

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
Nancy Calchi, individually and on behalf of all others :
similarly situated, :
: Lead Case No. 7:22-cv-01341-KMK
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Plaintiff, :
:
v. :
:
:
GlaxoSmithKline Consumer Healthcare Holdings (US) :
LLC, GSK Consumer Health, Inc., and Pfizer Inc., :
:
Defendants. :
:
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Stacey Papalia, on behalf of herself and all others :
similarly situated, :
: Case No. 7:22-cv-02630-KMK
:
Plaintiff, :
:
v. :
:
:
GlaxoSmithKline Consumer Healthcare Holdings (US) :
LLC, :
:
Defendant. :
:
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SETTLEMENT AGREEMENT

Plaintiffs in the consolidated actions *Calchi v. GlaxoSmithKline Consumer Healthcare Holdings (US) LLC, et al*, No. 22-cv-01341-KMK (S.D.N.Y.)¹ and *Papalia v. GlaxoSmithKline*

¹ Defendant Pfizer was dismissed by stipulation. See ECF No. 38.

Consumer Healthcare Holdings (US) LLC, No. 22-cv-02630-KMK (S.D.N.Y.) and Defendants GlaxoSmithKline Consumer Healthcare Holdings (US) LLC (now known as Haleon US Holdings LLC) and GSK Consumer Health, Inc., (now known as Haleon US Inc. and, together with Haleon US Holdings LLC, shall hereinafter be referred to as “Haleon”), stipulate and agree, pursuant to the terms and conditions set forth in this Settlement Agreement, to settle, dismiss, and compromise the claims asserted against Haleon in the Litigation as set forth herein.

WHEREAS, the definitions appearing in Section A (“Definitions”) below and other terms defined in this Settlement Agreement are incorporated by reference in these introductory sections;

WHEREAS, during the Class Period, Haleon marketed, advertised, labeled, and sold the Covered Products;

WHEREAS, Plaintiffs have purchased Covered Products during the Class Period;

WHEREAS, Plaintiffs have asserted claims in the Litigation seeking to recover damages individually and on behalf of a nationwide class of purchasers of the Covered Products;

WHEREAS, Plaintiffs contend the Covered Products were deceptively and misleadingly marketed, advertised, labeled, and sold with claims of “Non-Drowsy” and utilizing derivative marketing language and images because they contain dextromethorphan (“DXM”);

WHEREAS, Plaintiffs also seek class-wide damages and equitable relief;

WHEREAS, Haleon has defended the Litigation on several grounds, including, in part, Haleon’s contentions that: (a) Plaintiffs’ claims that the Covered Products’ label could not include the “non-drowsy” statements are preempted because they seek to impose a requirement that is “different from,” “in addition to,” and “otherwise not identical with” the Food Drug and Cosmetic Act’s monograph regulations for over-the-counter cough medications; (b) the FDA monograph specifically considered the issue of DXM and drowsiness, and found that products with DXM do

not meet either the “may cause marked drowsiness” standard or even the modest “may cause drowsiness” standard; and (c) even the studies Plaintiffs have referenced contend DMX may cause drowsiness in only a small minority of users;

WHEREAS, the district court granted Haleon’s motion to dismiss on the grounds that Plaintiffs’ claims are preempted by order dated March 10, 2023 (ECF no. 45);

WHEREAS, Plaintiffs appealed the dismissal to the United States Court of Appeals for the Second Circuit, where it was fully briefed but not argued;

WHEREAS, Plaintiffs and Class Counsel have conducted a thorough investigation of the facts and law relating to the matters alleged in the Litigation. Plaintiffs and Class Counsel believe that the Litigation has substantial merit. However, Plaintiffs and Class Counsel recognize and acknowledge that the expense, length, and uncertainty of continued proceedings necessary to prosecute the Litigation against Haleon, particularly in light of the dismissal and need to prevail on appeal before litigating the matter through trial and any further appeals, will be a risky, costly, and time-consuming undertaking. Plaintiffs and Class Counsel also have taken into account the uncertain outcome of further litigation, especially in a complex suit such as this Litigation, as well as the difficulties and delays inherent in such litigation relative to the substantial benefits to be conferred on the Settlement Class by the settlement set forth in this Settlement Agreement. Plaintiffs and Class Counsel, therefore, have determined that the settlement is in the best interests of the Settlement Class and is fair, reasonable, and adequate;

WHEREAS, Haleon has denied and continues to deny vigorously the claims and allegations asserted by Plaintiffs, and any fault, wrongdoing, illegal conduct, or liability whatsoever on its part, and further has asserted numerous defenses to the facts and causes of action alleged in the Litigation. This Settlement Agreement shall not be construed as, or deemed to be

evidence of, an admission by Haleon of any fault, wrongdoing, or liability whatsoever, or that any of the allegations in the Litigation are true or support a claim. Without conceding any lack of merit in its defenses, Haleon considers it desirable to enter into this Settlement Agreement to avoid further expense, to dispose of burdensome and protracted litigation, and to avoid the uncertain outcome of proceeding in the Litigation;

WHEREAS, the Parties engaged in extensive, difficult, complex, and arm's length negotiations over a period of months regarding settlement. Additionally, the Parties participated in a full-day mediation session with JAMS mediator Bruce A. Friedman, Esq., which resulted in the settlement;

WHEREAS, the Parties desire and intend by this Settlement Agreement to settle finally and completely, and effectuate a final resolution of, the Litigation, and to provide for a complete full and final release of the Released Claims in favor of the Released Parties, as described below in detail;

WHEREAS, Plaintiffs and Haleon agree that this Settlement Agreement shall not be deemed or construed to be an admission, concession, or evidence of any violation of any federal, state, or local statute, regulation, rule, or other law, or principle of common law or equity, or of any liability or wrongdoing whatsoever by Haleon, or of the truth of any of the claims that the Plaintiffs have asserted against Haleon;

NOW, THEREFORE, it is hereby agreed and stipulated by and among Plaintiffs, individually and on behalf of the Settlement Class, and Haleon, through its undersigned counsel, and intending to be legally bound, that the allegations asserted in the Litigation shall be settled, fully and finally compromised and released, and dismissed on their merits with prejudice according to the terms and conditions set forth herein.

A. DEFINITIONS

1. As used in this Settlement Agreement, the following terms have the meanings set forth below.

a. The term “**Attorneys’ Fee, Cost, and Service Award**” means any and all attorneys’ fees, costs, and expenses, including any fees and costs for experts and consultants, for Class Counsel or other counsel in the Litigation (including Denlea & Carton, Papalia’s counsel), as well as any service payments to Plaintiffs that may be awarded by the Court in recognition of the risks Plaintiffs have undertaken and their time, cost, and effort in pursuing the Litigation on behalf of the members of the Settlement Class.

b. The term “**Claim**” means a claim made by a Claimant via the submission of a Claim Form to the Settlement Administrator pursuant to this Settlement Agreement.

c. The term “**Claimant**” means a Settlement Class Member who submits a Claim Form seeking a remedy pursuant to this Settlement Agreement.

d. The term “**Claim Form**” shall mean the form approved by the Court for use by Claimants to make Claims pursuant to this Settlement Agreement, which is to be substantially in the form of **Exhibit 1** hereto (subject to any modifications ordered by the Court). The Claim Form shall require each Claimant’s agreement to be bound by the Release set forth in this Settlement Agreement.

e. The term “**Claim Deadline**” means the deadline for Settlement Class Members to file claims, which shall be set for ninety (90) days following the Notice Commencement Date.

f. The term “**Claim Period**” means the time period from the Preliminary Approval Date to the Claim Deadline.

g. The term “**Class Counsel**” means Jonas B. Jacobson and Simon Franzini of Dovel & Luner, LLP

h. The term “**Class Period**” means the time period from February 16, 2016 through the Preliminary Approval Date.

i. The term “**Counsel for Haleon**” means J. Gordon Cooney, Jr., Franco A. Corrado, and Megan A. Suehiro of Morgan, Lewis & Bockius LLP.

j. The term “**Court**” means the United States District Court for the Southern District of New York.

k. The term “**Covered Products**” means any flavor Robitussin product with dextromethorphan and marketed as non-drowsy, including Robitussin Cough+Chest Congestion DM Maximum Strength Syrups; Robitussin Cough+Chest Congestion DM Maximum Strength / Nighttime Cough DM Maximum Strength Day & Night Value Pack Syrups; Robitussin Cough+Chest Congestion DM Maximum Strength Liquid-Filled Capsules; Robitussin Cough+Chest Congestion DM Syrups; Children’s Robitussin Cough & Chest Congestion DM Syrups; Children’s Robitussin Cough & Chest Congestion DM / Nighttime Cough Long-Acting DM Day & Night Value Pack Syrups; Robitussin Sugar-Free Cough+Chest Congestion DM Syrups; Robitussin Honey Cough+Chest Congestion DM Maximum Strength Syrups; Robitussin Honey Cough+Chest Congestion DM Maximum Strength / Nighttime Cough DM Maximum Strength Day & Night Value Pack Syrups; Robitussin Elderberry Cough+Chest Congestion DM Maximum Strength Syrups; Children’s Robitussin Elderberry Cough & Chest Congestion DM Syrups; Robitussin Severe Multi-Symptom Cough Cold + Flu CF Maximum Strength Syrups; Robitussin Severe Multi-Symptom Cough Cold + Flu CF Maximum Strength / Nighttime Severe Multi-Symptom Cough Cold + Flu CF Maximum Strength Day & Night Value Pack Syrups;

Robitussin Severe Cough + Sore Throat CF Maximum Strength Syrups; Robitussin Honey Severe Cough Flu + Sore Throat CF Maximum Strength Syrups; Robitussin Honey Severe Cough Flu + Sore Throat CF Maximum Strength / Nighttime Severe Cough Flu + Sore Throat CF Maximum Strength Day & Night Value Pack Syrups; Robitussin Multi-Symptom Cold CF Syrups; Children's Robitussin Cough & Cold CF Syrups; Robitussin Long-Acting CoughGels; Robitussin 12 Hour Cough Relief Extended-Release Grape Syrups; Robitussin 12 Hour Cough Relief Extended-Release Orange Syrups.

1. The term “**Effective Date**” means: (a) the expiration date of the time for filing notice of any appeal from a Final Approval Order by the Court if no appeal is filed; or (b) if an appeal is filed, the latest of (i) the date of final affirmance of that Final Approval Order, (ii) the expiration of the time for a petition for writ of certiorari to review the Final Approval Order if affirmed, the denial of certiorari, or, if certiorari is granted, the date of final affirmance of the Final Approval Order following review pursuant to that grant; or (iii) the date of final dismissal of any appeal from the Final Approval Order or the final dismissal of any proceeding on certiorari to review the Final Approval Order that has the effect of confirming the Final Approval Order. For avoidance of doubt, the Effective Date shall not have been reached until the Court enters a Final Approval Order and there has been the successful exhaustion of all appeal periods without appeal or resolution of any appeals or certiorari proceedings in a manner upholding the Final Approval Order.

m. The term “**Eligible Claimant**” means a Claimant who has submitted a valid and timely Claim as determined by the Settlement Administrator subject to all rights of the Parties under the Settlement Agreement. The Parties agree that each Plaintiff may file a Claim as an Eligible Claimant.

n. The term “**Final Approval Hearing**” means the hearing conducted by the Court to determine whether to approve this settlement and to determine the fairness, adequacy, and reasonableness of this settlement.

o. The term “**Final Approval Order**” means the Final Approval Order of the Court approving the settlement, which is to be agreed upon by the Parties and submitted with Plaintiffs’ Motion for Final Approval.

p. The term “**Final Judgment**” means the Court’s final judgment, which is to be agreed upon by the Parties and submitted with Plaintiffs’ Motion for Final Approval.

q. The term “**Gross Settlement Fund**” means the total non-reversionary settlement payment of Four Million Five Hundred Thousand Dollars (\$4,500,000.00), to be paid by Haleon for the benefit of the Settlement Class, to be funded pursuant to the schedule set forth in this Settlement Agreement, and to be used to pay all Claims of Eligible Claimants, as well as any Attorneys’ Fee, Cost, and Service Award and any Settlement Administration Costs that are approved by the Court.

r. The term “**Haleon**” means GlaxoSmithKline Consumer Healthcare Holdings (US) LLC (now known as Haleon US Holdings LLC) and GSK Consumer Health, Inc. (now known as Haleon US Inc.).

s. The term “**Litigation**” means *Calchi v. GlaxoSmithKline Consumer Healthcare Holdings (US) LLC, et al*, No. 22-cv-01341-KMK (S.D.N.Y.) and *Papalia v. GlaxoSmithKline Consumer Healthcare Holdings (US) LLC*, No. 22-cv-02630-KMK (S.D.N.Y.).

t. The term “**Notice of Settlement**” means the long-form Notice of Class Action Settlement substantially in the form attached as **Exhibit 2** hereto, subject to the approval of the Court in the Preliminary Approval Order.

u. The term “**Net Settlement Fund**” means the Gross Settlement Fund minus any Court-approved Attorneys’ Fee, Cost, and Service Award and any Settlement Administration Costs.

v. The term “**Notice Commencement Date**” shall have the meaning ascribed to it in Paragraph D.6. of this Settlement Agreement.

w. The term “**Notice Plan**” shall have the meaning ascribed to it in Paragraph D.6. of this Settlement Agreement.

x. The term “**Objection and Opt-Out Deadline**” means the deadline for Settlement Class Members to object to this Settlement Agreement or opt-out of the Settlement Class.

y. The term “**Parties**” means Plaintiffs and Haleon.

z. The term “**Person**” or “**Persons**” means any individual or entity, public or private.

aa. The term “**Plaintiffs**” means Nancy Calchi and Stacey Papalia.

bb. The term “**Preliminary Approval Date**” means the date on which the Court enters the Preliminary Approval Order.

cc. The term “**Preliminary Approval Order**” means the proposed Preliminary Approval Order of the Court preliminarily approving the settlement, which is to be substantially in the form of Exhibit 3 hereto.

dd. The term “**Qualifying Proof of Purchase**” means receipts or any other reliable documentation demonstrating that the Claimant purchased a Covered Product.

ee. The term “**Release**” means the release set forth in this Settlement Agreement.

ff. The term “**Released Claims**” means the claims released as set forth in this Settlement Agreement.

gg. The term “**Released Parties**” is defined below.

hh. The term “**Releasing Parties**” is defined below.

ii. The term “**Settlement Administrator**” mean Angeion Group, which shall effectuate and administer the Notice Plan, distribute the Settlement Notice, and administer the exclusion process for opt-outs, the Claim process, and distribution(s) to Eligible Claimants under the supervision of the Parties and the Court, and which firm is independent of Plaintiffs, Class Counsel, Haleon, and Counsel for Haleon. All reasonable fees and costs billed by the Settlement Administrator will be paid from the Gross Settlement Fund. Reasonable fees and costs of notice and administration billed prior to the creation of the Gross Settlement Fund will be advanced by Haleon and paid within ten (10) business days of receipt of any invoice for such costs of notice and administration. All amounts advanced by Haleon prior to the creation of the Gross Settlement Fund will be credited towards Haleon’s payment of the Gross Settlement Fund into the Settlement Escrow Account.

jj. The term “**Settlement Administration Costs**” means the reasonable fees and expenses of the Settlement Administrator incurred in the administration of this settlement and approved by the Court, including the reasonable costs associated with the Notice Plan and the Settlement Notice; the administering, calculating, and distributing of the Net Settlement Fund to Eligible Claimants; other fees, expenses, and costs of Claim administration; the fees, expenses, and costs incurred in connection with the taxation of the Settlement Escrow Account (including without limitation expenses of tax attorneys and accountants, if any); and all other reasonable third-party fees, expenses, and costs incurred by the Settlement Administrator or other consultants

retained by agreement of the Parties or by authority of the Court to assist with the Notice Plan, claims administration, and/or in connection with effectuating the settlement of the Litigation.

kk. The term “**Settlement Agreement**” means this written agreement.

ll. The term “**Settlement Class**” means the following for settlement purposes

only:

All purchasers of any flavor Robitussin product with dextromethorphan and marketed as non-drowsy, including Robitussin Cough+Chest Congestion DM Maximum Strength Syrups; Robitussin Cough+Chest Congestion DM Maximum Strength / Nighttime Cough DM Maximum Strength Day & Night Value Pack Syrups; Robitussin Cough+Chest Congestion DM Maximum Strength Liquid-Filled Capsules; Robitussin Cough+Chest Congestion DM Syrups; Children’s Robitussin Cough & Chest Congestion DM Syrups; Children’s Robitussin Cough & Chest Congestion DM / Nighttime Cough Long-Acting DM Day & Night Value Pack Syrups; Robitussin Sugar-Free Cough+Chest Congestion DM Syrups; Robitussin Honey Cough+Chest Congestion DM Maximum Strength Syrups; Robitussin Honey Cough+Chest Congestion DM Maximum Strength / Nighttime Cough DM Maximum Strength Day & Night Value Pack Syrups; Robitussin Elderberry Cough+Chest Congestion DM Maximum Strength Syrups; Children’s Robitussin Elderberry Cough & Chest Congestion DM Syrups; Robitussin Severe Multi-Symptom Cough Cold + Flu CF Maximum Strength Syrups; Robitussin Severe Multi-Symptom Cough Cold + Flu CF Maximum Strength / Nighttime Severe Multi-Symptom Cough Cold + Flu CF Maximum Strength Day & Night Value Pack Syrups; Robitussin Severe Cough + Sore Throat CF Maximum Strength Syrups; Robitussin Honey Severe Cough Flu + Sore Throat CF Maximum Strength Syrups; Robitussin Honey Severe Cough Flu + Sore Throat CF Maximum Strength / Nighttime Severe Cough Flu + Sore Throat CF Maximum Strength Day & Night Value Pack Syrups; Robitussin Multi-Symptom Cold CF Syrups; Children’s Robitussin Cough & Cold CF Syrups; Robitussin Long-Acting CoughGels; Robitussin 12 Hour Cough Relief Extended-Release Grape Syrups; Robitussin 12 Hour Cough Relief Extended-Release Orange Syrups for personal or household use, and not for resale, in the United States during the Class Period. Specifically excluded from the Settlement Class are (i) Haleon, its officers, directors, affiliates, legal representatives, employees, successors, and assigns, and entities in which Haleon has a controlling interest; (ii) judges presiding over the Litigation; (iii) local, municipal, state, and federal governmental entities; (iv) counsel of record for the Parties; and (v) all Persons who validly opt-out in a timely manner.

mm. The term “**Settlement Class Member**” means a member of the Settlement

Class who does not submit a timely and valid request for exclusion from the settlement.

nn. The term “**Settlement Escrow Account**” means an interest-bearing escrow account, which shall be treated at all times as a “Qualified Settlement Fund” for federal income tax purposes pursuant to Internal Revenue Code (“Code”) § 468B and the Regulations issued thereto.

oo. The term “**Settlement Notice**” means the notice or notices required by the Notice Plan approved by the Court for providing notice of this settlement to the Settlement Class as set forth in Paragraph D.6.

pp. The term “**Settlement Payment**” means a settlement check or electronic payment sent by the Settlement Administrator to an Eligible Claimant.

qq. The term “**Settlement Website**” means the Settlement Website to be established by the Settlement Administrator pursuant to the terms of this Settlement Agreement.

rr. The term “**Taxes**,” for purposes of the Qualified Settlement Fund, means any and all applicable taxes, duties, and similar charges imposed by a government authority (including any estimated taxes, interest, or penalties) arising in any jurisdiction, if any, (1) with respect to the income or gains earned by or in respect of the Settlement Escrow Account, or (2) by way of withholding as required by applicable law on any distribution by the Settlement Administrator of any portion of the Settlement Escrow Account to Settlement Class Members or other Persons entitled to such distributions pursuant to this Settlement Agreement.

B. CERTIFICATION OF THE SETTLEMENT CLASS AND CLASS REMEDY

1. **Settlement Class Certification**. Pursuant to the procedure described herein, Plaintiffs will seek the Court’s certification of the Settlement Class for settlement purposes only pursuant to Federal Rules of Civil Procedure 23(a) and (b)(3).

2. **Appointment of Class Counsel.** Plaintiffs will seek the Court's appointment of Jonas B. Jacobson and Simon Franzini of Dovel & Luner, LLP as Class Counsel.

3. **Preliminary Approval.**

a. Class Counsel shall file a Motion for Preliminary Approval of Class Action Settlement requesting that the Court certify the Settlement Class for settlement purposes only and enter a proposed Preliminary Approval Order.

b. The Motion for Preliminary Approval of Class Action Settlement shall seek to appoint Plaintiffs as representatives of the Settlement Class. Plaintiffs, who have executed this Settlement Agreement and agree to be bound by it, believe the settlement is in the best interests of the Settlement Class.

c. The proposed Preliminary Approval Order shall:

- i. Find that the requirements for certification of the Settlement Class have been satisfied, appoint Plaintiffs as the representatives of the Settlement Class, appoint Class Counsel as counsel for the Settlement Class, and preliminarily approve the settlement as being within the range of reasonableness such that the Settlement Notice should be sent to the members of the Settlement Class;
- ii. Approve and direct the implementation of the Notice Plan and Settlement Notice as set forth in this Settlement Agreement;
- iii. Schedule the Final Approval Hearing not earlier than 135 days following the Preliminary Approval Date;
- iv. Appoint Angeion Group as the Settlement Administrator;

- v. Find that the Settlement Escrow Account is to be a “Qualified Settlement Fund” as defined in § 1.468B-1(c) of the Treasury Regulations;
- vi. Provide that any objections by any Settlement Class Member to the Settlement Agreement shall be heard and considered by the Court at the Final Approval Hearing only if, on or before the Objection and Opt-Out Deadline specified in the Settlement Notice and the Preliminary Approval Order, such objecting Settlement Class Member follows the procedures set forth in this Settlement Agreement and approved by the Court;
- vii. Establish dates by which the Parties shall file and serve all papers in support of the motion for final approval of the settlement, in response to any valid and timely objections, and/or in support of any attorneys’ fees and expenses and service awards;
- viii. Provide that all Settlement Class Members will be bound by the Final Approval Order and the Final Judgment unless such Person timely submits to the Settlement Administrator a timely and valid written request for exclusion in accordance with this Settlement Agreement and the Settlement Notice approved by the Court;
- ix. Provide that, pending the Final Approval Hearing and the Effective Date, all proceedings in the Litigation, other than proceedings necessary to carry out or enforce the terms and conditions of this Settlement Agreement, shall be stayed;

- x. Provide that, pending the Final Approval Hearing, Plaintiffs and all Settlement Class Members are enjoined from commencing or prosecuting, either directly or indirectly, any action asserting any of the Released Claims against any of the Released Parties, unless they have submitted a timely and valid request for exclusion from the settlement; and
- xi. Issue other related orders to effectuate the preliminary approval of the proposed settlement.

d. Following entry of the Preliminary Approval Order, the Notice Plan shall be effectuated in the manner directed and approved by the Court. The Parties agree that the methods of Settlement Notice described in this Settlement Agreement are valid and effective and that they provide reasonable and the best practicable notice to at least 70% of the Settlement Class.

e. Upon entry of the Preliminary Approval Order, Plaintiffs, Class Counsel, Haleon, and Counsel for Haleon agree to use reasonable and good faith efforts to effectuate the Court's final approval of this Settlement Agreement, including filing the necessary motion papers and scheduling any necessary hearings for a date and time that are convenient for the Court.

C. CONSIDERATION TO THE SETTLEMENT CLASS

1. Creation of Settlement Fund.

a. Haleon shall pay the Gross Settlement Fund as follows. Within ten (10) business days after the Preliminary Approval Date, Haleon will deposit or cause to be deposited into the Settlement Escrow Account a cash sum equal to the maximum "not to exceed" price obtained from the Settlement Administrator to cover Settlement Administration Costs.

b. Within thirty (30) days of the Court entering the Final Approval Order (and, if in a separate order, the later of the Final Approval Order and an order approving the Attorneys' Fees, Costs, and Service Awards), Haleon will deposit or cause to be deposited into the Settlement Escrow Account the cash sum required to complete the funding of the Gross Settlement Fund.

c. Interest earned on monies in the Settlement Escrow Account shall accrue to the benefit of the Settlement Class (and shall be available to pay Eligible Claimants pro rata), and shall accrue separately to Class Counsel and Plaintiffs in proportion to the Court-approved Attorneys' Fee, Cost, and Service Award.

d. Any and all Taxes on the income of the Settlement Escrow Account shall be timely paid out of the Settlement Escrow Account.

e. The Settlement Escrow Account shall be treated as a Qualified Settlement Fund from the earliest date possible, and the Parties agree to any "relation-back election" (as defined in Treas. Reg. § 1.468B-1(j)(2)) required to treat the Settlement Escrow Account as a Qualified Settlement Fund from the earliest date possible. The Settlement Administrator shall timely and properly prepare and deliver the necessary documentation for signature by all necessary parties and thereafter cause the appropriate filings to occur.

f. The Settlement Escrow Account shall be taxed on its modified gross income, excluding the sums, or cash equivalents of things, transferred to it. In computing the Settlement Escrow Account's modified gross income, deductions shall be allowed for, *inter alia*, administrative costs and other incidental deductible expenses incurred in connection with the operation of the Settlement Escrow Account, including, without limitation, state and local taxes, and legal, accounting, and actuarial fees relating to the operation of the Settlement Escrow Account. All such computations of the Settlement Escrow Account's modified gross income, as

well as any exclusions or deductions thereto, shall be compliant and consistent with Treas. Reg. § 1.468B-2(b)(1)-(4).

g. The Settlement Administrator shall be responsible for filing federal, state, and local tax returns for the Settlement Escrow Account and paying from the Settlement Escrow Account any Taxes owed with respect to the Qualified Settlement Fund. In accordance with § 1.468B-2(l)(2) of the Treasury Regulations, the Settlement Administrator shall be responsible for filing all federal, state, and local information returns and ensuring compliance with reporting requirements with regards to any distributions from the Qualified Settlement Fund. The Settlement Administrator shall apply for an employer identification number for the Escrow Account pursuant to Internal Revenue Service Form SS-4, and in accordance with Treas. Reg. § 1.468B-2(k)(4). In no event shall Plaintiffs, Class Counsel, Counsel for Haleon, or any of the Released Parties have any obligation, responsibility, or liability arising from or relating to the administration, maintenance, preservation, investment, use, allocation, adjustment, distribution, disbursement, or disposition of any funds in the Settlement Escrow Account.

h. For the purpose of § 468B of the Code, the “transferor” shall be Haleon. Haleon shall supply to the Settlement Administrator the statement required by Treas. Reg. § 1.468B-3(e) by February 15 of the calendar year following the calendar year in which a transfer is made to the Settlement Escrow Account under this settlement.

i. The Settlement Administrator shall be empowered to take all such actions as it deems necessary to ensure that the Settlement Escrow Account is treated as a “Qualified Settlement Fund” under § 468B of the Code. Further, the Settlement Administrator may petition the Court to amend, either in whole or in part, any administrative provision of this Settlement

Agreement that causes unanticipated tax consequences or liabilities inconsistent with the foregoing.

j. In accordance with Treas. Reg. § 1.468B-2(j), the taxable year of the Settlement Escrow Account shall be the calendar year, and the Settlement Escrow Account shall use an accrual method of accounting, within the meaning of § 446(c) of the Code.

k. If the Effective Date is not achieved, then any monies in the Settlement Escrow Account including interest accrued shall be returned to Haleon except those funds already paid to reimburse the Settlement Administrator for reasonable notice and administration fees and expenses actually incurred.

2. **No Other Payments.** Other than its contributions to the Gross Settlement Fund as set forth above, Haleon shall have no obligation to make any additional payment whatsoever in connection with the settlement, this Settlement Agreement, the Notice Plan, and/or the settlement administration.

3. **Haleon's Dealings with Settlement Class Members.** If contacted about this Settlement Agreement or a Claim by a Settlement Class Member or a Claimant, Haleon will use reasonable efforts to refer that Person to the Settlement Administrator by providing to them the name of the Settlement Administrator, the domain name of the Settlement Website, and the established toll free number regarding the settlement.

4. **Monetary Relief.** The settlement shall provide the following monetary relief to Eligible Claimants from the Settlement Escrow Account.

a. Only one (1) Claim may be filed per household without Qualifying Proof of Purchase.

b. Up to three (3) Claims may be filed per household with a corresponding Qualifying Proof of Purchase for each such Claim.

c. The Net Settlement Fund will be distributed to Eligible Claimants on a pro rata basis so that the Net Settlement Fund is exhausted.

d. Settlement Class Members will be eligible to begin submitting Claims the first business day after the Preliminary Approval Date.

5. **Claim Process.**

a. The Settlement Administrator will develop a Claim Form and submission process that contains reasonable anti-fraud provisions and mechanisms to facilitate the validation and verification of Claims and the allocation of the Settlement Payments to Eligible Claimants.

b. Any Settlement Class Member who wishes to submit a Claim must timely complete, sign (by hard copy or electronic signature), and submit a Claim Form and provide the Settlement Administrator with all requested information. All Claim Forms shall be submitted to the Settlement Administrator under oath. Claim Forms shall be processed in the order in which they are received, to the extent practicable. Class Counsel and Counsel for Hialeah shall have the right to review the Claim files of the Settlement Administrator at any time. The Settlement Administrator shall have the right to confer with Class Counsel and Counsel for Hialeah with respect to any Claim.

c. The Claim Form must be valid and complete on the first submission; however, the Settlement Administrator will have the right to request additional information to validate suspicions or potentially fraudulent Claims. Claimants shall not have the right or opportunity to cure any Claim deficiency or to receive notice of any such deficiency. All decisions by the Settlement Administrator are final and not subject to appeal.

6. **Claim Review.** If the Settlement Administrator suspects fraud or misleading conduct with respect to any Claim, then the Settlement Administrator will immediately bring the Claim to the attention of Class Counsel and Counsel for Haleon, who shall meet and confer with the Settlement Administrator concerning the Claim, including whether the Claim should be denied. Class Counsel and Counsel for Haleon reserve the right to bring the Claim to the attention of the Court.

7. **Distribution Of Eligible Claimants.** The Settlement Administrator shall begin paying timely, valid, and approved Claims no later than thirty (30) days after the Effective Date. The Settlement Administrator shall pay Eligible Claimants by electronic means to the extent possible. Settlement Payments issued by check will remain valid for 180 days, and such expiration period shall be printed on the face of each check. Class Members shall not be entitled to request a reissued check after expiration of the 180-day period. The Settlement Payment will be deemed void once the 180-day period expires.

8. **Uncashed Settlement Payment Checks.** If Settlement Payments sent to Eligible Claimants remain uncashed or otherwise not redeemed after expiration of the 180-day period, then the total amount of those unclaimed checks shall be donated to the National Consumer Law Center.

9. **Other Relief.**

a. **Label Change.** No later than One Hundred Sixty (160) days following the Effective Date (the “Labeling Effective Date”), Haleon agrees that it will cease marketing and distributing the Covered Products with labels bearing the “Non-Drowsy” statement and will exclude the “Non-Drowsy” statement from any future marketing or advertisements that describe the Covered Products created by Haleon or at Haleon’s direction. Haleon shall not be required to change or replace the labels on any Covered Products manufactured, marketed, or distributed prior

to the Labeling Effective Date, to recall any Covered Products sold or distributed by or at the direction of Haleon prior to the Labeling Effective Date, or to recall advertisements or other marketing materials distributed by or at the direction of Haleon prior to the Labeling Effective Date.

b. Nothing in this Settlement Agreement shall bar Haleon from describing the Covered Products as “Non-Drowsy” or utilizing any derivative of that statement on the label or in marketing or advertisements to comply or be in accord with further guidance from the U.S. Food and Drug Administration concerning use of the term “non-drowsy” (or any synonymous or materially-equivalent claim) to describe products containing DXM and/or to comply with any future revisions to the OTC Monograph.

c. Nothing in this Settlement Agreement shall (i) prevent Haleon from making any other changes to the Covered Products’ labels, advertisements, or other marketing materials provided that those changes are not inconsistent with the provisions of this Section or (ii) apply to any Haleon product other than the Covered Products.

D. SETTLEMENT ADMINISTRATOR AND NOTICE PLAN

1. **Appointment of Settlement Administrator.** The Settlement Administrator will be appointed by the Court in the Preliminary Approval Order. The Settlement Administrator shall be responsible for administering the Claim process and taking other actions as set forth in this Settlement Agreement. The reasonable fees and expenses of the Settlement Administrator shall be paid from the Gross Settlement Fund. The Settlement Administrator shall provide Class Counsel and Counsel for Haleon with a Notice Plan that will be filed with Plaintiffs’ Motion for Preliminary Approval and that shall set forth a detailed estimate and a “not to exceed” price for performing all

tasks and duties regarding this settlement. The Settlement Administrator's subsequent invoices through the Final Approval Hearing shall be approved by the Court in its Final Approval Order.

2. **No Liability for Claims Administered Pursuant to the Settlement Agreement.**

No Person shall have any claim against Haleon, Counsel for Haleon, Plaintiffs, Class Counsel, the Released Parties, and/or the Settlement Administrator based on any determinations, distributions, or awards made with respect to any Claim. For the avoidance of doubt, in no event shall Plaintiffs, Class Counsel, Haleon, Counsel for Haleon, or any Released Party have any liability for claims of intentional, wrongful, or negligent conduct on the part of the Settlement Administrator or its agents.

3. **Settlement Administrator Duties.** The Settlement Administrator shall:

- a. Use personal information acquired through the administration of the settlement solely for purposes of effectuating the Notice Plan and evaluating and paying Claims.
- b. Assign a manager to oversee the protection and appropriate management of personal information including, without limitation, for purposes of maintaining its confidentiality.
- c. Review its internal system to manage the protection of personal information to ensure consistent performance and constant improvement.
- d. Take security countermeasures to prevent unauthorized access to personal information and the loss, destruction, falsification, and/or leakage of personal information.
- e. If outsourcing the handling of personal information, determine that outsourced companies take steps to ensure appropriate management of the information to prevent leaks of personal or confidential information, and prohibit reuse of information for other purposes.
- f. Respond immediately with appropriate measures when necessary to disclose, correct, stop using, or eliminate contents of information.

g. Within one hundred and twenty (120) days after the completion of any check-cashing period following the Claim Deadline, and in compliance with applicable retention law, destroy all personal information obtained in connection with this settlement in a manner most likely to guarantee that such information shall not be obtained by unauthorized Persons.

4. **Settlement Administrator Accounting.** The Settlement Administrator shall maintain a complete and accurate accounting of all receipts, expenses (including settlement administration costs), and payments made pursuant to this Settlement Agreement. The accounting shall be made available on reasonable notice to Class Counsel and Counsel for Haleon.

5. **Removal of Settlement Administrator.** If the Settlement Administrator fails to perform adequately, then the Parties may agree to petition the Court to remove and replace the Settlement Administrator.

6. **Notice Plan.** The Notice Plan utilized to provide notice of this settlement to the Settlement Class shall be approved by the Court in the Preliminary Approval Order. The cost of the Notice Plan shall be paid out of the Gross Settlement Fund. The Settlement Administrator shall commence the Notice Plan no later than twenty-one (21) days after the Preliminary Approval Date (the “Notice Commencement Date”). The Notice Plan shall be effectuated by the Settlement Administrator in a manner that satisfies the due process rights of the Settlement Class, and shall include, at a minimum:

a. **Notice of Settlement.** The Notice of Settlement substantially in the form attached hereto as **Exhibit 2** and a Claim Form substantially in the form attached hereto as **Exhibit 1** (subject to any modifications from the Court) shall be made available in the best method most practicable under the circumstances to all members of the Settlement Class who are identifiable to the Settlement Administrator through reasonable means. Haleon will provide the Settlement

Administrator with reasonably available and accessible information that identifies possible members of the Settlement Class from their existing records.

b. **Publication**. The Settlement Administrator shall design and implement a plan for notification of the settlement to members of the Settlement Class through the best method most practicable under the circumstances, designed to target purchasers of the Covered Products. The short form publication notice will be substantially in the form attached hereto as **Exhibit 4** (subject to any modifications from the Court).

c. **Settlement Website**. No later than the Notice Commencement Date, the Settlement Administrator shall establish and make live the Settlement Website, which shall be an Internet website concerning the settlement utilizing the domain name www.NonDrowsyRobitussinSettlement.com. The Settlement Website shall be maintained by the Settlement Administrator until 120 days after the time period for cashing all Settlement Payment checks has expired. The domain name of the Settlement Website shall be included in all Settlement Notices. The Settlement Website shall provide, at a minimum: (i) information concerning deadlines for filing a Claim Form, and the dates and locations of relevant Court proceedings, including the Final Approval Hearing; (ii) the toll-free phone number; (iii) copies of the Settlement Agreement, the Notice of Settlement, the Claim Form, Court Orders regarding this settlement, and other relevant Court documents, including Class Counsel's Motion for Approval of Attorneys' Fees, Costs, and Service Awards; and (iv) information concerning the submission of Claim Forms, including the ability to submit Claim Forms electronically.

d. **Toll-Free Number**. No later than the Notice Commencement Date, the Settlement Administrator shall establish a toll-free telephone number utilizing Interactive Voice Response technology and providing general information concerning deadlines for filing a Claim

Form, opting out of or objecting to the settlement, and the dates and locations of relevant Court proceedings, including the Final Approval Hearing. The toll free number shall be maintained by the Settlement Administrator during the time period that the Settlement Website is active. The toll-free telephone number shall be included on the Settlement Website and in the Notice of Settlement.

e. **CAFA Notice**. Pursuant to 28 U.S.C. § 1715, Haleon, through the Settlement Administrator, shall mail all required notices in accordance with their obligations thereunder.

7. **Proof of Compliance with Notice Plan**. The Settlement Administrator shall provide Class Counsel and Counsel for Haleon with a declaration detailing all of its efforts regarding the Notice Plan, its timely completion of the Notice Plan, and its reach to the members of the Settlement Class, to be filed as an exhibit to Plaintiffs' Motion for Final Approval of Class Action Settlement.

8. **Settlement Administrator Database**. The Settlement Administrator shall maintain and preserve records of all of its activities in a computerized database with easily retrievable records related to the settlement, including logs of all telephone calls, emails, faxes, and mailings; visits to the Settlement Website; and all other contacts with actual and potential members of the Settlement Class. The database shall also include a running tally of the number and types of materials mailed or disseminated by the Settlement Administrator. The Settlement Administrator shall provide Class Counsel and Counsel for Haleon with weekly written reports throughout the Claim Period summarizing all statistics and actions taken by the Settlement Administrator in connection with administering the settlement.

E. OPT-OUTS AND OBJECTIONS

1. Requests for Exclusion.

a. Settlement Class Members may submit a request for exclusion from (*i.e.*, “opt-out” of) the settlement pursuant to Federal Rule of Civil Procedure 23(c)(2)(B)(v). A member of the Settlement Class who submits a request for exclusion cannot object to the settlement and is not eligible to receive any Settlement Payment.

b. To validly request exclusion from the Settlement Class, a member of the Settlement Class must submit a written opt-out request to the Settlement Administrator so that it is postmarked by the Objection and Opt-Out Deadline stating that “I wish to exclude myself from the Settlement Class in the Robitussin Non-Drowsy Class Action Settlement” (or substantially similar clear and unambiguous language). That written request shall contain said Person’s printed name, address, telephone number, and email address. The request for exclusion must contain the written signature of said Person seeking to exclude himself or herself from the Settlement Class.

c. Requests for Exclusion cannot be made on a group or class basis.

d. The Settlement Administrator on a weekly basis will provide by email copies of all requests for exclusion to counsel for the Parties.

e. Any Settlement Class Member who does not submit a valid and timely written request for exclusion as provided in this Settlement Agreement shall be bound by all subsequent proceedings, orders, and judgments in this Litigation, including, but not limited to, the Release, the Final Approval Order, and the Final Judgment, even if such Settlement Class Member has litigation pending, or subsequently initiates litigation, against any Released Party relating to the Released Claims.

f. A member of the Settlement Class who opts out can, on or before the Objection and Opt-Out Deadline, withdraw their request for exclusion by submitting a written request to the Settlement Administrator stating their desire to revoke their request for exclusion along with their written signature.

g. Any statement or submission purporting or appearing to be both an objection and an opt-out shall be treated as a request for exclusion.

h. Not later than seven (7) days after the Objection and Opt-Out Deadline, the Settlement Administrator shall provide to Class Counsel and Counsel for Haleon a complete list of opt-outs together with copies of the opt-out requests and any other related information. In the sole discretion of Haleon, it may void the Settlement Agreement if the number of requests for exclusion reaches five thousand (5,000). Haleon must advise Class Counsel and the Court, in writing, of this election within ten (10) business days of receiving the final list of requests for exclusion from the Settlement Administrator following the Objection and Opt-Out Deadline. If Haleon chooses to void the settlement in this manner, then the Settlement Agreement will be vacated, rescinded, cancelled, and annulled, and the Parties will return to the status quo ex ante, as if they had not entered into this Settlement Agreement.

2. **Objections.** Any Settlement Class Member who does not submit a written request for exclusion may present a written objection to the settlement explaining why he or she believes the Settlement Agreement should not be approved by the Court as fair, reasonable, and adequate. A Settlement Class Member who wishes to submit an objection must deliver the written objection to the Court and the Settlement Administrator so that it is postmarked by the Objection and Opt-Out Deadline, and subject to the following requirements.

a. The written objection shall contain (a) the Settlement Class Member's printed name, address, and telephone number; (b) evidence showing that the objector is a Settlement Class Member; (c) a detailed written statement of the objection(s) and the aspect(s) of the settlement being challenged, as well as the specific reasons, if any, for each such objection, including any evidence and legal authority that the Settlement Class Member wishes to bring to the Court's attention; (d) any other supporting papers, materials, or briefs that the Settlement Class Member wishes the Court to consider when reviewing the objection; (e) the written signature of the Settlement Class Member making the objection; and (f) a statement on whether the objecting Settlement Class Member and/or his or her counsel intend to appear at the Final Approval Hearing.

b. A Settlement Class Member may object on his or her own behalf or through an attorney; however, even if represented, the Settlement Class Member must individually sign the objection and all attorneys who are involved in any way asserting objections on behalf of the Settlement Class Member must be listed on the objection papers. Counsel for the Parties may take the deposition of any objector prior to the Final Approval Hearing in a location convenient for the objector (including by remote video deposition at the Parties' election).

c. The Settlement Administrator shall on a weekly basis provide to counsel for the Parties via email copies of any objections received.

d. Any objector who files and serves a timely written objection as described above may appear at the Final Approval Hearing, either in person at their own expense or through personal counsel hired at the objector's expense, to object to the fairness, reasonableness, or adequacy of any aspect of the settlement on the basis set forth in his or her objection. As noted above, objectors or their attorneys who intend to make an appearance at the Final Approval

Hearing must state their intention to appear in the written objection delivered to the Settlement Administrator.

e. Any Settlement Class Member who fails to comply with the objection provisions of this Settlement Agreement shall waive and forfeit any and all rights that he or she may have to appear separately and/or to object to the settlement, and shall be bound by all the terms of this Settlement Agreement and by all proceedings, orders and judgments in the Litigation, including, but not limited to, the Release, the Final Approval Order, and the Final Judgment, even if such Settlement Class Member has litigation pending or subsequently initiates litigation against any Released Party relating to the Released Claims.

3. The exclusive means for any challenge to this settlement shall be through the objection provisions of this Settlement Agreement. Without limiting the foregoing, any challenge to the Settlement Agreement, the Final Approval Order, the Final Judgment, or any Attorneys' Fee, Cost, and Service Award Order shall be pursuant to appeal under the Federal Rules of Appellate Procedure and not through a collateral attack.

4. An objector shall be entitled to all of the benefits of the settlement if this Settlement Agreement and the terms contained herein are approved, as long as the objector complies with all requirements of this Settlement Agreement applicable to Settlement Class Members, including, without limitation, the timely and complete submission of a Claim Form. A Settlement Class Member who objects can, on or before the Objection and Opt-Out Deadline, withdraw their objection by submitting a written request to the Settlement Administrator stating their desire to withdraw their objection along with their written signature.

5. If a Settlement Class Member or counsel for the Settlement Class Member who submits an objection to this settlement has objected to a class action settlement on any prior

occasion, then the objection shall also disclose all cases in which they have filed an objection by caption, court and case number, and for each case, the disposition of the objection.

6. The Parties shall be entitled to file responses to any objections to the settlement no later than 7 days prior to the Final Approval Hearing.

F. RELEASE OF CLAIMS

1. **Release.** Upon the Effective Date, all Settlement Class Members, on behalf of themselves and, as to each Settlement Class Member's claims, their agents, heirs, executors, administrators, successors, assigns, insurers, and representatives (the "Releasing Parties"), shall release and forever discharge Haleon and its respective administrators, insurers, reinsurers, agents, firms, parent companies/corporations, sister companies/corporations, subsidiaries, affiliates, and joint venture partners, and any sales agents and distributors, wholesalers, retailers, or any other party in the chain of distribution and retail sale of the Covered Products, and all of the foregoing Persons' respective predecessors, successors, assigns and present and former officers, directors, shareholders, employees, agents, attorneys, insurers, and representatives (collectively, the "Released Parties"), from each and every claim of liability, on any legal or equitable ground whatsoever, including relief under federal law or the laws of any state, regarding or related to the Covered Products, including, without limitation, their manufacture, purchase, use, marketing, promotion, or sale, and including, without limitation, all past, present, or future claims, damages, or liability on any legal or equitable ground whatsoever, known or unknown, that were or could have been asserted in the Litigation based on any assertion or contention that the Covered Products, including their packaging, labels, sale, warranties, and/or any advertising or marketing whatsoever, was inaccurate, misleading, false, deceptive, fraudulent, or breached based on, relating to, or

arising from the assertion, representation, or suggestion that the Covered Products are “Non-Drowsy,” do not cause drowsiness, or related or derivative statements, during the Class Period.

2. **Exclusions from Release.** All personal injury claims are expressly excluded from the Release.

3. **Assumption of Risk.** Each of the Releasing Parties hereby does, and shall be deemed to, assume the risk that facts additional, different, or contrary to the facts that each believes or understands to exist, may now exist or may be discovered after the date this Settlement Agreement is fully executed. Each of the Releasing Parties agrees that any such additional, different, or contrary facts shall in no way limit, waive, or reduce the foregoing Release, which shall remain in full force and effect.

4. **California Civil Code and Any Counterparts from Other States.** All Releasing Parties will be deemed by the Final Approval Order and the Final Judgment to acknowledge and waive Section 1542 of the California Civil Code, which provides that: “**A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH 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.**” Plaintiffs and the Settlement Class Members, on behalf of all Releasing Parties, expressly waive and relinquish any and all rights and benefits that they may have under, or that may be conferred upon them by, the provisions of Section 1542 of the California Civil Code, or any other law of any state or territory that is similar, comparable, or equivalent to Section 1542, to the fullest extent they may lawfully waive such rights or benefits pertaining to the Released Claims. In connection with such waiver and relinquishment, the

Settlement Class Members hereby acknowledge that the Releasing Parties are aware that they or their attorneys may hereafter discover claims or facts in addition to or different from those that they now know or believe exist with respect to Released Claims, but that it is their intention to hereby fully, finally, and forever settle and release all of the Released Claims known or unknown, suspected or unsuspected, that they have against the Released Parties. In furtherance of such intention, the Release herein given by the Releasing Parties to the Released Parties shall be and remain in effect as a full and complete general release notwithstanding the discovery or existence of any such additional different claims or facts. Each Party expressly acknowledges that it has been advised by its attorneys of the contents and effect of Section 1542, and with knowledge, each of the Parties hereby expressly waives whatever benefits it may have had pursuant to such section. Plaintiffs acknowledge, and the Releasing Parties shall be deemed by operation of the Final Approval Order and the Final Judgment to have acknowledged, that the foregoing waiver was expressly bargained for and a material element of the Settlement of which this Release is a part.

5. **No Assignment of Claims.** Plaintiffs represent and warrant that they are the sole and exclusive owners of all claims that they personally are releasing under the Settlement Agreement. Plaintiffs further acknowledge that they have not assigned, pledged, or in any manner whatsoever sold, transferred, assigned or encumbered any right, title, interest or claim arising out of or in any way whatsoever pertaining to the Litigation, including without limitation any claim for benefits, proceeds, or value under the Litigation, and that Plaintiffs are not aware of anyone other than themselves claiming any interest, in whole or in part, in the Litigation or in any benefits, proceeds, or values under the Litigation.

6. **Dismissal with Prejudice.** Upon the Effective Date, the Released Claims of the Settlement Class Members and Releasing Parties will be dismissed with prejudice.

G. ATTORNEYS' FEES, COSTS AND SERVICE AWARDS

1. **Payment of Attorneys' Fees and Costs.** The Parties agreed to the material terms set forth in this Settlement Agreement and the structure of relief for the Settlement Class, without discussing an appropriate Attorneys' Fee or Service award.

a. Within the time period established by the Court, and no later than thirty (30) days prior to the Objection and Opt-Out Deadline, Class Counsel will file a Motion for Approval of Attorneys' Fee, Cost, and Service Awards to be paid from the Gross Settlement Fund, which shall be included on the Settlement Website. Class Counsel in the Litigation shall apply for the following: (a) attorneys' fees not to exceed one-third (1/3) of the Gross Settlement Fund and (b) reimbursement of litigation costs plus reasonable costs incurred through the Effective Date. Class Counsel shall provide Haleon with W-9 Forms prior to such payment.

b. Plaintiffs certify and agree that any acceptance of this settlement is not based on any expectation of a service award, and that, although Class Counsel will seek a service award, the decision of whether or not to award a service award will be left to the discretion of the Court. With that understanding, Haleon agrees that it will not oppose a request for a service award of up to Two Thousand Dollars (\$2,000.00) each for Nancy Calchi and Stacey Papalia in recognition of their time, costs, and effort in the Litigation, including their undertaking of related risks and burdens. Class Counsel will provide W-9 Forms for Nancy Calchi and Stacey Papalia prior to such payment.

c. The Parties further agree that Haleon shall not pay, or be obligated to pay, any amounts in excess of those set forth in Paragraphs G.1.a and G.1.b. for any Attorneys' Fee, Cost, and Service Award.

d. Plaintiffs will not object to or oppose a request by Haleon that any Attorneys' Fee, Cost, and Service Award shall be set forth in an order separate from the Final Approval Order and the Final Judgment so that any appeal of the Attorneys' Fee, Cost, and Service Award shall not constitute an appeal of the Final Approval Order or the Final Judgment. Any order or proceedings relating solely to the application for an Attorneys' Fee, Cost, and Service Award, or any appeal solely from any Attorneys' Fee, Cost, and Service Award, or reversal or modification of any such Attorneys' Fee, Cost, and Service Award, will not operate to terminate or cancel this Settlement Agreement, or affect or delay the Effective Date.

e. Within thirty (30) days of the Court entering Final Approval (and, if in a separate order, the later of the Final Approval Order and an order approving the Attorneys' Fee, Cost, and Service Award), Haleon will pay the approved fees, costs, and service awards into the Settlement Escrow Account. The Parties agree that the payment will not be released from escrow to Class Counsel until the Effective Date. If the Attorneys' Fee, Cost, and Service Award is set forth in a separate order as provided in this Settlement Agreement, then payment will not be released until the later of the Effective Date or the time for filing notice of any appeal from the Attorneys' Fee, Cost, and Service Award if no appeal is filed; or (b) if an appeal is filed, the latest of (i) the date of final affirmance of that Attorneys' Fee, Cost, and Service Award, (ii) the expiration of the time for a petition for writ of certiorari to review the Attorneys' Fee, Cost, and Service Award if affirmed, the denial of certiorari, or, if certiorari is granted, the date of final affirmance of the Attorneys' Fee, Cost, and Service Award following review pursuant to that grant; or (iii) the date of final dismissal of any appeal from the Attorneys' Fee, Cost, and Service Award or the final dismissal of any proceeding on certiorari to review the Attorneys' Fee, Cost, and Service Award that has the effect of confirming the Attorneys' Fee, Cost, and Service Award. For

avoidance of doubt, payment will not be released until the Court enters a Attorneys' Fee, Cost, and Service Award and there has been the successful exhaustion of all appeal periods without appeal or resolution of any appeals or certiorari proceedings in a manner upholding the Attorneys' Fee, Cost, and Service Award.

f. The Attorneys' Fee, Cost, and Service Award approved by the Court shall be paid to Class Counsel. Class Counsel shall then distribute the Service Award to Plaintiffs, and shall distribute the Attorneys' Fee and Cost award to other counsel (including Denlea & Carton, Papalia's counsel) as Class Counsel deems appropriate. Under no circumstances will Haleon be liable to Class Counsel, or any other attorney or law firm, for, because of, relating to, concerning, or as a result of any payment or allocation of attorneys' fees and costs; and Class Counsel, and each of them, release Haleon from any and all disputes or claims because of, relating to, concerning, or as a result of any payment or allocation of attorneys' fees and costs.

g. Class Counsel shall not be entitled to any compensation from any Released Party for fees or expenses incurred in connection with the Litigation beyond those awarded by the Court and subject to the limitations in this Settlement Agreement.

H. FINAL APPROVAL

1. **Motion for Final Approval of Settlement**. Pursuant to the schedule set by the Court in the Preliminary Approval Order, Class Counsel shall file a motion and supporting papers requesting that the Court grant final approval of this Settlement Agreement and for entry of a Final Approval Order and Final Judgment (each of which is to be agreed upon by the Parties and filed with the Motion for Final Approval). The Final Approval Order shall:

- a. Determine that the Court has personal jurisdiction over Plaintiffs and Settlement Class Members, that the Court has subject matter jurisdiction over the claims asserted in this Litigation, and that venue is proper;
- b. Finally approve the Settlement Agreement and settlement as fair, reasonable, and adequate pursuant to Federal Rule of Civil Procedure 23;
- c. Finally approve and certify the Settlement Class for settlement purposes only;
- d. Find that the Notice Plan, Settlement Notice, and dissemination methodology complied with all laws, including, but not limited to, the Due Process Clause of the United States Constitution, and was fair, adequate, and sufficient, as the best practicable notice under the circumstances, and as reasonably calculated to apprise members of the Settlement Class of the Litigation, the Settlement Agreement, their objection rights, and their exclusion rights;
- e. Dismiss the Litigation with prejudice and without costs (except as provided for in this Settlement Agreement as to costs);
- f. Expressly include the Release set forth in the Settlement Agreement and make the Release effective as of the Effective Date;
- g. Certify that the notification requirements of the Class Action Fairness Act, 28 U.S.C. § 1715, have been met;
- h. Authorize the Parties to implement the terms of the Settlement Agreement;
- i. Permanently enjoin Plaintiffs and all other Settlement Class Members and those subject to their control, from commencing, maintaining, or

participating in, or permitting another to commence, maintain, or participate in on their behalf, any Released Claims against the Released Parties;

- j. Retain jurisdiction relating to the administration, consummation, enforcement, and interpretation of the Settlement Agreement, the Final Approval Order, and the Final Judgment, and for any other necessary purpose; and
- k. Issue related Orders to effectuate the final approval of the Settlement Agreement and its implementation.
- l. Identify the list of all opt-outs (which shall be submitted to the Court no later than seven (7) days before the Final Approval Hearing).

2. **Exclusive Remedy, Dismissal of Action and Jurisdiction of Court.** All Settlement Class Members who do not properly file a timely and valid written request for exclusion from the Settlement Class submit to the jurisdiction of the Court and will be bound by the terms of this Settlement Agreement, including, without limitation, the Release set forth herein. This Settlement Agreement sets forth the sole and exclusive remedy for any and all Released Claims of Settlement Class Members or other Claimants against Haleon and the Released Parties. Upon entry of the Final Approval Order, each Settlement Class Member who has not validly and timely opted out of the Settlement Class and any Person that has made or is entitled to make a claim through or in the name or right of a Settlement Class Member shall be barred from initiating, asserting, continuing, or prosecuting any Released Claims against Haleon and/or any Released Party.

I. SETTLEMENT TIMELINE

Key deadlines for this Settlement Agreement are listed below:

Commence Notice Plan	21 days from the Preliminary Approval Date.
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Claim Deadline	90 days from the Notice Commencement Date
Objection and Opt-Out Deadline	60 days from the Notice Commencement Date
Plaintiffs' Motion for Attorneys' Fees, Costs, and Service Awards	30 days from the Notice Commencement Date (and 30 days prior to the Objection and Opt-Out Deadline)
Motion for Final Approval and Response to Objections (if any)	21 days prior to the Final Approval Hearing
Final Approval Hearing	No earlier than 135 days from the Preliminary Approval Date (subject to Court availability)

J. OTHER TERMS AND CONDITIONS

1. **No Admission of Liability.** This Settlement Agreement is made for the sole purpose of attempting to consummate a settlement of the Litigation on a nationwide basis. This Settlement Agreement is made in compromise of disputed claims and shall not be construed as an admission of liability by Haleon or any Released Party. Because this is a class action settlement, this Settlement Agreement must receive preliminary and final approval by the Court. It is an express condition of this Settlement Agreement that the Court shall enter the Final Approval Order and Final Judgment and that the Settlement Agreement reach the Effective Date. In the event the Effective Date does not occur, this Settlement Agreement shall be terminated and only those provisions necessary to effectuate such termination and to restore fully the Parties to their respective positions before entry of this Settlement Agreement shall be given effect and enforced. In such event, the Parties shall bear their own costs and attorneys' fees in all respects, including without limitation with regard to the efforts to obtain any Court approval under this Settlement Agreement (except the reasonable costs of the Notice Plan and Settlement Administration, which shall be borne solely from the Gross Settlement Fund).

2. **Exclusive and Continuing Jurisdiction.** The Court shall retain exclusive and continuing jurisdiction to interpret and enforce the terms, conditions, and obligations of this Settlement Agreement and its own orders and judgments.

a. In the event of a breach by Plaintiffs, Haleon, or a Settlement Class Member of this Settlement Agreement, the Court may exercise all of its equitable powers to enforce this Settlement Agreement, as well as the Final Approval Order and Final Judgment, irrespective of the availability or adequacy of any remedy at law. Such powers include, among others, specific performance and injunctive relief.

b. Haleon, Class Counsel, and Plaintiffs agree, and Settlement Class Members and Claimants will be deemed to have agreed, to submit irrevocably to the exclusive jurisdiction of the Court for the resolution of any matter covered by this Settlement Agreement, the Release, the Final Approval Order, or the Final Judgment, or the applicability of this Settlement Agreement, the Release, the Final Approval Order, or the Final Judgment.

c. All applications to the Court with respect to any aspect of this Settlement Agreement, the Release, the Final Approval Order, or the Final Judgment shall be presented to and be determined by the Court for resolution.

d. In the event that the provisions of this Settlement Agreement, the Release, the Final Approval Order, or the Final Judgment are asserted by any Released Party as a ground for a defense, in whole or in part, to any claim or cause of action, or are otherwise raised as an objection in any other suit, action, or proceeding by any Releasing Party or any other Person covered by the Release, it is hereby agreed that the Released Party shall be entitled to seek an immediate stay of that suit, action, or proceeding until after the Court has entered an order or judgment determining

any issues relating to the defense or objections based on such provisions. Plaintiffs and Class Counsel will not oppose such relief.

3. **Stay of Proceedings.** The proposed Preliminary Approval Order shall request that all further proceedings in the Litigation be stayed except as necessary to approve and effectuate the settlement.

4. **Defendants' Attorneys' Fees and Costs.** Haleon shall bear its own attorneys' fees and costs in the Litigation.

5. **Representation by Counsel.** The Parties are represented by competent counsel, and they have had an opportunity to consult, and have consulted, with counsel prior to executing this Settlement Agreement. Each Party represents that it understands the terms and consequences of executing this Settlement Agreement, and executes it and agrees to be bound by the terms set forth herein knowingly, intelligently, and voluntarily.

6. **Mutual Full Cooperation.** The Parties agree to cooperate with each other in good faith to accomplish the terms of this Settlement Agreement, including the execution of such documents and such other action as may reasonably be necessary to implement the terms of this Settlement Agreement and obtain the Court's final approval of the Settlement Agreement, including the entry of an order dismissing the Litigation with prejudice.

7. **No Tax Advice.** Neither the Parties nor their counsel intend anything contained herein to constitute legal advice regarding the taxability of any amount paid hereunder, and no Person shall rely on anything contained in this Settlement Agreement to provide tax advice, and shall obtain his, her, or its own independent tax advice with respect to any payment under this Settlement Agreement.

8. **Notices.** Unless otherwise specifically provided herein, all notices, demands, or other communications given hereunder shall be in writing by mail or email and addressed as follows:

To Plaintiffs and the Settlement Class:

DOVEL & LUNER, LLP
Jonas B. Jacobson
jonas@dovel.com
Simon Franzini
simon@dovel.com
201 Santa Monica Blvd., Suite 600
Santa Monica, CA 90401
Tel: (310) 656-7066
Fax: (310) 656-7069

To Haleon:

MORGAN, LEWIS & BOCKIUS LLP
J. Gordon Cooney, Jr.
gordon.cooney@morganlewis.com
Franco A. Corrado
franco.corrado@morganlewis.com
2222 Market Street
Philadelphia, Pennsylvania 19103
Tel: 215-963-5000
Fax: 215-963-5001

9. **Drafting of Agreement.** The language of all parts of this Settlement Agreement shall be construed as a whole, according to its fair meaning, and not strictly for or against any Party. No Party shall be deemed the drafter of this Settlement Agreement. The Parties acknowledge that the terms of this Settlement Agreement are contractual and are the product of negotiations between the Parties and their counsel. Each Party and its counsel cooperated in the drafting and preparation of this Settlement Agreement, and this Settlement Agreement shall not be construed against any Party because of their role in drafting it.

10. **Governing Law.** This Settlement Agreement shall be governed by the laws of the State of New York, without regard to its conflict of laws rules, precedent, or case law.

11. **Modification.** This Settlement Agreement may not be changed, altered, or modified, except in writing and signed by all Parties hereto. The Settlement Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

12. **Integration.** This Settlement Agreement and its Exhibits contain the entire agreement between the Parties relating to the settlement and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or its counsel, are merged herein. Each Party represents and warrants that it is not relying on any representation not expressly included in this Settlement Agreement. No rights hereunder may be waived except in writing.

13. **Extensions.** The Parties reserve the right, subject to the Court's approval, to agree to any reasonable extensions of time that might be necessary to carry out any of the provisions of this Settlement Agreement.

14. **Use in Other Proceedings.** The Parties expressly acknowledge and agree that this Settlement Agreement and its Exhibits, along with all related drafts, motions, pleadings, conversations, negotiations, and correspondence, constitute an offer of compromise and a compromise within the meaning of Federal Rule of Evidence 408 and any equivalent rule of evidence in any state. In no event shall this Settlement Agreement, any of its provisions or any negotiations, statements or court proceedings relating to its provisions in any way be construed as, offered as, received as, used as, or deemed to be evidence of any kind in the Litigation, in any other action, or in any judicial, administrative, regulatory or other proceeding, except in a proceeding to

enforce this Settlement Agreement or the rights of the Parties, their counsel, or the Released Parties. Without limiting the foregoing, neither this Settlement Agreement nor any related negotiations, statements, or court proceedings shall be construed as, offered as, received as, used as, or deemed to be evidence or an admission or concession of any liability or wrongdoing whatsoever on the part of any Person, including, but not limited to, the Released Parties, Plaintiffs, or the Settlement Class or as a waiver by the Released Parties, Plaintiffs, or the Settlement Class of any applicable privileges, claims, or defenses.

15. **Subheadings**. Subheadings in this Settlement Agreement are for purposes of clarity only and are not intended to modify the terms of this Settlement Agreement's text, which are controlling.

16. **Waiver**. The waiver by any party to this Settlement Agreement, of any breach of its terms shall not be deemed or construed to be a waiver of any other breach of this Settlement Agreement, whether prior, subsequent, or contemporaneous.

17. **Signatures**. Each Person executing this Settlement Agreement on behalf of any Party warrants that such Person has the authority to do so. This Settlement Agreement shall be binding upon, and inure to the benefit of, the agents, heirs, executors, administrators, successors, and assigns of the Parties.

18. **Counterparts**. This Settlement Agreement may be executed in any number of counterparts, including by electronic signature, each of which shall be deemed to be an original. All counterparts shall constitute one Settlement Agreement, binding on all Parties hereto, regardless of whether all Parties are signatories to the same counterpart, but the Settlement Agreement will be without effect until and unless all Parties to this Settlement Agreement have executed a counterpart.

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**AGREED AND ENTERED INTO BY THE PARTIES AND THEIR RESPECTIVE
COUNSEL ON THE DATES SET FORTH BELOW:**

Dated: July 18, 2024

DocuSigned by:
Nancy Calchi
1A26A7CD44A743E...

Nancy Calchi
Plaintiff

Dated: July 18, 2024

DocuSigned by:
Stacey Papalia
1269A749FEC84DC...

Stacey Papalia
Plaintiff

Dated: July 18, 2024

DocuSigned by:
Simon Franzini
5ABC15D58A40496...

DOVEL & LUNER, LLP
Simon Franzini
201 Santa Monica Blvd., Suite 600
Santa Monica, CA 90401
Tel: (310) 656-7066
Fax: (310) 656-7069

*On behalf of Plaintiffs and the Settlement
Class*

Dated: July __, 2024

By:
Position:

*On behalf of GlaxoSmithKline Consumer
Healthcare Holdings (US) LLC, now known
as Haleon US Holdings LLC and GSK
Consumer Health, Inc., now known as
Haleon US Inc.*

**AGREED AND ENTERED INTO BY THE PARTIES AND THEIR RESPECTIVE
COUNSEL ON THE DATES SET FORTH BELOW:**

Dated: July __, 2024

Nancy Calchi
Plaintiff

Dated: July __, 2024

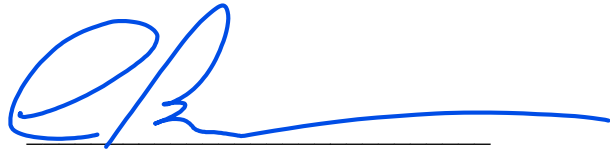
Stacey Papalia
Plaintiff

Dated: July __, 2024

DOVEL & LUNER, LLP
Simon Franzini
201 Santa Monica Blvd., Suite 600
Santa Monica, CA 90401
Tel: (310) 656-7066
Fax: (310) 656-7069

*On behalf of Plaintiffs and the Settlement
Class*

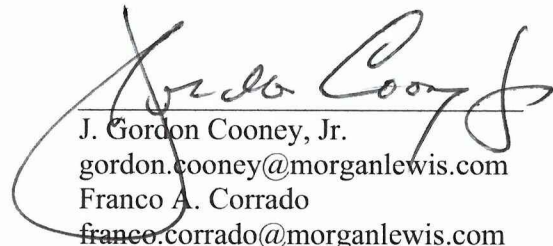
Dated: July 18, 2024



By: Elizabeth Balakhani
Position: Vice President, Global Litigation

*On behalf of GlaxoSmithKline Consumer
Healthcare Holdings (US) LLC, now known
as Haleon US Holdings LLC and GSK
Consumer Health, Inc., now known as
Haleon US Inc.*

Dated: July 18, 2024



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*Attorneys for GlaxoSmithKline Consumer
Healthcare Holdings (US) LLC, now known
as Haleon US Holdings LLC and GSK
Consumer Health, Inc., now known as
Haleon US Inc.*