice and administration costs, Incentive Awards, and Attorneys’ Fees and Costs.

2.4. “Benzene Allegations” means all contentions and allegations that were or could have been raised in this Litigation that the Covered Products, as defined in Section 2.28 of this Agreement, may contain benzene.

2.5. “Claim Administrator” means, subject to Court approval, Angeion Group, unless another third-party administrator is later agreed to by the Parties in writing and approved by the Court.

2.6. “Claim Filing Deadline” means sixty (60) days prior to the initially scheduled hearing date on Final Approval.

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

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

2.9. “Class Period” means the period up to and including the date that the Court enters the Preliminary Approval order.

2.10. “Court” means the United States District Court for the Eastern District of New York.

2.11. “Effective Date” means ten (10) days after the later of: (i) the expiration of the time to appeal the Final Approval with no appeal having been filed; or (ii) if such appeal is filed, the termination of such appeal, on terms that affirm the Final Approval or dismiss the appeal with no material modification to the Final Approval. As used in this paragraph, the phrase “termination of such appeal,” means the date upon which the relevant appellate court issues its remittitur.

2.12. “Excluded Persons” are (1) the Honorable Judge Brian Cogan and members of his immediate family; (2) Defendants; (3) any entity in which a Defendant has a controlling interest; (4) any of Defendants’ subsidiaries, parents, affiliates, and officers, directors, employees, legal representatives, heirs, successors, or assigns; and (5) any persons who timely exclude themselves from the Settlement Class.

2.13. “Exclusion Deadline” means sixty (60) days prior to the initially scheduled hearing date on Final Approval.

2.14. “Final Approval” means issuance of an order, substantially in the form of Exhibit D, granting final approval of this Agreement as binding upon the Parties; 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 case; and retaining continuing jurisdiction over the interpretation, implementation, and enforcement of the settlement.

2.15. “Household” means a single dwelling unit, no matter the number of natural persons residing therein.

2.16. “Incentive Award” means any award sought by application to and approval by the Court that is payable to the Class Representative to compensate him for his efforts in bringing this Litigation and achieving the benefits of this settlement on behalf of the Settlement Class.

2.17. “Litigation” means *Bangoura v. Beiersdorf, Inc. and Bayer Healthcare, LLC*, Case No. 1:22-cv-00291-BMC (E.D.N.Y.).

2.18. “Long Form Notice” means the Court-approved form of notice to Settlement Class Members in substantially the same form as Exhibit B1.

2.19. “Notice Date” means thirty (30) days after the date the Court enters the Preliminary Approval order.

2.20. “Notice Plan” means the procedure for providing notice to the class, as set forth in Exhibit B.

2.21. “Objection Deadline” means sixty (60) days prior to the initially scheduled hearing date on Final Approval.

2.22. “Online Advertisement” means the Court-approved forms of advertisement to Settlement Class Members in substantially the same form as Exhibit B3.

2.23. “Parties” means Plaintiff and Defendants, collectively.

2.24. “Party” means any one of Plaintiff or Defendants.

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

2.26. “Plaintiff’s Counsel” means the law firms of The Sultz Law Group, P.C. and Levin, Sedran & Berman LLP.

2.27. “Preliminary Approval” means issuance of an order, substantially in the form of Exhibit C, granting preliminary approval to this Agreement as within the range of possible Final Approval; approving Class Notice to the Settlement Class Members as described

in Section V below; and setting a hearing to consider Final Approval of the settlement and any objections thereto.

2.28. “Covered Products” means the following Coppertone spray sunscreen products sold before _____, 2022 [date preliminary approval order is entered]: (1) Pure & Simple SPF 50; (2) Pure & Simple Kids SPF 50; (3) Pure & Simple Baby SPF 50; (4) Sport Mineral SPF 50; (5) Sport SPF 50; (6) Sport SPF 30; (7) Sport SPF 15; (8) Complete SPF 50; (9) Complete SPF 30; (10) Glow Shimmer SPF 50; (11) Glow Shimmer SPF 30; (12) Kids SPF 50.

2.29. “Proof of Purchase” means an itemized retail sales receipt or retail store club or loyalty card record showing, at a minimum, the purchase of a Product, the purchase price, and the date and place of the purchase.

2.30. “Recall” means the voluntary consumer recall initiated by Beiersdorf, Inc. that provided refunds of certain purchased Covered Products because of the possible presence of benzene.

2.31. “Released Claims” means the claims released as set forth in Section VIII of this Agreement.

2.32. “Released Parties” means Defendants and each and all of their respective predecessors and successors in interest, former, present and future direct and indirect affiliates, subsidiaries, divisions, parents, owners, and affiliates, and each and all of their respective present and former officers, directors, shareholders, members, partners, employees, agents, representatives, manufacturers, suppliers, resellers, retailers, wholesalers, distributors, customers, brokers, insurers, assigns, servants, attorneys, assignees, heirs, and executors, whether specifically named and whether or not participating in the settlement by payment or otherwise.

2.33. “Settlement Benefit” means the benefits provided to Settlement Class Members as set forth in this Agreement.

2.34. “Settlement Class” or “Settlement Class Members” means all natural persons who, within the Class Period, purchased in the United States any of the Covered Products (as defined in 2.28) for personal, family or household use, and not for resale.

2.35. “Settlement Fund” means a total payment by Defendants of \$2.3 million, all-in, inclusive of all payments to Plaintiff and members of the Settlement Class, Incentive Awards, costs for notice and administration, and court-awarded attorneys’ fees and expenses.

2.36. “Settlement Website” means an internet website created and maintained by the Claim Administrator. The URL of the Settlement Website shall be provided in the Notice Plan.

2.37. “Short Form Notice” means the Court-approved forms of email notice to Settlement Class Members in substantially the same form as Exhibit B2.

2.38. “Termination Date” means the date that the Agreement is terminated as set forth in this Agreement.

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

III. SETTLEMENT BENEFITS AND CLAIMS ADMINISTRATION

3.1. The Claim Administrator shall establish an account for the Settlement Fund, which will be used to provide benefits to or on behalf of the Settlement Class. Defendants will contribute \$2,300,000 in cash to the Settlement Fund for payment of the following: (i) Valid Claim Forms for cash benefits submitted by Settlement Class Members pursuant to paragraph 3.8 below; (ii) the notice and other administrative costs actually incurred by the Claims Administrator, as described in paragraph 3.3(a) below; (iii) Attorneys’ Fees and Costs, as may be ordered by the Court and as described in paragraph 6.1 below, and (iv) any incentive award to

the Class Representative, not to exceed \$2,500, as may be ordered by the Court and as described in paragraph 6.2 below.

3.2. Defendants' total financial commitment and obligation under this Settlement Agreement shall not exceed \$2,300,000.

3.3. Defendants shall make payments into the Settlement Fund in accordance with the following schedule:

- (a) Notice and Other Administrative Costs. Amounts equal to the cost of publishing the Notice Plan and other administrative costs (as incurred), to be paid within thirty (30) days of when such amounts are invoiced to Defendants along with wire instructions and other required documentation and become due and owing; *provided, however*, Defendants shall have no obligation to advance any notice and administrative costs unless and until the Court enters the Preliminary Approval order. Defendants are not required to advance costs for claims validation or other claims processing related costs until such time such costs are actually incurred.
- (b) Attorneys' Fees and Costs and Incentive Awards. An amount equal to the Attorneys' Fees and Costs and incentive awards, to be paid as described at paragraph 6.6, below.
- (c) Payment of Valid Claims. An amount equal to the Available Settlement Funds, which shall be remitted to the Claims Administrator within ten (10) business days of the Effective Date.

3.4. In consideration for the complete and final settlement of the Litigation, the Released Claims, and other promises and covenants set forth in this Agreement, and subject to

the other terms and conditions thereof, Defendants agree to pay to Settlement Class Members the monetary relief as set forth below:

- (a) Settlement Class Members who submit a Valid Claim Form with Proof of Purchase shall receive the full purchase price for each Covered Product listed on the Proof of Purchase, inclusive of all taxes.
- (b) Settlement Class Members who submit a Valid Claim Form without Proof of Purchase shall receive the average retail price for up to six (6) Covered Products claimed per household plus a 10% allowance for sales tax, as such price is determined in good faith by the Defendants and provided to the Claim Administrator.
- (c) If a Settlement Class Member submitted a claim in the Recall, the amount of that Settlement Class Member's payment shall be reduced by the amount each Settlement Class Member has received or shall receive from the Recall (provided that the payment shall not be reduced below \$0.00).

3.5. Each Settlement Class Members' payment shall be increased or decreased on a pro rata basis such that the total amount paid to all Settlement Class Members equals the Available Settlement Funds.

3.6. 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.

3.7. 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. Claim Forms postmarked or submitted online after that date will not be Valid Claims. The Settlement Administrator may track Claim Forms with unique security identifiers or control numbers. For Claim Forms that are submitted online, the Class Member shall have the opportunity to upload Proof of Purchase image files (e.g. jpg, tif, pdf) prior to submitting the claim, and to print a page immediately after the Claim Form has been submitted showing the information entered, the names of image files uploaded, and the date and time the Claim Form was submitted.

3.8. 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 under penalty of perjury, 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 and mailing address;
- (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);
- (c) The number of Covered Products purchased during the Class Period and the approximate dates of purchase;
- (d) That the claimed purchases were not made for purposes of resale;

3.9. Within fourteen (14) days after the Court enters the Preliminary Approval order, Defendants shall provide to the Claim Administrator a database of the names, addresses, and payments made to Settlement Class Members pursuant to the Recall.

3.10. The Claim Administrator shall be responsible for, among other things, providing notice as set forth in the Notice Plan, processing Claim Forms and administering the Settlement Website and toll-free phone number, 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). 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 and Parties shall have the right to audit claims, and the Claim Administrator may request additional information from Claimants. If any fraud is detected or reasonably suspected, the Claim Administrator and Parties can require further information from the Settlement Class Member (including by cross-examination) or deny claims, subject to the supervision of the Parties and ultimate oversight by the Court.

3.11. Prior to the hearing on Final Approval and in accordance with the Courts' regular notice requirements, the Claim Administrator shall provide, in addition to the certification to the Court required under this Agreement, a declaration to the Court regarding the number and dollar amount of claims received to date.

3.12. The determination of validity of claims shall occur prior to the Claim Administrator filing the declaration described in section 3.8. The Claim Administrator shall approve or deny all claims, and its decision shall be final and binding, except that Plaintiff's Counsel and Defendants shall have the right to audit claims and to challenge the Claim Administrator's decision by motion to the Court. Plaintiff's Counsel's or Defendants' choice not

to audit the validity of any one or more Claim Forms shall not constitute or be construed as a waiver or relinquishment of any audit or other rights as to any other Claim Forms, individually or as a group, and similarly shall not be construed as a waiver or relinquishment by the Party as to any of its audit and other rights under this Agreement. No Person shall have any claim against Plaintiff, Defendants, Plaintiff's Counsel, Defendants' counsel or the Claim Administrator based on any determination of a Valid Claim, distributions or awards made in accordance with this Agreement and the Exhibits hereto. Neither Plaintiff nor Defendants, nor their counsel, shall have any liability whatsoever for any act or omission of the Claim Administrator.

3.13. Within thirty (30) days after the Effective Date, the Claim Administrator shall notify by email all Settlement Class Members whose claims are denied the reason(s) for denial, using the email address (if any) provided by the Settlement Class Member on the Claim Form. If no email address is provided by the Settlement Class Member on the Claim Form, the Claim Administrator shall not have an obligation to provide the Settlement Class Member any notification of the denial of the claim or the reasons for denial.

3.14. Valid Claims shall be paid either by check or an electronic deposit through PayPal, Venmo, or Zelle to the Settlement Class Member within sixty (60) days after the Effective Date.

3.15. All settlement checks shall be void and no longer negotiable one hundred twenty (120) days after the date the check was issued. If a settlement check is not negotiated, the Settlement Class Member shall not be entitled to any further 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. 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. Upon court approval, funds from uncashed checks shall be awarded *cy pres* to Look Good Feel Better.

3.16. No deductions for taxes will be taken from any Settlement Benefit at the time of distribution. Settlement Class Members are responsible for paying all taxes due on such Settlement Benefits. All Settlement Benefit payments shall be deemed to be paid solely in the year in which such payments are actually issued. Counsel and the Parties do not purport to provide legal advice on tax matters to each other or Settlement Class Members. To the extent this Agreement, or any of its exhibits or related materials, is interpreted to contain or constitute advice regarding any U.S. Federal or any state tax issue, such advice is not intended or written to be used, and cannot be used, by any Person or Business for the purpose of avoiding penalties under the Internal Revenue Code or any state's tax laws.

3.17. All fees and expenses incurred by the Claim Administrator in administering claims and performing the other tasks set forth in this Agreement shall be paid from the Settlement Fund.

IV. CHANGED PRACTICES AND INJUNCTIVE RELIEF

4.1. Defendants shall not end the ability of consumers to request a refund through the voluntary Recall prior to the earlier of July 15, 2022 or the date the Court enters the Preliminary Approval order.

4.2. In connection with the Covered Products, Beiersdorf, Inc. shall require testing for the presence of benzene for at least eighteen (18) months following the entry of the Preliminary Approval order, and will address as test results warrant.

V. NOTICE

5.1. 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 with a clickable table of contents; answers to frequently asked questions; a Contact Information page that includes the address for the Claim Administrator and addresses and telephone numbers for Plaintiff's Counsel; the consolidated class action Complaint; the Agreement; the signed order of Preliminary Approval; a downloadable and online version of the Claim Form; a downloadable and online version of the form by which Settlement Class Members may exclude themselves from the Settlement Class; and (when it becomes available) Plaintiff's application for Attorneys' Fees and Costs and/or an application for an Incentive Award.

5.2. 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 provided in the Notice Plan.

5.4. The Parties shall supervise the Claim Administrator in the performance of the notice functions set forth in this Section V.

5.5. The Claim Administrator, at the direction of Defendants' counsel shall comply with the notice requirements of 28 U.S.C. § 1715.

5.6. Prior to the hearing on Final Approval and in accordance with the Courts' regular notice requirements, Defendants and the Claim Administrator shall certify to the Court that they have complied with the notice requirements set forth herein.

VI. ATTORNEYS' FEES, EXPENSES AND CLASS REPRESENTATIVE PAYMENT

6.1. Prior to the initially scheduled hearing on Final Approval and in accordance with the Courts' regular notice requirements, Plaintiff's Counsel may apply to the Court for an award from Defendants of their Attorneys' Fees and Costs in a total amount not to exceed one-third of the Settlement Fund.

6.2. Prior to the initially scheduled hearing on Final Approval and in accordance with the Courts' regular notice requirements, the Class Representative may additionally apply to the Court for an Incentive Award from Defendants of up to \$2,500 as compensation for (a) the time and effort undertaken in and risks of pursuing this Litigation, including the risk of liability for the Parties' costs of suit, and (b) the general release set forth in Section 8.2.

6.3. Any Attorneys' Fees and Costs and any Incentive Award awarded by the Court shall be paid from the Settlement Fund. In no event shall Defendants be obligated to pay to Plaintiff, Plaintiff's Counsel, the Claim Administrator or the Settlement Class any amount beyond the Settlement Fund.

6.4. Plaintiff's Counsel and Plaintiff agree that the denial, downward modification, failure to grant the request for Attorneys' Fees and Costs or an Incentive Award, or the reversal or modification on appeal of any such awards, shall not constitute grounds for modification or termination of this Agreement.

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

6.6. The Attorneys' Fees and Costs and Incentive Awards granted by the Court shall be paid to Plaintiff's Counsel out of the Settlement Fund within seven (7) days after the Court issues an order of Final Approval that includes an award of attorneys' fees and/or expenses

to Plaintiff's Counsel and/or Incentive Awards to Plaintiff. If Final Approval or the award of attorneys' fees, costs or expenses is later reversed on appeal then, within seven (7) days of such order, Plaintiff's Counsel shall repay to the Settlement Fund the amount received.

VII. CLASS SETTLEMENT PROCEDURES

7.1. As soon as practicable after the signing of this Agreement, the Parties shall sign, and Plaintiff shall file in the Court, a stipulation that, upon the Court's entry of the Preliminary Approval order, Plaintiff should 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 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. Plaintiff shall move for an order granting Preliminary Approval to this Agreement as within the range of possible Final Approval; conditionally certifying the Settlement Class for purposes of this Settlement only; approving Class Notice to the Settlement Class Members; and setting a hearing to consider Final Approval of the settlement and any objections thereto. Defendants shall have no obligation to make separate filings in support of the motion. Defendants shall appear at the hearing to confirm their agreement with the terms of the settlement as provided herein.

7.3. Prior to the hearing on Final Approval and in accordance with the Courts' regular notice requirements, Plaintiff shall move for entry of an order of Final Approval, granting Final Approval of this settlement and holding this Agreement to be final, fair, reasonable, adequate, and binding on all Settlement Class Members who have not excluded themselves as provided below, and ordering that the settlement relief be provided as set forth in this Agreement, ordering the releases as set forth in Section VIII, below, and entering judgment in this case. Defendants shall have no obligation to make separate filings in support of the motion. Defendants shall appear at the hearing to confirm their agreement with the terms of the settlement as provided herein.

7.4. The Long Form Notice and the Short Form 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.

7.5. 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 notice of objection. To be timely, the objection must be *received* by the Clerk of the Court (not just postmarked or sent) prior to the Objection Deadline. Each objection must include: (i) the case name *Bangoura v. Beiersdorf, Inc. and Bayer Healthcare, LLC* and case number, No. 1:22-cv-00291-BMC; (ii) the name, address and telephone number of the objector; (iii) the name, address, and telephone number of all counsel (if any) who represent the objector, including any former or current counsel who may be entitled to compensation for any reason if the objection is successful, and all legal factual support for the right to such compensation; (iv) documents or testimony sufficient to establish membership in the Settlement Class; (v) a detailed statement of any

objection asserted, including the grounds therefor; (vi) whether the objector is, and any reasons for, requesting the opportunity to appear and be heard at the final approval hearing; (vii) the identity of all counsel (if any) representing the objector who will appear at the final approval hearing and, if applicable, a list of all persons who will be called to testify in support of the objection; (viii) copies of any papers, briefs, declarations, affidavits, or other documents upon which the objection is based; (ix) a detailed list of any other objections submitted by the Settlement Class Member, or his/her counsel, to any class actions submitted in any state or federal court in the United States in the previous five years (or affirmatively stating that no such prior objection has been made); and (x) the objector's signature, in addition to the signature of the objector's attorney (if any)—an attorney's signature alone shall not be deemed sufficient to satisfy this requirement. 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 information or documentation set forth in this paragraph also shall be grounds for overruling an objection.

7.6. If any Settlement Class Member wishes to be excluded from this settlement and Litigation, the Settlement Class Member may do so by completing the online exclusion form at the Settlement Website; downloading and submitting to the Claim Administrator a completed exclusion form; or submitting a valid request to exclude themselves, as described in the Notice, to the Claim Administrator. Requests to exclude must be postmarked or submitted online by the Exclusion Deadline or they shall not be valid. For exclusion requests that are submitted online, the Class Member shall have the opportunity to print a page immediately after submission showing the information entered and the date and time the request for exclusion was submitted. 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.

7.7. The proposed Preliminary Approval order and Long Form Notice will provide that any Settlement Class Members wishing to object or exclude themselves who fail to properly or timely file or serve any of the requested information and/or documents will be precluded from doing so.

7.8. If any objection is received by the Claim Administrator, the Claim Administrator shall promptly forward the objection and all supporting documentation to counsel for the Parties. Prior to the hearing on Final Approval and in accordance with the Courts' regular notice requirements, Plaintiff's Counsel shall file objections and supporting documentation with the Court. The failure of the Settlement Class Member to comply with the filing requirements of Section 7.5 shall be grounds for striking and/or overruling the objection, even if the objection is submitted to the Claim Administrator.

7.9. Not later than ten (10) days after the Exclusion Deadline, the Claim Administrator shall provide to Class Counsel and Counsel for Defendants a complete 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 with copies of the exclusion requests. Plaintiff's Counsel shall inform the Court of the number of persons who have timely and validly excluded themselves prior to the hearing on Final Approval and in accordance with the Court's regular notice requirements.

7.10. 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.

7.11. 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.

7.12. 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, or the Agreement is terminated, then no term or condition of this Agreement, or any draft thereof, or discussion, negotiation, documentation, or other part or aspect of the Parties' settlement discussions shall have any effect, nor shall any such matter be admissible in evidence for any purpose in the Litigation, or in any other proceeding (unless Plaintiff's Counsel and Defendants mutually agree in writing to proceed with this Agreement); the Amended Complaint shall be deemed automatically withdrawn; and the Litigation shall continue as if the settlement had not occurred, except as set forth in Sections 1.13 and 9.15 of this Agreement. The Parties agree that all drafts, discussions, negotiations, documentation or other information prepared 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, and only for purposes of the Litigation.

VIII. RELEASES

8.1. 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, or could have been, asserted in the Litigation against it, 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.

8.2. Upon the Effective Date, Plaintiff and Settlement Class Members, 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 based upon any violation of any state or federal statute or common law or regulation or otherwise, or arise directly or indirectly out of, or in any way relate to: (i) the allegations, claims, or contentions that were, or could have been, asserted in the Litigation, including but not limited to allegations, claims, or contentions related in any way to the testing, marketing, sales, advertising, and use of the Covered Products; and (ii) any alleged acts, omissions, or misrepresentations related in any way to the presence of benzene in the Covered Products;

(b) Plaintiff, Settlement Class Members, and Defendants 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. Plaintiff, Settlement Class Members, and Defendants 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 Plaintiff 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. Consequently, Plaintiff, Settlement Class Members, and Defendants expressly waive all

provisions, rights and benefits of laws such as California Civil Code Section 1542, which provides:

“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.”

Plaintiff, Settlement Class Members, and Defendants hereby incorporate any equivalent, comparable, or analogous provisions of the laws of the United States or any state or territory thereof, or of the common law.

(c) Each and every term of this Section shall be binding upon, and inure to the benefit of Plaintiff, Settlement Class Members and the Released Parties, and any of their 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.

(d) All personal injury claims are expressly excluded from the Release.

8.3. None of the above releases include releases of causes of action to enforce the terms of the settlement.

8.4. This Agreement reflects, among other things, the compromise and settlement of disputed claims among the Parties hereto, and neither 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 the validity of any claim, or defense, or of any point of fact or law (including but not limited to matters respecting class certification) on the part of any Party.

Defendants expressly deny the allegations of the complaints in the Litigation. Neither this Agreement, nor the fact of settlement, nor the settlement proceedings, nor settlement negotiations, nor any related document, shall be used as an admission of any fault or omission by the Released Parties, or be offered or received in evidence as an admission, concession, presumption, or inference of any wrongdoing by the Released Parties in any proceeding, other than such proceedings as may be necessary to consummate, interpret, or enforce this Agreement. The Released Parties may file the Agreement and/or the Final Approval order in any action or proceeding that may be brought against them in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any theory of claim preclusion or issue preclusion or similar defense or counterclaim.

IX. ADDITIONAL PROVISIONS

9.1. Subject to the limitations expressed herein, the Parties' 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. The Parties and Counsel shall not encourage anyone directly or indirectly to opt out or object. The Class Representatives shall not opt out or object. 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.

9.2. To avoid contradictory, incomplete or confusing information about the settlement during the Claim Period, the Parties agree that if they make any written press releases or statements to the media about the settlement before the conclusion of the Claim Period, such

releases or statements will be approved by the Parties in advance and, where desired by the other Party, made jointly.

9.3. Plaintiff and Plaintiff's Counsel shall make no statements, including statements to the press or any other public statements, that disparage Defendants, any Released Party, or any of the Covered Products, or accuse Defendants or any Released Party of any wrongdoing regarding this Settlement or Litigation or the subject matter thereof.

9.4. 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 Plaintiff's 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. 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, the Short Form Notice, the Online Advertisement and 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 and/or modifies the definition of the class), or any other court, or if any federal or state authority objects to or requires modifications to the Agreement, any Party whose rights or obligations are affected by the alteration or amendment may terminate this Agreement upon written notice to the other Party. The termination of the Agreement shall be deemed effective five (5) days after the provision of notice pursuant to this paragraph, or at any later date agreed in writing by the Parties ("Termination Date").

9.6. All time periods set forth herein shall be computed in calendar days unless otherwise specified. If the date for performance of any act required by or under this Agreement

falls on a Saturday, Sunday 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 Agreement.

9.7. This Agreement is intended to and shall be governed by the laws of the State of New York, without regard to conflicts of law principles.

9.8. 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.

9.9. 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, and any comparable statutes, that uncertainties in a contract are interpreted against the party causing an uncertainty to exist is hereby waived by all Parties.

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

9.11. 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.

9.12. 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.

9.13. Captions and section 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.

9.14. 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.

9.15. 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.

9.16. Plaintiff hereby agrees not to request to exclude himself from the Settlement Class. Any such request shall be void and of no force or effect.

9.17. 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 Plaintiff or Plaintiff's Counsel:

Jason P. Sultzer
The Sultzer Law Group, P.C.
85 Civic Center Plaza
Suite 200
Poughkeepsie, NY 12601
Telephone : (845) 483-7100
Email: sultzerj@thesultzerlawgroup.com

Charles E. Schaffer
Levin Sedran & Berman
510 Walnut Street, Suite 500
Philadelphia, PA. 19106
Telephone: (215) 592-1500
Email: cschaffer@lfsblaw.com

If to Defendants' Counsel:

Robert Scarborough
Sidley Austin LLP
1 S. Dearborn Street
Chicago, IL 60603
tscarborough@sidley.com

IN WITNESS HEREOF 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.

By: ALI Bangoura
Almany Ismael Bangoura

Plaintiff

THE SULTZER LAW GROUP P.C.

By: _____
Jason P. Sultzer, Esq.
85 Civic Center Plaza, Suite 200
Poughkeepsie, NY 12601
Tel: (845) 483-7100
Fax: (888) 749-7747
sultzerj@thesultzerlawgroup.com
liparij@thesultzerlawgroup.com
markowitzd@thesultzerlawgroup.com

LEVIN SEDRAN & BERMAN

By: Charles E. Schaffer
Charles E. Schaffer, Esq.
David C. Magagna Jr., Esq.
510 Walnut Street, Suite 500
Philadelphia, PA 19106
Tel: 215-592-1500
dmagagna@lfsblaw.com
cschaffer@lfsblaw.com

Counsel for Plaintiff and the Class

DocuSigned by:
By: Mauricio Valdes
Mauricio Valdes

On behalf of Beiersdorf, Inc.

By: William Dodero
William Dodero

On behalf of Bayer Healthcare LLC

SIDLEY AUSTIN LLP

By: Thomas R. Searcy

Eamon P. Joyce
SIDLEY AUSTIN LLP
787 Seventh Avenue
New York, New York 10019
Tel: (212) 839-5300
ejoyce@sidley.com

T. Robert Scarborough*
tscarborough@sidley.com
Elizabeth M. Chiarello*
echiarello@sidley.com
SIDLEY AUSTIN LLP
One South Dearborn Street
Chicago, Illinois 60603
Tel: (312) 853-7000

**Admitted Pro Hac Vice*