

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 0:21-md-03015-SINGHAL**

IN RE:

MDL CASE NO.: 3015

**JOHNSON & JOHNSON SUNSCREEN
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION**

_____ /

THIS DOCUMENT RELATES TO: ALL CASES

_____ /

CLASS ACTION SETTLEMENT AGREEMENT

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EXHIBIT LIST

Ex. A - Class Notice/Long Form Notice

Ex. B - Summary Notice

Ex. C - Claim Form

Ex. D - Notice Protocol

Plaintiffs Katherine Brennan, Michelle Mang, Meredith Serota, Jacob Somers, Lauren Harper, Dina Casaliggi, Kelly Granda, Kyra Harrell, Carman Grisham, Heather Rudy, Fred Salter, and Judith Barich on behalf of the putative classes (collectively, “Settlement Plaintiffs”), and Defendant Johnson & Johnson Consumer Inc. (“JJCI”) (Settlement Plaintiffs and JJCI are collectively referred to below as “Parties”), by and through their respective counsel, in consideration for and subject to the promises, terms, and conditions contained in this Settlement, hereby stipulate and agree, subject to Court approval, to the following:

I. RECITALS

WHEREAS, JJCI produces and markets over-the-counter sunscreen products under the brand names Neutrogena® and Aveeno®.

WHEREAS, on May 25, 2021, an analytical pharmacy known as Valisure LLC (“Valisure”) filed a citizen’s petition (the “Petition”) with the United States Food and Drug Administration (“FDA”). The Petition stated that Valisure had performed tests on nearly 300 batches of sunscreen products from 69 different manufacturers, and that a significant number of these products contained detectable levels of benzene.

WHEREAS, although benzene is not an ingredient in any JJCI sunscreen product, the Petition listed several JJCI sunscreens as having tested positive for the substance.

WHEREAS, immediately after the Petition was published on May 25, 2021, JJCI began a comprehensive investigation that has determined that the benzene identified in some product samples stemmed from the isobutane used as a propellant in those aerosol product lines. JJCI’s testing did not confirm the presence of benzene in samples of non-aerosol products.

WHEREAS, on May 25, 2021, Plaintiff Meredith Serota, a Florida resident, filed a lawsuit in the Southern District of Florida on behalf of a nationwide putative class with the exception of California, alleging that certain JJCI sunscreen products sold in the United States were contaminated with benzene, and seeking injunctive relief and compensation for alleged economic losses sustained by U.S. consumer purchasers of the products. *See Serota v. Johnson & Johnson*

Consumer Inc., No. 21-cv-61103 (S.D. Fla.) (the “*Serota Action*”) ECF No. 1, Compl. ¶¶ 23-24.

WHEREAS, on May 26, 2021, Katherine Brennan and Michelle Mang, California residents, filed a lawsuit in the Superior Court for the State of California, County of Ventura, which was subsequently removed by JJCI to the United States District Court for the Northern District of California, seeking to represent a putative California-only class. *See Brennan v. Johnson & Johnson Consumer Inc.*, 21-cv-5419 (N.D. Cal.) (the “*Brennan Action*”), ECF No. 1. The *Brennan Action* alleges that certain JJCI sunscreen products sold in California were contaminated with benzene, and seeks injunctive relief and compensation for alleged economic losses sustained by California consumer purchasers of the products.

WHEREAS, on July 14, 2021, JJCI instituted a voluntary recall from all distribution channels of five product lines of aerosol sunscreen products that had been found to contain benzene, to be either destroyed or used for future testing only. JJCI instructed consumers to stop using the products and offered full cash refunds, with either minimal or no proof of purchase required for compensation. For the affected product lines, there is no time limitation for when such products needed to have been purchased to receive the full cash refunds.

WHEREAS, on July 30, 2021, an amended complaint was filed in the *Serota Action* adding an additional Florida plaintiff and plaintiffs from Colorado, Illinois, Maryland, Michigan, New York, Ohio, Oregon, and Washington. *See Serota v. Johnson & Johnson Consumer Inc.*, No. 21-cv-61103 (S.D. Fla.), ECF No. 4, Am. Compl. ¶¶ 5-14.

WHEREAS, in the weeks and months that followed, 16 additional actions were filed in various federal district courts across the country that sought injunctive relief and monetary compensation for economic losses allegedly incurred by consumer purchasers of JJCI sunscreen products: (1) *Rafal v. Johnson & Johnson*, No. 21-cv-5524 (N.D. Cal.); (2) *Dominguez v. Johnson & Johnson Consumer, Inc.*, No. 21-cv-05419 (N.D. Cal.); (3) *French v. Johnson & Johnson Consumer Inc.*, No. 21-cv-05048 (C.D. Cal.); (4) *Jimenez v. Johnson & Johnson Consumer, Inc.*, No. 21-cv-13113 (D.N.J.); (5) *McLaughlin v. Johnson & Johnson Consumer, Inc.*, No. 21-cv-13710 (D.N.J.); (6) *Briglio v. Johnson & Johnson Consumer Inc.*, No. 21-cv-13972 (D.N.J.); (7)

Bodine v. Johnson & Johnson Consumer Inc., No. 21-cv-14343 (D.N.J.); (8) *Baker v. Johnson & Johnson Consumer Inc.*, No. 21-cv-14421 (D.N.J.); (9) *Fernandez v. Johnson & Johnson Consumer Inc.*, No. 21-cv-14492 (D.N.J.); (10) *Lavalle v. Neutrogena Corporation*, No. 21-cv-06091 (S.D.N.Y.); (11) *Pedron v. Johnson & Johnson Consumer Inc.*, No. 21-cv-23189 (S.D. Fla.); (12) *Dickerson v. Johnson & Johnson Consumer Inc.*, No. 21-cv-07230 (C.D. Cal.); (13) *Goodwin v. Johnson & Johnson Consumer Companies Inc.*, No. 21-cv-61890 (S.D. Fla.); and (14) *Lokietz v. Johnson & Johnson*, No. 21-cv-17290 (D.N.J.) (collectively these actions, including the *Serota* and *Brennan* Actions, shall be referred to as the “Actions” as defined further below).¹

WHEREAS all of the Actions similarly allege that the sunscreen products the plaintiffs purchased were contaminated with benzene, a human carcinogen; that the possible presence of benzene was not disclosed in the products’ advertising or labels; and that, as a result, the products were misbranded, adulterated and/or falsely advertised.

WHEREAS on October 8, 2021, the U.S. Joint Panel on Multidistrict Litigation (“JPML”) issued a Transfer Order finding that centralization of the consumer actions in the Southern District of Florida will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. *See generally* ECF No. 1.

WHEREAS, Settlement Plaintiffs, by and through their counsel, conducted a robust investigation into the facts and law relating to the matters alleged in their complaints, including into (i) marketing, advertising, and labeling of the Products; (ii) sales, pricing, consumer, distribution, and financial data; and (iii) Settlement Plaintiffs’ own documents and information relating to the Products. This investigation included extensive voluntary disclosures of data, information and witness statements provided by JJCI; consultation with numerous experts; as well as legal research as to the strength and sufficiency of the claims and defenses thereto, and appropriateness of class certification.

¹ The remaining two actions— (15) *Santos v. Johnson & Johnson*, 21-cv-01208 (N.D. Ala.) and (16) *Bodle v. Johnson & Johnson Consumer Inc.*, 21-cv-07742 (N.D. Cal.)—sought damages for alleged personal injuries related to the Products, and thus were not consolidated with the Actions.

WHEREAS, JJCI has implemented measures to address the benzene contamination in the five affected product lines, including undertaking a detailed Health Hazard Evaluation (“HHE”), working cooperatively with FDA, instituting a voluntary recall, instructing consumers to stop using the products and offering full cash refunds.

WHEREAS, this Settlement was reached as a result of extensive arms’-length negotiations between the Parties and their counsel, facilitated by a mediation with a respected mediator, the Honorable John C. Lifland (Retired). Before and during these settlement discussions and mediation, the Parties had an arms’-length exchange of sufficient information to permit Settlement Plaintiffs and their counsel to evaluate the claims and potential defenses and to meaningfully conduct informed settlement discussions.

WHEREAS, Settlement Plaintiffs, as class representatives, believe that the claims settled herein have merit, but they and their counsel recognize and acknowledge the risks and expense of continued proceedings necessary to prosecute the claims through trial and appeal. Settlement Plaintiffs, and their counsel, have specifically taken into account the uncertain outcome and risk of any litigation, as well as the difficulties and delay inherent in such litigation, and they believe that the terms and conditions set forth in this Settlement confer substantial benefits upon the Class Members and are in the best interest of the Class.

WHEREAS, JJCI has also considered the potential risks and the cost of continued litigation of the Action, and has determined to settle the Actions upon the terms and conditions set forth in this Settlement.

WHEREAS, JJCI has denied, and continues to deny, that it has engaged in any wrongdoing of any kind, or violated any law or regulation, or breached any duty to Settlement Plaintiffs or others.

WHEREAS, JJCI further denies that it has liability as a result of any and all allegations arising out of or relating to the allegations in the Actions, and is entering into the Settlement to eliminate the burden, distraction, expense, and uncertainty of further litigation.

WHEREAS, JJCI has agreed to class action treatment of the claims alleged in the Actions

solely for the purpose of compromising and settling those claims on a class basis as set forth herein.

NOW, THEREFORE, it is hereby STIPULATED AND AGREED, by and between the Parties, through their respective counsel, that: (a) the Actions be fully and finally compromised, settled, and released upon final settlement approval by the Court after the hearings as provided for in this Settlement; and (b) upon such approval by the Court, a Final Order and Final Judgment be entered upon the following terms and conditions.

II. DEFINITIONS

1. “Actions” shall mean the actions presently or in the future consolidated in the multidistrict litigation lawsuit entitled *In re Johnson & Johnson Sunscreen Marketing, Sales Practices and Products Liability Litigation*, MDL No. 3015.

2. “Aerosol Product(s)” means the following five over-the-counter aerosol sunscreen product lines, produced and marketed by JJCI under the brand names Neutrogena® and Aveeno®: Neutrogena® Beach Defense® aerosol sunscreen, Neutrogena® Cool Dry Sport aerosol sunscreen, Neutrogena® Invisible Daily™ defense aerosol sunscreen, Neutrogena® Ultra Sheer® aerosol sunscreen, and Aveeno® Protect + Refresh aerosol sunscreen.

3. “Aerosol Product Recall” refers to the recall of all Aerosol Products in the United States, and instruction to consumers in possession of Aerosol Products to stop using them, which was instituted by JJCI on July 14, 2021.

4. “Aerosol Products Refund Program” refers to the program instituted by JJCI on July 14, 2021, whereby it agreed to reimburse consumer purchasers for the full average retail selling price of the Aerosol Products, and established a process for claimants to obtain such refunds as detailed in in Paragraphs 53-55 of this Settlement.

5. “Attorneys’ Fees and Expenses” means such funds as may be awarded by the Court to Class Counsel to compensate Class Counsel for their fees and expenses in connection with the Action and the Settlement, as described in Paragraphs 62-68 of this Settlement.

6. “CAFA Notice” means the notice which the Settlement Administrator shall serve upon the appropriate State and Federal officials, providing notice of the proposed settlement. The Settlement

Administrator shall provide a declaration attesting to compliance with 28 U.S.C. § 1715(b), which will be filed with Settlement Plaintiffs' motion for final approval.

7. "Claim Form" means the proof of claim substantially in the form attached hereto as Exhibit C which may be modified to meet the requirements of the Settlement Administrator, and which Class Members may use to apply for Vouchers as described in Paragraphs 57, 82, 86, 91, 98-99.

8. "Claim Form Deadline" means the final time and date by which a Claim Form must be submitted to the Settlement Administrator in order for a Class Member to be eligible for any Voucher available under the terms and conditions of this Settlement.

9. "Claim Period" means the deadline for Class Members to submit Claims Forms, as described in Paragraphs 57 and 92 of this Settlement, and which shall be ninety (90) calendar days from the date the Class Notice is mailed.

10. "Claimant" means a Class Member who files a Claim Form seeking a Voucher under this Settlement.

11. "Class" means all persons and entities in the United States who purchased one or more of the Aerosol Products or Non-Aerosol Products defined herein for personal, family, or household use and not for resale at any time between May 26, 2015 and the Notice Date (defined herein). Excluded from the Class are (a) all persons who are employees, directors, officers, and agents of JJCI, or its subsidiaries and affiliated companies; (b) persons or entities who purchased the Products primarily for the purposes of resale to consumers or other resellers; (c) governmental entities; (d) persons or entities who timely and properly exclude themselves from the Class as provided in this Settlement; and (e) the Court, the Court's immediate family, and Court staff.

12. "Class Counsel" means the law firm of Aylstock, Witkin, Kreis & Overholtz, PLLC, the law firm of Bradley/Grombacher LLP, and any other law firms appointed by the Court as such.

13. "Class Member(s)" means any member of the Class who does not elect exclusion (i.e., opt out) from the Class pursuant to the terms and conditions for exclusion set out in this Settlement and the Class Notice.

14. "Class Notice" shall mean the Long Form Notice and Summary Notice provided to the

Class substantially in the form attached hereto as Exhibits A and B as directed by the Court.

15. “Court” means the United States District Court for the Southern District of Florida and the Judge assigned to the Action (the Honorable Anuraag Singhal).

16. “JJCI” means defendant Johnson & Johnson Consumer Inc.

17. “Defense Counsel” means the law firm of Patterson Belknap Webb & Tyler LLP.

18. “Effective Date” means the first business date after all of the following conditions have been satisfied:

- (a) the Final Order and Final Judgment have been entered; and
- (b) (i) if reconsideration and/or appellate review is not sought from the Final Order and Final Judgment, the expiration of the time for the filing or noticing of any motion for reconsideration, appeal, petition, and/or writ has expired; or (ii) if reconsideration and/or appellate review is sought from the Final Order and Final Judgment: (A) the date on which the Final Order and Final Judgment are affirmed and are no longer subject to judicial review, or (B) the date on which the motion for reconsideration, appeal, petition, or writ is dismissed or denied and the Final Order and Final Judgment are no longer subject to judicial review. The Parties may agree in writing to waive all or some of the provisions in this subparagraph (b).

19. “Fairness Hearing” means the hearing that is to take place after the entry of the Preliminary Approval Order and after the Notice Date for purposes of: (a) determining whether the Settlement should be approved as fair, reasonable, and adequate; (b) ruling upon an application for Incentive Awards by the Settlement Plaintiffs; (c) ruling upon an application by Class Counsel for Attorneys’ Fees and Expenses; (d) entering the Final Order and Final Judgment; and (e) entering any final order awarding Attorneys’ Fees and Expenses and Incentive Awards.

20. “Incentive Award(s)” means such funds as may be awarded by the Court to the Settlement Plaintiffs to compensate them for their services to the Class, as described in Paragraphs 59 of this Settlement.

21. “Long Form Notice” means the long form notice of settlement, substantially in the form

attached hereto as Exhibit A.

22. “Non-Aerosol Product(s)” means the following three non-aerosol (i.e., lotion) over-the-counter sunscreen product lines: Neutrogena® Ultra Sheer® Dry-Touch Water Resistant Sunscreen, Neutrogena® Sheer Zinc™ Dry-Touch Face Sunscreen, and Aveeno® Baby Continuous Protection® Sensitive Skin Sunscreen Lotion.

23. “Notice Date” means the first date upon which the Class Notice is disseminated by the Settlement Administrator.

24. “Notice of Missing or Inaccurate Information” means the notice sent by the Settlement Administrator to a Class Member who has submitted a Claim Form with inaccurate, disqualifying, incomplete, or missing information that is required for the Claimant to be considered eligible for a Voucher provided by this Settlement.

25. “Objection and Exclusion Period” means the deadline for Class Members to submit objections or requests for exclusion, as described in Paragraph 82 of this Settlement, and which shall be ninety (90) calendar days from the date the Class Notice is mailed.

26. “Parties” means Plaintiffs and JJCI, collectively, as each of those terms is defined in this Settlement.

27. “Preliminary Approval Order” means the order preliminarily approving the Settlement and proposed Class Notice.

28. “Product(s)” refers to both Aerosol Product(s) and Non-Aerosol Product(s) as defined above.

29. “Proof of Purchase” means some evidence of purchase, such as a store receipt or photograph of the container of Aerosol Product(s) or Non-Aerosol Product(s).

30. “Refund” means the cash payment of the full average retail selling price of any Aerosol Product.

31. “Release” means the release and waiver set forth in Paragraphs 69-72 of this Settlement and in the Final Order and Final Judgment.

32. “Released Claims”

- (a) “Released Claims” means and includes any and all claims, whether federal or state, known or unknown, asserted or unasserted, regardless of legal theory arising prior to the Effective Date for injunctive relief or economic loss arising from or relating to the facts, activities, or circumstances alleged in the Actions.
- (b) Notwithstanding any other provision of this Settlement, “Released Claims” do not include claims for bodily injuries. Class Members are not releasing any claims, demands, rights, damages, obligations, suits, debts, liens, and causes of action relating to bodily injuries allegedly caused by the Products and/or for medical monitoring related to such alleged injuries.

33. “Released Parties” shall be defined to include JJCI or its past or present parents, subsidiaries, affiliated companies, and their legal representatives (and the predecessors, heirs, executors, administrators, successors, purchasers, and assigns of each of the foregoing). For avoidance of doubt, Released Parties includes Johnson & Johnson, which is named as a defendant in certain of the Actions. Released Parties also includes Costco Wholesale Corporation (“Costco”), which is named as a defendant in one of the Actions, *McLaughlin v. Johnson & Johnson Consumer, Inc.*, No. 21-cv-13710 (D.N.J.), and Costco’s past or present parents, subsidiaries, affiliated companies, and their legal representatives (and the predecessors, heirs, executors, administrators, successors, purchasers, and assigns of each of the foregoing).

34. “Releasing Parties” means Settlement Plaintiffs and all Class Members.

35. “Settlement Plaintiffs” means Katherine Brennan, Michelle Mang, Meredith Serota, Jacob Somers, Lauren Harper, Dina Casaliggi, Kelly Granda, Kyra Harrell, and Carman Grisham.

36. “Settlement” means the terms and conditions embodied in this settlement agreement, including all attached Exhibits (which are an integral part of this Settlement and are incorporated in their entirety by reference).

37. “Settlement Administrator” means the qualified third-party administrator and agent agreed to by the Parties and approved and appointed by the Court in the Preliminary Approval Order to administer the Settlement, including providing the Class Notice. The Parties agree to recommend

that the Court appoint Rust Consulting as Settlement Administrator to design, consult on, and implement the notice and related requirements of this Settlement, including the Settlement Website claim review, the issuance of Vouchers, the service of CAFA Notice, and related requirements of this Settlement, subject to the Court's approval.

38. "Settlement Website" refers to the Internet website (www.sunproductsettlement.com).

39. "Unit" means a single Product.

40. "Valid Claim" means a Claim Form submitted by a Class Member that is: (a) submitted in accordance with the directions accompanying the Claim Form and the provisions of the Settlement; (b) accurately, fully and truthfully completed and executed, with all of the information requested in the Claim Form, by a Class Member; (c) signed physically or by e-signature by a Class Member personally, subject to the penalty of perjury; (d) returned via mail and postmarked by the Claim Form Deadline, or, if submitted online, submitted by 11:59 p.m. Eastern time on the Claim Form Deadline; and (e) determined to be valid by the Settlement Administrator. The Settlement Administrator may require additional information from the Class Member to validate the Claim, including, but not limited to, answers related to questions regarding the validity or legitimacy of the physical or e-signature. Failure to respond to the Settlement Administrator's request for additional information may result in a determination that the claim is not a Valid Claim.

41. "Petition" refers to the May 24, 2021 citizen's petition that analytical pharmacy Valisure LLC filed with the United States Food and Drug Administration ("FDA").

42. "Voucher" refers to a voucher toward the purchase of replacement Neutrogena or Aveeno products available to eligible Class Members via the submission of a Claim Form. The specific Voucher provided is subject to review, validation, and adjustments by the Settlement Administrator based upon the terms and conditions of this Settlement.

III. SUBMISSION OF THE SETTLEMENT TO THE COURT

43. As soon as practicable but no later than December 17, 2021, Class Counsel shall move the Court for entry of the Preliminary Approval Order for the purpose of, among other things:

(a) Preliminarily approving the Settlement as being within the range of possible

approval as fair, adequate, and reasonable, such that the Class Notice should be provided pursuant to this Settlement;

- (b) Finding that the requirements for provisional certification of the Class for settlement purposes only have been satisfied;
- (c) Appointing Settlement Plaintiffs as the representatives of the Class and Class Counsel as counsel for the Class;
- (d) Appointing Rust Consulting as the Settlement Administrator;
- (e) Approving the Class Notice, substantially in the form set forth at Exhibits A & B to be distributed to Class Members; and
- (f) Scheduling the Fairness Hearing on a date ordered by the Court and in compliance with applicable law, to determine whether the Settlement should be approved as fair, reasonable, and adequate, and to determine whether a Final Order and Final Judgment should be entered.

44. Following the entry of the Preliminary Approval Order, the Class Notice shall be given and published by the Settlement Administrator within ten (10) days in the manner directed and approved by the Court.

45. At the Fairness Hearing, the Parties shall seek to obtain from the Court a Final Order and Final Judgment. Settlement Plaintiffs shall also seek to obtain a final order approving the Attorneys' Fees and Expenses and the Incentive Awards. The Final Order and Final Judgment shall, among other things:

- (a) Find that the Court has personal jurisdiction over all Class Members, the Court has subject matter jurisdiction over the claims asserted in the Action, and that venue is proper;
- (b) Finally approve this Settlement;
- (c) Certify the Class for purposes of settlement only;
- (d) Find that the Class Notice complies with all laws, including, but not limited to, the Due Process Clause of the United States Constitution;

- (e) Incorporate the Release set forth in this Settlement and make the Release effective as of the date of the Final Order and Final Judgment;
- (f) Authorize the Parties to implement the terms of the Settlement;
- (g) Dismiss the Actions with prejudice; and
- (h) Retain jurisdiction over the Settlement to interpret and enforce its terms and conditions, and for any other necessary purpose.

IV. SETTLEMENT CONSIDERATION

46. In consideration for the Release contained in this Settlement, JJCI will implement the following:

A. Prospective Non-Monetary Relief.

(1) Non-Sale of Recalled Aerosol Products

47. JJCI shall not in the future ship, distribute, offer for sale or otherwise make available for purchase or use any unit of Aerosol Products subject to the Aerosol Product Recall.

(2) Isobutane Raw Material Supply

48. To prevent recurrence, JJCI shall undertake or, where applicable, has already undertaken, the following corrective and preventive actions prior to manufacturing any additional units of Aerosol Products:

- (a) Purge of Inventory: JJCI shall direct its external manufacturer to purge any existing inventory of isobutane intended for use in such Products.
- (b) Raw Material Specification: JJCI shall adopt a new specification applicable to any supplier of isobutane raw material for use in Aerosol Products, that requires such raw material to contain not more than one (1) part per million (PPM) benzene. Such specification shall be subject to review by Class Counsel and shall remain in effect for a minimum period of two (2) years from the date of execution of this Class Action Settlement Agreement.
- (c) Testing by Raw Material Supplier: JJCI shall direct its external manufacturer to require that, prior to dispatching any shipment of isobutane raw material intended

for use in Aerosol Products, the raw material supplier test for the presence of benzene at one (1) PPM or more in such raw material, and to refrain from shipping such raw material to JJCI's external manufacturer unless the shipment has passed such test. This requirement shall remain in effect for a minimum period of two (2) years from the date of execution of this Class Action Settlement Agreement.

- (d) Testing of Raw Material by External Manufacturer: JJCI shall require that, upon receipt of any shipment of raw material isobutane intended for use in Aerosol Products, JJCI's external manufacturer test for the presence of benzene at one (1) PPM or more in such raw material, and to refrain from use of such raw material unless it has passed such test. This requirement shall remain in effect for a minimum period of two (2) years from the date of execution of this Class Action Settlement Agreement.

(3) Finished Goods Aerosol Product Testing

49. JJCI shall require its external manufacturer to engage an independent, ISO-certified laboratory to test a reasonable number of random samples from at least 25% of manufacturing lots of finished goods Aerosol Products for the presence of benzene, and to withhold release of such finished goods from any such lot unless all such samples have passed such test. The parties agree that such testing shall be conducted utilizing gas chromatography and detection by mass spectrometry ("GC-MS") instrumentation. The results of this testing will be timely made available to FDA and Class Counsel. This requirement shall remain in effect until at least January 21, 2022.

B. Refunds for Aerosol Products Subject to Aerosol Product Recall.

(1) Refund Program

50. The Aerosol Products Refund Program is ongoing. For refunds of three or fewer units, no proof of purchase is required. Claimants seeking refunds for more than three units must submit Proof of Purchase.

(2) Continuation of Aerosol Products Refund Program

51. Subject to certain agreed-upon enhancements delineated below, JJCI will hold open and

not discontinue the Aerosol Products Refund Program until January 14, 2022.

52. JJCI will cause to be published on its Aerosol Products Refund Program website a notification to consumers that the refund amount is calculated based on the full average retail selling price of the affected product(s).

(3) Enhancements to Aerosol Products Refund Program

53. Within fourteen (14) days of entry of the Preliminary Approval Order, JJCI will modify the Aerosol Products Refund Program in the following respects:

- (a) Ombudsman: JJCI shall inform claimants of the availability of an external ombudsman to assist in resolving any complaints or concerns about, or claims submitted in connection with, the Aerosol Products Refund Program. Information regarding the availability and contact information for the ombudsman shall appear on the Settlement Website, as well as the dedicated webpage for submitting a claim pursuant to the Aerosol Products Refund Program. The ombudsman shall be mutually agreed upon by the parties and, unless otherwise agreed, shall be a representative of the Settlement Administrator. In the event of a disagreement, the ombudsman shall retain final decision-making authority with respect to claims submitted pursuant to the Aerosol Products Refund Program. JJCI shall bear the cost for the services performed by the Ombudsman, subject to the \$500,000 cap on costs of administration as provided by Paragraph 58 below.

(4) Voucher Program for Non-Aerosol Products:

- (b) The Aerosol Products Refund Program is limited to the products subject to the Aerosol Products Recall. However, under this Settlement, Class Members will be able to submit a Claim for a Voucher to be used to acquire replacement or substitute Neutrogena or Aveeno products. The face value of the Voucher will be equal to the average retail selling price of the Non-Aerosol Product(s) purchased, up to a maximum of two (2) such units per household.
- (c) Vouchers shall be transferable, may be aggregated and shall expire not less than

twelve (12) months from their issuance. The email or cover letter accompanying the Voucher and the Voucher provided to Class Members pursuant to the terms of this Settlement shall conspicuously state the Voucher's expiration date. Vouchers may be used toward the purchase of any Neutrogena or Aveeno product(s) and will not be limited to the specific Non-Aerosol Product previously purchased, nor to sunscreen products in general.

- (d) Through the notice program described in Paragraph 55 below, Class Members will be informed that they may be eligible for a Voucher if they submit a timely, valid written Claim Form, the value of which is based on the number of units claimed (with a maximum of two (2) units per household) and that, should the claims exceed One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000.00), each claim will be reduced on a *pro rata* basis.
- (e) In no event will the total face value of all Vouchers issued to Class Members who timely submit a valid written Claim Form be more than One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000.00). In the event that claims exceed this amount, the value of each Voucher will be reduced on a *pro rata* basis.
- (f) JJCI will also notify consumers on its Aerosol Products Refund Program website of the availability of this Voucher program.

C. Notice Program and Claims Process.

54. In connection with the Settlement Agreement, the Parties will request that the court appoint an independent Settlement Administrator to, *inter alia*, provide consumer purchasers of Aerosol Products and Non-Aerosol Products with notice of the settlement and its essential terms. The Class Notice will inform the Class of the Vouchers available under this Settlement, and of their right to opt out of the Settlement. The Settlement Administrator will also establish a dedicated Settlement Website to provide information regarding the settlement; be designated as the person or entity to receive and process opt-out forms; and provide notice to appropriate authorities in compliance with the provisions of the Class Action Fairness Act, see 28 U.S.C. § 1715.

55. Subject to the rights and limitations set forth in this Settlement, every Class Member shall have the right to submit a claim for Vouchers under this Settlement. 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 during the Claim Period. 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 Class Member, or any other person, except as expressly provided herein.

56. JJCI shall be responsible for paying all Settlement Notice and administration costs, which shall not exceed Five Hundred Thousand Dollars (\$500,000.00).

D. Incentive Awards to Settlement Plaintiffs.

57. In recognition of the time and effort the Settlement Plaintiffs expended in pursuing this Action and in fulfilling their obligations and responsibilities as class representatives, and of the relief conferred on all Class Members by the Settlement, Class Counsel may ask the Court to approve the payment of an Incentive Award to each of the Settlement Plaintiffs. Within thirty (30) days of final approval by the Court of the Settlement Agreement, including any appeal relating thereto, JJCI shall, subject to court approval, pay to Katherine Brennan, Heather Rudy, Fred Salter, Judith Barich, Michelle Mang, Meredith Serota, Jacob Somers, Lauren Harper, Dina Casaliggi, Kelly Granda, Kyra Harrell, and Carman Grisham, the sum of \$250 each, for a total of \$3,000, for their service as class representatives. However, this settlement is not contingent on the court's approval of such Incentive Award.

58. The Settlement Administrator shall issue an IRS Form 1099-MISC to Settlement Plaintiffs solely for the amount awarded by the Court for each Incentive Award. Settlement Plaintiffs shall be solely and legally responsible to pay all applicable taxes, penalties, or interest arising as a result of the Incentive Awards.

59. Payment by JJCI of the Incentive Award is separate from, and in addition to, the other relief afforded to the Class Members in the Settlement.

E. Attorneys' Fees and Expenses.

60. Class Counsel, Aylstock, Witkin, Kreis and Overholtz, PLLC and Bradley/Grombacher

LLP, may make an application to the Court for an award of Attorneys' Fees and Expenses in the Action to be paid by JJCI for their work in connection with the *Brennan* Action and the *Serota* Action, and as co-lead counsel for the Settlement Class(es), which shall be the sole aggregate compensation received by Class Counsel.

61. JJCI will not object to a fee application up to and including the sum of Two Million Five Hundred Thousand Dollars (\$2,500,000), plus reimbursement of reasonable costs and expenses up to and including the sum of One Hundred Thousand Dollars (\$100,000), being approved by the Court. JJCI agrees to pay the approved fee amount, up to \$2,500,000 million, and costs, up to \$100,000, within thirty (30) days of the Effective Date.

62. Nothing in this Agreement shall restrict Settlement Plaintiffs or Class Counsels' ability to appeal any decision by the Court to award less than the requested Attorneys' Fees and Expenses. Any order relating to the award of Attorneys' Fees and Expenses or any appeal from any order relating thereto or reversal or modification thereof, will not operate to terminate or cancel this Settlement Agreement.

63. Any Attorneys' Fees and Expenses awarded by the Court will be in lieu of statutory fees Settlement Plaintiffs and/or Class Counsel might otherwise have been entitled to recover from JJCI. Settlement Plaintiffs and Class Counsel agree that JJCI shall not pay, or be obligated to pay, Class Counsel in excess of any award of Attorneys' Fees and Expenses authorized by the Court.

64. JJCI shall have no liability or other responsibility for allocation of any such Attorneys' Fees and Expenses awarded, and, in the event that any dispute arises relating to the allocation of Attorneys' Fees and Expenses, Class Counsel agree to hold JJCI harmless from any and all such liabilities, costs, and expenses of such dispute. JJCI shall pay its own fees and costs incurred in this Action.

V. RELEASE

65. Upon the Effective Date, the Releasing Parties shall be deemed to have, and by operation of the Final Order and Final Judgment shall have, fully, finally and forever released, relinquished, and discharged all Released Claims against the Released Parties.

66. Members of the Class who have sought exclusion from the Settlement prior to termination of the Objection Exclusion Period do not release their claims and will not obtain any benefits under the terms and conditions of the Settlement.

67. Class Members are not releasing any claims for bodily injuries.

68. Upon the Effective Date: (a) this Settlement shall be the exclusive remedy for any and all Released Claims of Settlement Plaintiffs and Class Members; and (b) Settlement Plaintiffs and the Class Members stipulate to be and shall be permanently barred and enjoined by Court order from initiating, asserting, or prosecuting against the Released Parties in any federal or state court or tribunal all Released Claims.

VI. SETTLEMENT IMPLEMENTATION PROCEDURE

A. Provision of Settlement Benefits.

69. JJCI shall transmit to the Settlement Administrator the aggregate dollar value of all Attorneys' Fees and Expenses, Attorney costs, Incentive Awards, and Administrator Fees by no later than Fifteen (15) calendar days after the Effective Date.

B. Responsibilities of Settlement Administrator.

70. The Parties shall jointly recommend and retain Rust Consulting to be the Settlement Administrator. Following the Court's preliminary approval of this Settlement and the Court's appointment of the proposed Settlement Administrator, the Settlement Administrator shall disseminate the Class Notice as specified in the Preliminary Approval Order and in this Settlement, and in order to comply with all applicable laws, including, but not limited to, the Due Process Clause of the United States Constitution.

71. In fulfilling its responsibilities in providing Class Notice, the Settlement Administrator, without limitation, shall be responsible for: (a) dissemination of the Class Notice pursuant to the requirements of this Settlement; (b) designing and implementing notice to the Class by various electronic media as set forth herein; (c) responding to requests from Class Counsel and/or Defense Counsel; and (d) otherwise implementing and/or assisting with the dissemination of the notice of the Settlement pursuant to the requirements of this Settlement.

72. The Settlement Administrator also shall be responsible for implementing the terms of the claim process and related administrative activities that relate to the Voucher that include communications with the Class concerning the Settlement, the claim process, and their options thereunder. In particular, the Settlement Administrator shall be responsible for: (a) printing, e-mailing, mailing, or otherwise arranging for the distribution of the Claim Forms in response to requests by members of the Class; (b) making any electronic or physical mailings required under the terms of this Settlement; (c) establishing the Settlement Website that contains the Claim Form that can be completed and submitted online; (d) establishing a toll-free voice response unit with message and interactive voice response (IVR) capabilities to which the Class may refer for information about the Action and the Settlement; (e) receiving and maintaining any correspondence from the Class regarding requests for exclusion and objections to the Settlement; (f) forwarding inquiries from the Class to Class Counsel or their designee for a response, if warranted; (g) establishing a post office box for the receipt of Claim Forms, exclusion requests, objections, and any correspondence from the Class; (h) reviewing Claim Forms according to the review protocols agreed to by the Parties and set forth in this Settlement; (i) providing weekly updates via e-mail each Friday to Defense Counsel and Class Counsel regarding the number of claims, requests for exclusion, and objections; and (j) otherwise implementing and/or assisting with the claim review process and payment of Valid Claims.

73. The Settlement Administrator shall administer the Settlement in accordance with the terms and conditions of this Settlement and, without limiting the foregoing, shall:

- (a) Treat any and all documents, communications and other information and materials received in connection with the administration of the Settlement as confidential and shall not disclose any or all such documents, communications, or other information to any person or entity except as provided for in this Settlement or by Court order;
- (b) Receive correspondence from members of the Class to exclude themselves from the Settlement. If the Settlement Administrator receives any exclusion (i.e., opt-out) requests from members of the Class after the deadline for the submission of such requests, the Settlement Administrator shall promptly provide Class Counsel

and Defense Counsel with copies thereof;

- (c) Receive copies of objections from members of the Class who are objecting to any aspect of the Settlement; and
- (d) Receive and maintain all other correspondence from any Class Member regarding the Settlement.

74. If the Settlement is not approved or for any reason the Effective Date does not occur, no payments or distributions of any kind shall be made pursuant to this Settlement, except for the costs and expenses of the Settlement Administrator, which shall be paid by JJCI up to a maximum of \$500,000, and for which Settlement Plaintiffs and/or Class Counsel are not responsible.

75. In the event the Settlement Administrator fails to perform its duties, and/or makes a material or fraudulent misrepresentation to, or conceals requested material information from, Settlement Plaintiffs, Class Counsel, Defendant, and/or Defense Counsel, then the Party to whom the misrepresentation is made shall, in addition to any other appropriate relief, have the right to demand that the Settlement Administrator immediately be replaced. No Party shall unreasonably withhold consent to remove the Settlement Administrator. The Parties will attempt to resolve any disputes regarding the retention or dismissal of the Settlement Administrator in good faith, and, if they are unable to do so, will refer the matter to the Court for resolution.

C. Notice to the Class.

76. The Parties agree that the notice plan contemplated by this Settlement, as described in the Notice Protocol attached as Exhibit D hereto, is valid and that if effectuated, it would provide reasonable notice to the Class, and that it represents the best practicable notice under the circumstances.

77. Because the names of Class Members and other personal information about them will be provided to the Settlement Administrator for purposes of providing Vouchers to Class Members and processing opt-out requests, the Settlement Administrator will execute a confidentiality and non-disclosure agreement with Defendant and Class Counsel and will take all reasonable steps to ensure that any information provided to it by Class Members will be used solely for the purpose of effecting

its obligation under the terms and conditions of this Settlement.

(1) The Long Form Notice

78. The Long Form Notice shall be in a form substantially similar to the document attached to this Settlement as Exhibit A and shall comport to the following:

- (a) General Terms: The Long Form Notice shall contain a plain and concise description of the nature of the Action and the proposed Settlement, including information regarding the definition of the Class, the identity of members of the Class, how the proposed Settlement would provide relief to Class Members, what claims are released under the proposed Settlement, eligibility requirements for receiving a Voucher, and other relevant information.
- (b) Alert as to Voucher Program: The Notice will inform Class Members of the limited availability of vouchers for Non-Aerosol Products and shall instruct Class members on how to file a claim for Vouchers for Non-Aerosol Products.
- (c) Opt-out Rights: The Long Form Notice shall inform the Class Members that any member of the Class has the right to seek exclusion from (i.e., opt out of) the Settlement. The Long Form Notice shall provide the deadlines and procedures for exercising this right.
- (d) Objection to the Settlement: The Long Form Notice shall inform the Class Members that any member of the Class has the right to object to the Settlement and appear at the Fairness Hearing. The Class Notice shall provide the deadlines and procedures for exercising these rights.
- (e) Claim Process and Claim Form: The Long Form Notice shall inform the Class about how to file a Valid Claim prior to the Claim Form Deadline in order to be eligible to obtain a Voucher under the terms and conditions of the Settlement. The Claim Form shall be available as part of the Class Notice.
- (f) Attorneys' Fees and Expenses and Incentive Awards: The Long Form Notice shall provide information about the Attorneys' Fees and Expenses and Incentive Awards

sought by Class Counsel and Plaintiffs.

(2) Settlement Website

79. Before the dissemination of the Class Notice, the Settlement Administrator shall establish an Internet website that will inform the Class of the terms and conditions of this Settlement, their rights, important dates and deadlines, and related information. The Settlement Website shall include, in .pdf format, materials agreed upon by the Parties and/or required by the Court, including but not limited to the Long Form Notice, the Claim Form, the Preliminary Approval Order, and this Settlement Agreement.

(3) Toll-Free Telephone Number

80. Prior to the dissemination of the Class Notice, the Settlement Administrator shall establish a voice response unit with message and interactive voice response (IVR) capabilities to which the Class may refer for information about the Action and the Settlement.

D. Claim Submission.

81. Each Class Member may submit a Claim Form pursuant to the instructions set forth therein.

82. Any Class Member who does not submit a Valid Claim in accordance with the terms and conditions of this Settlement will not be entitled to receive a Voucher pursuant to this Settlement, but will in other respects be bound together with all Class Members by all of the terms of this Settlement, including the terms of the Final Order and Final Judgment to be entered in the Action and the Release provided for herein, and will be barred from bringing any action in any forum (state or federal) against the Released Parties concerning any of the Released Claims.

E. Claim Administration Protocol.

83. The Settlement Administrator shall take all reasonable efforts to administer the Settlement and claims for Vouchers efficiently and to avoid unnecessary fees and expenses. As soon as work commences, the Settlement Administrator shall provide a detailed written accounting of all fees and expenses on a regular basis to Class Counsel and Defense Counsel, and shall respond promptly to inquiries by Class Counsel and Defense Counsel concerning the administration and notice fees and

expenses.

84. The Parties are entitled to observe and monitor the performance of the Settlement Administrator to assure compliance with the Settlement and this Protocol. The Settlement Administrator shall promptly respond to all inquiries and requests for information made by JJCI, its counsel, or Class Counsel.

85. The Settlement Administrator shall provide periodic reports to Class Counsel and Defense Counsel regarding the implementation of the Settlement and this Protocol.

86. The Settlement Administrator may retain one or more persons to assist in the completion of its responsibilities.

(1) Locating, Obtaining, and Submitting Claims Forms

87. The Claim Form, which is substantially similar to the form attached as Exhibit C to the Settlement, shall be available as part of the Class Notice, on the Settlement Website, in response to requests through the toll-free voice response unit with message and interactive voice response (IVR), and also through contacting by telephone or by mail or other similar service the Settlement Administrator and requesting a copy of the Claim Form be sent. The Claim Form on the Settlement Website and the hard copy Claim Form shall be consistent in all substantive respects. Class Members shall have access to the Claim Form by using a unique Class Member identifier provided by the Settlement Administrator.

88. Class Members may submit a claim to the Settlement Administrator during the Claim Period. As part of the claim process, Class Members shall be eligible for the Vouchers provided in the Settlement, provided Class Members complete and timely submit the Claim Form to the Settlement Administrator within the Claim Period, subject to the terms herein and in the Settlement.

89. Claims may be submitted by completing the Claim Form in hard copy by mail or other similar delivery service or on-line through a web-based Claim Form at the Settlement Website.

90. The Settlement Administrator shall establish and maintain the Settlement Website that shall be easily accessible through commonly used Internet Service Providers for the submission of claims. The Long Form Notice, Claim Form, Settlement Agreement, and Preliminary Approval

Order, in addition to any other materials agreed upon by the Parties and/or required by the Court, shall be available on the Settlement Website. The Settlement Website shall be designed to permit Class Members to readily and easily submit claims and obtain information about their rights and options under the Settlement. The Settlement Website shall be maintained continuously until the end of the Claim Period. The Settlement Administrator shall be solely responsible for receiving and processing requests for Claim Forms and for promptly delivering Claim Forms to the Class Members who request them.

91. The Settlement Administrator also shall establish a toll-free telephone number that will have recorded information answering frequently asked questions about certain terms of the Settlement, including, but not limited to, the claim process and instructions about how to request a Claim Form and/or Class Notice.

(2) Claim Form Review and Processing

92. Class Members must submit their claims so that they are postmarked, or submitted online no later than the Claim Form Deadline. The Claim Form shall be deemed to have been submitted when it is actually received by the Settlement Administrator. The web-based Claim Form shall include necessary disclaimers to comply with federal and state law.

93. The Settlement Administrator shall determine whether a Claim Form meets the requirements set forth in this Settlement. Each Claim Form shall be submitted to and reviewed by the Settlement Administrator, who shall determine in accordance with the terms and conditions of the Settlement the extent, if any, to which each claim shall be allowed. The Settlement Administrator shall have the authority to determine whether a claim by any Class Member is complete and timely. The Settlement Administrator shall use all reasonable efforts and means to identify and reject duplicate and/or fraudulent claims, including, without limitation, indexing all funds provided to Class Members. If any fraud is detected or reasonably suspected, the Settlement Administrator and Parties can require information from Class Members or deny claims, subject to the supervision of the Parties and ultimate oversight by the Court.

94. The Settlement Administrator shall gather, review, prepare, and address the Claim Forms

received pursuant to the Settlement as follows:

- (a) Claims that have been properly submitted shall be designated as “Valid Claims.” The Settlement Administrator shall examine the Claim Form before designating the claim as a Valid Claim, to determine that the information on the Claim Form is reasonably complete and contains sufficient information to enable the mailing or electronic delivery of Voucher(s) to the Class Member.
- (b) No Class Member may submit more than one Claim Form. The Settlement Administrator shall identify any Claim Forms that appear to seek relief on behalf of the same Class Member. The Settlement Administrator shall determine whether there is any duplication of claims, if necessary by contacting the Class Member(s) or their counsel. The Settlement Administrator shall designate any such duplicative claims as rejected claims to the extent they allege the same purchases on behalf of the same Class Member.
- (c) The Settlement Administrator shall exercise, in its discretion, all usual and customary steps to prevent fraud and abuse and take any reasonable steps to prevent fraud and abuse in the claim process. The Settlement Administrator may, in its discretion, deny in whole or in part any claim to prevent actual or possible fraud or abuse.
- (d) By agreement, the Parties can instruct the Settlement Administrator to take whatever steps it deems appropriate to preserve the funds provided under the Settlement to further the purposes of the Settlement if the Settlement Administrator identifies actual or possible fraud or abuse relating to the submission of claims, including, but not limited to, denying in whole or in part any claim to prevent actual or possible fraud or abuse.

95. If a Valid Claim is not contested by the Parties, that claim shall be processed for payment by the Settlement Administrator.

96. Claim Forms that do not meet the terms and conditions of this Settlement shall be

promptly rejected by the Settlement Administrator and the Settlement Administrator shall advise the Class Member of the reason(s) why the Claim Form was rejected.

- (a) However, if the Claim Form is rejected for containing incomplete or inaccurate information, and/or omitting required information, the Settlement Administrator shall send a Notice of Missing or Inaccurate Information explaining what information is missing or inaccurate and needed to validate the claim and have it submitted for payment. The Settlement Administrator shall notify the Class Member using the contact information provided in the Claim Form. The additional information and/or documentation can include, for example, answers to questions regarding the validity of the Class Member's physical or e-signature. Class Members shall have until the end of the Claim Period, or twenty-one (21) calendar days from when the Notice of Missing or Inaccurate Information was mailed, whichever is later, to reply to the Notice of Missing or Inaccurate Information, and provide the required information.
 - (i) In the event the Class Member timely and adequately provides the requested information and/or documentation, the claim shall be deemed validated and shall be processed by the Settlement Administrator for payment.
 - (ii) In the event the Class Member does not timely and completely provide the requested information and/or documentation, the Settlement Administrator shall reduce or deny the claim unless Defendant and Class Counsel otherwise agree.
- (b) Where a good faith basis exists, the Settlement Administrator may reject a Class Member's Claim Form for, among other reasons, the following:
 - (i) The Class Member purchased products that are not covered by the terms of this Settlement;
 - (ii) Failure to fully complete and/or sign the Claim Form;
 - (iii) Illegible Claim Form;

- (iv) The Claim Form is fraudulent;
- (v) The Claim Form is duplicative of another Claim Form;
- (vi) The person submitting the Claim Form is not a Class Member;
- (vii) The person submitting the Claim Form requests that payment be made to a person or entity other than the Class Member for whom the Claim Form is submitted;
- (viii) Failure to submit a Claim Form by the Claims Form Deadline; and/or
- (ix) The Claim Form otherwise does not comply with the requirements of this Settlement.

97. The Settlement Administrator's reduction or denial of a Claim is final, subject to the following dispute resolution procedures:

- (a) The Settlement Administrator shall have thirty (30) days from the end of the Claim Period to exercise the right of rejection based on findings of fraud or duplication.
- (b) A request for additional information shall not be considered a rejection for purposes of this Paragraph.
- (c) If a claim is rejected for fraud or duplication, the Settlement Administrator shall notify the Class Member using the contact information provided in the Claim Form. Class Counsel and Defense Counsel shall be provided with copies of all such notifications to Class Members.
- (d) The Settlement Administrator's determination as to whether to approve or deny a claim shall be final and binding, except that, if any Claimant whose Claim Form has been rejected, in whole or in part, desires to contest such rejection, the Claimant must, within fifteen (15) business days from receipt of the rejection, transmit to the Settlement Administrator by e-mail or U.S. mail a notice and statement of reasons indicating the Claimant's grounds for contesting the rejection, along with any supporting documentation, and requesting further review by the Settlement Administrator, in consultation with Class Counsel and Defense Counsel, of the

denial of the claim. If Class Counsel and Defense Counsel cannot agree on a resolution of the Claimant's notice contesting the rejection, then the Settlement Administrator's determination shall become final.

98. The Settlement Administrator shall provide all information gathered in investigating claims, including, but not limited to, copies of all correspondence and email and all notes of the Settlement Administrator, the decision reached, and all reasons supporting the decision, if requested by Class Counsel or Defense Counsel. Additionally, Class Counsel and Defense Counsel shall have the right to inspect the Claim Forms and supporting documentation received by the Settlement Administrator at any time upon reasonable notice.

99. No person shall have any claim against JJCI, Defense Counsel, Settlement Plaintiffs, the Class, Class Counsel, and/or the Settlement Administrator based on any eligibility determinations, distributions, or awards made in accordance with this Settlement.

100. Not later than seven (7) days before the date of the Fairness Hearing, the Settlement Administrator shall file with the Court the details regarding the number of Valid Claims received and processed by the Settlement Administrator to date.

(3) Claim Calculation and Payment of Valid Claims

101. The Settlement Administrator shall identify the timely, valid, and approved claims submitted pursuant to the claim process to be paid by JJCI pursuant to the terms and conditions of this Settlement.

102. Thirty-one (31) days after the Effective Date the Settlement Administrator shall begin to issue Vouchers. Not later than ninety (90) days after the occurrence of the Effective Date, the Settlement Administrator shall have completed issuance of Vouchers to Class Members who have submitted Valid Claims pursuant to the claim process.

F. Objections and Opt-outs.

103. Class Members who fail to file with the Court and serve upon the Settlement Administrator, Class Counsel, and Defense Counsel timely written objections in the manner specified in this Settlement and the Class Notice shall be deemed to have waived all objections and shall be

foreclosed from making any objection (whether by appeal or otherwise) to the Settlement. Any member of the Class who submits a timely request for exclusion (i.e., to opt out) may not file an objection to the Settlement and shall have no rights or entitlement to Vouchers under this Settlement.

104. Any Class Member who intends to object to the fairness, reasonableness, and/or adequacy of the Settlement must, in addition to timely filing a written objection with the Court, send the written objection to the Settlement Administrator by U.S. mail (at the mailing address to be included in the Long Form Notice, substantially in the form attached as Exhibit A or by e-mail to the following e-mail address: info@sunproductsettlement.com, along with a copy by U.S. mail or e-mail to Class Counsel and Defense Counsel (at the addresses set forth below) postmarked no later than the date specified in the Preliminary Approval Order. Class Members who object must set forth: (a) their full name; (b) current address; (c) a written statement of their objection(s) and the reasons for each objection; (d) a statement of whether they intend to appear at the Fairness Hearing, and if so, whether they will appear with separate counsel; (e) their signature; (f) the case name and case number (*In re Johnson & Johnson Sunscreen Marketing, Sales Practices and Products Liability Litigation*, MDL No. 3015); (g) a detailed list of any other objections submitted by the Class Member, or his/her counsel, to any class actions in any court, whether state or otherwise, in the United States in the previous five (5) years; and (h) documents sufficient to establish the person's standing as a Settlement Class Member, i.e., verification under penalty of perjury as to the person's purchase of Aerosol Products or Non-Aerosol Products during the Class Period, or a Proof of Purchase. If the Class Member or his/her counsel has not objected to any other class action settlement in any court in the United States in the previous five (5) years, he/she shall affirmatively state so in the written materials provided in connection with the objection to this Settlement. Objections must be served on the Settlement Administrator (at the mailing address to be included in the Long Form Notice, substantially in the form attached as Exhibit A or by e-mail to the following e-mail address: info@sunproductsettlement.com, as well as Class Counsel and Defense Counsel as follows:

Upon Class Counsel at:

and Upon Defense Counsel at:

Kiley Grombacher
BRADLEY/GROMBACHER LLP
31365 Oak Crest Dr., Suite 240
Westlake Village, CA 91361
kgrombacher@bradleygrombacher.com

Steven A. Zalesin
PATTERSON BELKNAP
WEBB & TYLER LLP
1133 Avenue of the Americas
New York, New York 10036
sazalesin@pbwt.com

R. Jason Richards
AYLSTOCK, WITKIN, KREIS &
OVERHOLTZ, PLLC
17 East Main Street, Suite 200
Pensacola, FL 32502
jrichards@awkolaw.com

105. No Class Member shall be entitled to object to the Settlement, and no written objections or briefs submitted by any Class Member shall be received or considered by the Court at the Fairness Hearing, unless written notice of the objecting Class Member's intention to appear (or not appear) at the Fairness Hearing and copies of any written objections and/or briefs, shall have been filed with the Court and served on the Settlement Administrator, Class Counsel, and Defense Counsel on or before the date specified in the Preliminary Approval Order. Objections that are mailed to the Court (and not filed with the Court), or objections that are served on the Parties but not filed with the Court, shall not be received or considered by the Court at the Fairness Hearing.

106. The Parties shall request that the Court allow any interested party to file a response to any objection, as described in Paragraph 109, no later than seven (7) days before the Fairness Hearing, or as the Court may otherwise direct.

107. Members of the Class may elect to exclude themselves from (i.e., opt out of) the Settlement, relinquishing their rights to Vouchers hereunder. Members of the Class who opt out of the Settlement will not release their claims pursuant to this Settlement. Members of the Class wishing to opt out of the Settlement must send to the Settlement Administrator by U.S. mail (at the mailing address to be included in the Long Form Notice, substantially in the form attached as Exhibit A) a personally signed letter including (a) their full name; (b) current address; (c) a clear statement communicating that they

elect to be excluded from the Class, do not wish to be a Class Member, understand that they will not receive any Voucher under the Settlement, and elect to be excluded from any judgment entered pursuant to the Settlement; (d) their signature; and (e) the case name and case number (*In re Johnson & Johnson Sunscreen Marketing, Sales Practices and Products Liability Litigation*, MDL No. 301). Any request for exclusion must be postmarked on or before the exclusion deadline provided in the Court's Preliminary Approval Order. The date of the postmark on the return-mailing envelope shall be the exclusive means used to determine whether a request for exclusion has been timely submitted. A member of the class cannot opt out on behalf of anyone but himself or herself. No Class Member shall be deemed to have opted out of the Settlement through any purported "mass" or "class" opt-outs, or via any class action, mass action, or collective or representative action. Members of the Class who fail to submit a valid and timely request for exclusion on or before the date specified in the Court's Preliminary Approval Order shall be bound by all terms of this Settlement and the Final Order and Final Judgment, regardless of whether they have requested exclusion from the Settlement. If a Class Member submits both a Claim Form and a request for exclusion, the Claim Form shall take precedence and be considered binding, and the opt-out request shall be deemed to have been sent by mistake and rejected.

108. The Settlement Administrator shall promptly provide copies of all requests for exclusion, objections, and/or related correspondence from the Class to Class Counsel and Defense Counsel. Not later than three (3) business days after the deadline for submission of requests for exclusion (i.e., to opt out), the Settlement Administrator shall provide to Class Counsel and Defense Counsel a complete opt-out list, which shall also be filed with the Court no later than seven (7) days before the Fairness Hearing, together with copies of the opt-out requests.

109. On the date set forth in the Preliminary Approval Order, a Fairness Hearing shall be conducted to determine final approval of the Settlement. Class Members who wish to be heard at the Fairness Hearing (whether individually or through separate counsel) and are objecting to the Settlement shall comply with the provisions of this Settlement. Class Members who wish to be heard at the Fairness Hearing (whether individually or through separate counsel) and are not objecting to

the Settlement shall file a notice of appearance with the Court, and serve the notice upon Class Counsel and Defense Counsel at the addresses indicated above at least fourteen (14) calendar days before the Fairness Hearing.

110. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage any Party or Settlement Class Member to submit Objections or Requests for Exclusion, or to appeal from the Court's Judgment.

VII. CAFA COMPLIANCE

111. Within ten (10) days following Preliminary Approval, the Settlement Administrator shall serve the CAFA Notice to appropriate state and federal officials pursuant to the Class Action Fairness Act ("CAFA") at 28 U.S.C. § 1715. The Settlement Administrator shall be responsible for drafting and preparing the notice in conformity with 28 U.S.C. § 1715 and for identifying the appropriate state and federal officials to be notified.

VIII. SCOPE AND EFFECT OF CONDITIONAL

CERTIFICATION OF THE CLASS SOLELY FOR PURPOSES OF SETTLEMENT

112. For purposes of settlement only, the Parties agree to seek provisional certification of the Class. The Parties further agree that the Court should make preliminary findings and enter the Preliminary Approval Order granting provisional certification of the Class subject to final findings and ratification in the Final Order and Final Judgment, and appointing the Settlement Plaintiffs as the representatives of the Class and Class Counsel as counsel for the Class.

113. JJCI does not consent to certification of the Class for any purpose other than to effectuate this Settlement. JJCI's agreement to conditional certification does not constitute an admission of wrongdoing, fault, liability, or damage of any kind to Settlement Plaintiffs or any members of the Class.

114. If this Settlement is terminated pursuant to its terms, disapproved by any court (including any appellate court), and/or not consummated for any reason, or the Effective Date for any reason does not occur, the order certifying the Class for purposes of effectuating this Settlement, and all preliminary and/or final findings regarding that class certification order, shall be automatically

vacated upon notice of the same to the Court; the Action shall proceed as though the Class had never been certified pursuant to this Settlement and such findings had never been made; and the Action shall return to the procedural status quo ante in accordance with this Paragraph. Class Counsel shall not refer to or invoke the vacated findings and/or order relating to this Settlement in this Action or any future proceeding in the event this Settlement is not consummated and the Action, including the appropriateness of class certification, is later litigated and contested by Defendant.

IX. CONFIRMATORY DISCOVERY

115. Following preliminary approval, the Parties agree to engage in confirmatory discovery in the form of the depositions of JJCI representatives Derek Henderson and Carla Oliveira.

X. MODIFICATION OR TERMINATION OF THE SETTLEMENT

116. The terms and provisions of this Settlement may be amended, modified, or expanded by written agreement of the Parties and approval of the Court; provided, however, that, after entry of the Final Order and Final Judgment, the Parties may by written agreement effect such amendments, modifications, or expansions of this Settlement and its implementing documents (including all Exhibits hereto) without further notice to the Class or approval by the Court if such changes are consistent with the Court's Final Order and Final Judgment and do not materially alter, reduce or limit the rights of Class Members under this Settlement.

117. In the event the terms or conditions of this Settlement are materially modified by any court, either Party in its sole discretion may, within fourteen (14) days after such a material modification, declare this Settlement null and void. For purposes of this Paragraph, material modifications include but are not limited to substantial changes to the definition of the Class, Class Members, the Vouchers, or Released Claims; substantial changes to the Notice Plan, the terms of the settlement consideration, or the terms of the Attorneys' Fees and Expenses and Incentive Awards. In addition to and without limiting the foregoing, either Party may declare this Settlement null and void if, during the Objection and Exclusion Period, more than 250 Class Members have opted out or excluded themselves from the Settlement. In the event that a Party exercises his/her/its option to withdraw from and terminate this Settlement, then the Settlement proposed herein shall become null and void and shall have no

force or effect, the Parties shall not be bound by this Settlement, and the Parties in the Action will be returned to their respective positions existing immediately prior to the execution of this Settlement. Notwithstanding the foregoing, in the event this Settlement is not approved by any court, or is declared null and void, or in the event that the Effective Date does not occur, Class Members, Settlement Plaintiffs, and Class Counsel shall not in any way be responsible or liable for any costs of notice and administration associated with this Settlement, except that each Party shall bear its own attorneys' fees and costs and Defendant's future payment obligations to Class Counsel or Class Members pursuant to this Settlement shall cease.

XI. SETTLEMENT NOT EVIDENCE AGAINST PARTIES

118. The Parties expressly acknowledge and agree that this Settlement and its Exhibits, along with all related drafts, motions, pleadings, conversations, negotiations, and correspondence, constitute a compromise. In no event shall this Settlement, 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 Action, any other action, or in any judicial, administrative, regulatory or other proceeding, except in a proceeding to enforce this Settlement, or to enforce the rights of the Parties or their counsel under the terms and conditions of this Settlement. Without limiting the foregoing, neither this Settlement 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 or entity, including, but not limited to, Defendant, the Released Parties, Settlement Plaintiffs, or the Class, or as a waiver by Defendant, the Released Parties, Settlement Plaintiffs, or the Class of any applicable privileges, claims or defenses.

119. The provisions contained in this Settlement are not and shall not be deemed a presumption, concession, or admission by Defendant of any fault, liability or wrongdoing as to any facts or claims alleged or asserted in the Action, or in any actions or proceedings, nor shall they be interpreted, construed, deemed, invoked, offered, or received in evidence or otherwise used by any person in the Action, or in any other action or proceeding, whether civil, criminal or administrative.

XII. COOPERATION

120. The Parties (including their counsel, successors, and assigns) agree to cooperate fully and in good faith with one another and to use their best efforts to effectuate the Settlement, including without limitation in seeking preliminary and final Court approval of this Settlement, carrying out the terms of this Settlement, and promptly agreeing upon and executing all such other documentation as may be reasonably required to obtain final approval by the Court of the Settlement.

121. Settlement Plaintiffs shall provide JJCI the opportunity to review such filings related to settlement approval in advance. The Parties acknowledge that JJCI has provided certain confidential information, data and evidence in connection with the Parties' settlement negotiations. The Parties will meet and confer and reach mutual agreement as to the appropriate form of disclosing such information to the Court, which may involve filing under seal. The Parties acknowledge and recognize that, in accordance with the interest of public transparency, the filing of any such information under seal will not be requested unless the Parties believe it is necessary to do so.

122. In the event that the Court does not approve the Settlement or does not issue the Final Order and Final Judgment, the Parties agree to use all reasonable efforts, consistent with this Settlement, to cure any defect identified by the Court.

123. The Parties shall cooperate in connection with effectuating the Settlement or the administration of claims thereunder. Any requests for cooperation shall be narrowly tailored and reasonably necessary for the requesting Party to recommend the Settlement to the Court, and to carry out its terms.

XIII. MISCELLANEOUS PROVISIONS

124. The Parties agree that the recitals are contractual in nature and form a material part of this Settlement.

125. This Settlement and its accompanying Exhibits set forth the entire understanding of the Parties. No change or termination of this Settlement shall be effective unless in writing and signed by Class Counsel and Defense Counsel. No extrinsic evidence or parol evidence shall be used to interpret this Settlement.

126. Any and all previous agreements and understandings between or among the Parties regarding the subject matter of this Settlement, whether written or oral, are superseded and hereby revoked by this Settlement. The Parties expressly agree that the terms and conditions of this Settlement will control over any other written or oral agreements.

127. All of the Parties warrant and represent that they are agreeing to the terms of this Settlement based upon the legal advice of their respective attorneys, that they have been afforded the opportunity to discuss the contents of this Settlement with their attorneys, and that the terms and conditions of this Settlement are fully understood and voluntarily accepted.

128. The waiver by any Party of a breach of any term of this Settlement shall not operate or be construed as a waiver of any subsequent breach by any Party. The failure of a Party to insist upon strict adherence to any provision of this Settlement shall not constitute a waiver or thereafter deprive such Party of the right to insist upon strict adherence.

129. The headings in this Settlement are inserted merely for the purpose of convenience and shall not affect the meaning or interpretation of this document.

130. This Settlement may be executed in counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument. The date of execution shall be the latest date on which any Party signs this Settlement.

131. This Settlement has been negotiated among and drafted by Class Counsel and Defense Counsel. Settlement Plaintiffs, Class Members, and JJCI shall not be deemed to be the drafter of this Settlement or of any particular provision, nor shall they argue that any particular provision should be construed against its drafter or otherwise resort to the *contra proferentem* canon of construction. Accordingly, this Settlement should not be construed in favor of or against one Party as to the drafter, and the Parties agree that principles of construing ambiguities against the drafter shall have no application. All Parties agree that counsel for the Parties drafted this Settlement during extensive arms' length negotiations. No parol or other evidence may be offered to explain, construe, contradict, or clarify its terms, the intent of the Parties or their counsel, or the circumstances under which this Settlement was made or executed.

132. Settlement Plaintiffs and Class Counsel will not issue any press releases or communicate with the media regarding the Settlement or the Action without prior approval by JJCI of the statement or communications. However, if Settlement Plaintiffs or Class Counsel receive an inquiry from any third party, they may decline to comment, refer to the Class Notice, refer to the Complaint, or refer to the Court docket. Settlement Plaintiffs and Class Counsel agree not to make disparaging public statements about JJCI, the Products, and/or Defense Counsel out-of-court. Settlement Plaintiffs and Class Counsel are free to (a) respond in a truthful and non-disparaging manner to inquiries regarding the Action and/or Settlement from the Class; and (b) state they served as legal counsel in this Action and reference the terms and amount of the Settlement on their firm websites, biographies, or similar marketing materials, and in connection with future applications to serve as interim-class or lead counsel, or as otherwise required by law. JJCI and Defense Counsel agree not to make disparaging public statements about Settlement Plaintiffs, Class Counsel, or the Settlement.

133. Each Party represents and warrants that the individual(s) executing this Settlement are authorized to enter into this Settlement on the Party's behalf.

134. Any disagreement and/or action to enforce this Settlement shall be commenced and maintained only in the Court in which this Action is pending. The Parties agree that the Court shall retain jurisdiction over the Settlement to interpret and enforce its terms and conditions, and for any other necessary purpose.

135. Whenever this Settlement requires or contemplates that one of the Parties shall or may give notice to the other, notice shall be provided by e-mail and/or next-day (excluding Saturdays, Sundays and legal holidays) express delivery service as follows:

Upon Class Counsel at:

and

Upon Defense Counsel at:

Kiley Grombacher
BRADLEY/GROMBACHER LLP
31365 Oak Crest Dr., Suite 240
Westlake Village, CA 91361
kgrombacher@bradleygrombacher.com

Steven A. Zalesin
PATTERSON BELKNAP WEBB &
TYLER LLP
1133 Avenue of the Americas
New York, New York 10036
sazalesin@pbwt.com

R. Jason Richards
AYLSTOCK, WITKIN, KREIS &
OVERHOLTZ, PLLC
17 East Main Street, Suite 200
Pensacola, FL 32502
jrichards@awkolaw.com

136. 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.


137. This Settlement may be signed with a facsimile signature and in counterparts, each of which shall constitute a duplicate original.

138. The Parties believe that this Settlement is a fair, adequate, and reasonable settlement of the Action, and they have arrived at this Settlement through arms'-length negotiations, taking into account all relevant factors, present and potential.

IN WITNESS WHEREOF, the Parties hereto, by and through their respective attorneys, and intending to be legally bound hereby, have duly executed this Settlement as of the date set forth below.

PLAINTIFFS

Dated: December ¹⁷____, 2021

DocuSigned by:

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Katherine Brennan

Dated: December ____, 2021

Michelle Mang

Dated: December ____, 2021

Meredith Serota

R. Jason Richards
AYLSTOCK, WITKIN, KREIS &
OVERHOLTZ, PLLC
17 East Main Street, Suite 200
Pensacola, FL 32502
jrichards@awkolaw.com

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Dated: December ___, 2021

Katherine Brennan

Dated: December 17, 2021

DocuSigned by:
Michelle Mang
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Michelle Mang

Dated: December ___, 2021

Meredith Serota

R. Jason Richards
AYLSTOCK, WITKIN, KREIS &
OVERHOLTZ, PLLC
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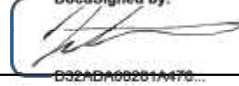
Dated: December ¹⁷ ___, 2021

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Meredith Serota

Dated: December ¹⁷ ___, 2021

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Jacob Somers

Dated: December ___, 2021

Lauren Harper

Dated: December ___, 2021

Dini Casaliggi

Dated: December ___, 2021

Kelly Granda

Dated: December ___, 2021

Kyra Harrell

Dated: December ___, 2021

Carman Grisham

DEFENDANT

Dated: December ___, 2021

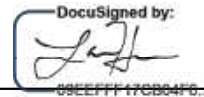
Johnson & Johnson Consumer Inc.

By: _____

Dated: December ___, 2021

Jacob Somers

Dated: December ¹⁷ ___, 2021

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Lauren Harper

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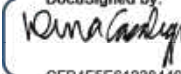
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Jacob Somers

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Lauren Harper

Dated: December __^{DC}_, 2021

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Dina Casaliggi

Dated: December ___, 2021

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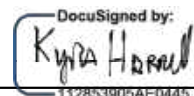
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Dated: December ¹⁷ ___, 2021


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Carmen Grisham

DEFENDANT

Dated: December ___, 2021

Johnson & Johnson Consumer Inc.

By:

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Jacob Somers

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Dated: December __, 2021

Kyra Harrell

Dated: December __, 2021

Carman Grisham

DEFENDANT

Dated: December 11th, 2021

Johnson & Johnson Consumer Inc.

By:

Tina S. French

Secretary

ADDITIONAL PLAINTIFFS

Dated: December ¹⁷ ___, 2021

DocuSigned by:
Heather Rudy
STATEBARB00B4C6...

Heather Rudy

Dated: December ___, 2021

Fred Salter

Dated: December ___, 2021

Judith Barich

CLASS COUNSEL

Dated: December ___, 2021

Kiley Grombacher
BRADLEY/GROMBACHER LLP

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AYLSTOCK, WITKIN, KREIS &
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DEFENSE COUNSEL

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Steven A. Zalesin
PATTERSON BELKNAP WEBB &
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Dated: December 17, 2021



Kiley Grombacher
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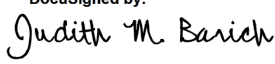
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BRADLEY/GROMBACHER LLP

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