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**IT IS HEREBY STIPULATED AND AGREED**, by, between, and among Plaintiff Amy Joseph (“Plaintiff”) and Defendant Inventure Foods, Inc., a Delaware corporation with its principal place of business in Arizona (“Defendant” or “Inventure”), with all terms as defined below, through their respective duly-authorized counsel, that the above-captioned action, *Joseph v. Inventure Foods, Inc.*, No. 21-cv-01340-EEB/YBK (N.D. Ill.), and the matters raised therein, are settled and judgment shall be entered on the terms and conditions set forth in this Settlement Agreement (“Settlement” or “Agreement”) and the Release set forth herein, subject to the approval of the Court.

**I. INTRODUCTION**

Plaintiff’s national class action complaint was initially filed in the Circuit Court of Cook County, Illinois under case number 2021CH00597 on or about February 5, 2021 (the “Initial Complaint”). The Initial Complaint, which was removed to this Court on or about March 10, 2021, named TGI Friday’s, Inc. (“TGIF”) and Inventure as Defendants. Thereafter, on May 7, 2021, Plaintiff filed her Amended Class Action Complaint entitled *Joseph v. Inventure Foods, Inc.*, No. 21-cv-01340-EEB/YBK (N.D. Ill.), in the United States District Court for the Northern District of Illinois, Eastern Division (the “Action”). The Action also named TGIF and Inventure as Defendants, but TGI was dismissed from the Action by this Court’s Order dated November 28, 2022 (Dkt. No. 40).

The Action alleges, *inter alia*, that Inventure manufactured, labeled, marketed, and sold TGI Fridays brand Mozzarella Sticks Corn Snacks (the “Snacks” or the “Products”) and that by virtue of the Snacks’ labeling and advertising, Inventure falsely represented that the Products contained actual mozzarella cheese. The Action also alleges, *inter alia*, that the Snacks’ labels violated federal and state regulations and Inventure violated the Illinois Consumer Fraud Act, 815 ILCS 505/1 *et seq.* and other analogous state consumer protection statutes, and, as a result, Inventure was unjustly enriched and the Plaintiff and the putative class suffered damages.

A. Plaintiff, as Settlement Class representative, believes that the claims settled herein have merit. However, Plaintiff and Class Counsel recognize and acknowledge the expense and length of continued proceedings necessary to prosecute the claims through trial, appeal, and ancillary actions. They have also taken into account the uncertain outcome and the risk of any litigation, as well as the difficulties and delays inherent in such litigation. They believe that the settlement set forth in this Agreement confers substantial benefits upon the Class Members. Based upon their evaluation, they have determined that the settlement set forth in this Agreement is fair, reasonable and adequate and in the best interest of the Settlement Class.

B. Defendant has denied and continues to deny all liability with respect to any and all of the claims alleged in the Action or the facts alleged in support thereof and has denied and continues to deny all charges of wrongdoing or liability against it arising out of or relating to any conduct, acts, or omissions alleged in the Action. Defendant's willingness to resolve the Action on the terms and conditions embodied in this Agreement is based on, *inter alia*: (i) the time and expense associated with litigating this Action through trial and any appeals; (ii) the benefits of resolving the Action, including limiting further expense, inconvenience, and distraction, disposing of burdensome litigation, and permitting Defendant to conduct its business unhampered by the distractions of continued litigation; and (iii) the uncertainty and risk inherent in any litigation.

C. Before entering into this Agreement, Class Counsel conducted an extensive and thorough examination, investigation, and evaluation of the relevant law, facts and allegations to assess the merits of the claims and potential claims to assess the strength of the Action in terms of potential liability and damages.

D. Through the discovery process and prior to settlement negotiations, the Parties exchanged discovery, including but not limited to the Snacks' current and historic labels, purchase and sales data, and information regarding the Products' formulation. Inventure represents that within the Class Period, Inventure, of its own volition and without knowledge of Plaintiffs' claims, changed the labeling on the Eligible Products (as that term is defined below) in a manner which it believes addresses the claims made by Plaintiff in the Action.

E. This Agreement is the product of extensive, arms-length, and vigorously-contested settlement discussions. After several settlement discussions between counsel, the Parties engaged in a mediation session with the Honorable Young B. Kim, U.S.M.J. and reached a settlement in principle. Before and during settlement discussions, the Parties had an arms-length exchange of sufficient information to permit Plaintiff and Class Counsel to evaluate the claims and potential defenses and to meaningfully conduct informed settlement discussions. In connection with the Parties' mediation, Plaintiff obtained, *inter alia*, the following discovery pertaining to the Snacks throughout the Class Period: (i) exemplar labels for all sizes of the Snacks; (ii) information regarding the use of the phrase "Mozzarella Sticks" on the Snacks' labels; (iii) the Snacks' formulation; and, (iii) pertinent financial information, including sales data associated with the Snacks by year, package size and geographic region. Plaintiff also produced to Inventure additional information regarding Plaintiff's purchases of the Snacks.

F. Based upon their review, investigation, and evaluation of the facts and law relating to the matters alleged in the pleadings, Plaintiff and Class Counsel, on behalf of Plaintiff and the other members of the Settlement Class, have agreed to settle the Action pursuant to the provisions of this Agreement, after considering, among other things: (1) the substantial benefits to the Class Members under the terms and conditions of this Agreement; (2) the risks, costs, and uncertainty of protracted litigation, especially in complex actions such as this; (4) the difficulties and delays inherent in litigation; and (5) the desirability of consummating this Agreement promptly in order to provide effective relief to the Class Members.

G. Inventure has vigorously denied and continues to deny all of the claims and contentions alleged in the Action. Inventure expressly denies any and all wrongdoing alleged in the pleadings and does not admit or concede any actual or potential fault, wrongdoing, liability or damage of any kind to Plaintiff and the Settlement Class, or in connection with any facts or claims that have been or could have been alleged against it in the Action. Inventure further denies that it acted improperly or wrongfully in any way, and believes that the Action has no merit. Even though Inventure expressly denies any wrongdoing, Inventure considers it desirable for the Action to be

settled and dismissed under the terms and conditions set forth in this Agreement, because this Settlement will finally put Plaintiff's claims and the underlying matters to rest and will avoid the substantial expenses, burdens, and uncertainties associated with the continued litigation of these claims.

H. Inventure has agreed to class action treatment of the claims alleged in the Action solely for the purpose of compromising and settling those claims on a class basis as set forth herein.

I. This Agreement, any negotiations, proceedings, or documents related to this Agreement, its implementation, or its judicial approval (as well as the fact of this Agreement and any acts or documents related to this Agreement or its implementation) cannot be asserted or used by any person to support a contention that class certification is proper or improper, that liability does or does not exist, or that Plaintiff or Class Members suffered or did not suffer damages, or for any other reason, in the above-captioned Action or in any other proceedings; provided, however, that Class Members, Class Counsel, Defendant, other related persons, and any person who is a beneficiary of a Released Party set forth herein, may reference and file this Agreement, and any resulting Order or Judgment, with the Court or any other tribunal or proceeding, in connection with the implementation or enforcement of its terms (including but not limited to the Releases granted therein, or any dispute related thereto). Neither this Agreement nor any Court Order approving this Agreement shall be construed as a criticism or an endorsement of the Snacks.

NOW THEREFORE, it is hereby STIPULATED AND AGREED, by and between the Parties, through their respective counsel, that: (a) the Action be fully and finally compromised, settled and released upon final settlement approval by the Court after the hearings as provided for in this Agreement; and (b) upon such approval by the Court, a Final Order and Final Judgment, substantially in the form attached hereto as Exhibits 3 and 4, respectively, be entered dismissing the Action with prejudice upon the following terms and conditions of this Agreement.

## **II. DEFINITIONS**

A. As used in this Agreement and the attached exhibits (which are an integral part of this Agreement and are incorporated in their entirety by reference), the following terms have the

following meanings, unless this Agreement specifically provides otherwise:

1. “Action” means the lawsuit entitled *Joseph v. Inventure Foods, Inc.*, No. 21-cv-01340-EEB/YBK (N.D. Ill.).
2. “Agreement” or “Settlement” means this Settlement Agreement and its exhibits, attached hereto or incorporated herein, including any subsequent amendments agreed to by the Parties and any exhibits to such amendments.
3. “Attorneys’ Fees and Expenses” means such funds as may be awarded by the Court to Class Counsel from Defendant to compensate Plaintiff’s Counsel for their fees and expenses in connection with the Action and the Settlement, as described in Section IX of this Agreement.
4. “Claim(s)” means the claim of an individual Class Member or his, her or its representative submitted on a Claim Form as provided in this Agreement.
5. “Claimant” means a Class Member who has submitted a Claim.
6. “Claim Form” means the document in substantially the same form attached as Exhibit 1 to this Agreement.
7. “Claim Period” means the time period in which Class Members may submit a Claim Form for review to the Settlement Administrator. The Claim Period shall run for seventy-five (75) calendar days from the date of the first dissemination of the Summary Settlement Notice or Class Notice, whichever is earlier.
8. “Claim Process” means that process for submitting Claims described in this Agreement.
9. “Class” or “Settlement Class” means all persons who, during the Class Period, purchased in the United States any size or variety of the Eligible Products, as that term is defined below. Excluded from the Class are: (a) Inventure’s board members or executive-level officers; (b) persons who purchased the Eligible Products primarily for the purpose of resale, including, but not limited to, retailers or re-sellers of the Eligible Products; (c) governmental entities; (d) persons who timely and properly exclude themselves from the Class



as provided in this Agreement; and (e) the Court, the Court's immediate family, and Court staff.

10. "Class Member" means a member of the Class.

11. "Class Counsel" means: Thomas A. Zimmerman, Jr., Jeffrey D. Blake, Matthew C. De Re, and Sharon Harris on behalf of Zimmerman Law Offices, P.C.

12. "Class Notice" or "Notice" means a notice substantially in the form attached as Exhibit 2 to this Agreement.

13. "Class Period" means the period from January 1, 2017, up to, and including July 31, 2022.

14. "Court" means the United States District Court for the Northern District of Illinois, Eastern Division.

15. "Defendant" means Inventure Foods, Inc.

16. "Eligible Product(s)" means any and all shelf stable (*i.e. not refrigerated or frozen*) TGI Fridays brand Snacks of any size, style, flavor, and variety, manufactured, distributed or sold by Inventure that are or were labeled with the phrase "TGI Fridays Mozzarella Sticks Snacks" or any other words or phrases to convey the same or similar meanings, including without limitation:

- a. TGI Fridays Mozzarella Sticks Snacks Original;
- b. TGI Fridays Mozzarella Sticks Snacks Original Flavor; and,
- c. TGI Fridays Mozzarella Sticks Snacks Original Flavor Baked.

17. "Fairness Hearing" means the hearing at or after which the Court shall make a final decision whether to approve this Agreement as fair, reasonable, and adequate. The Parties shall request that the Court schedule the Fairness Hearing for a date that is in compliance with the provisions of 28 U.S.C. § 1715(d), but no later than one hundred eighty-five (185) calendar days after entry of the Preliminary Approval Order.

18. "Final Order and Final Judgment" means the Court's Order approving the Settlement and this Agreement, as described in Section X of this Agreement, which is to be

substantially in the forms attached as Exhibits 3 and 4, respectively, to this Agreement.

19. “Final Settlement Date” means the date on which the Final Order and Final Judgment approving this Agreement become final. For purposes of this Agreement:

a. if no appeal has been taken from the Final Order and Final Judgment, “Final Settlement Date” means the date on which the time to appeal therefrom has expired; or

b. if any appeal has been taken from the Final Order and Final Judgment, “Final Settlement Date” means the date on which all appeals therefrom, including petitions for rehearing or re-argument, petitions for rehearing en banc, and petitions for certiorari or any other form of review, have been finally disposed of in a manner that affirms the Final Order and Final Judgment and all options for appeal and judicial review are fully exhausted; or

c. if Class Counsel and Defendant’s Counsel agree in writing, “Final Settlement Date” can occur on any other agreed date.

20. “Inventure” means Inventure Foods, Inc.

21. “Inventure’s Counsel” or “Defendant’s Counsel” means Cozen O’Connor.

22. “Notice Program” means the plan for dissemination of Notice and all forms of Notice to the Class, as set forth in this Agreement and Exhibits 2 and 6 thereto.

23. “Parties” means Plaintiff and Defendant, collectively, as each of those terms is defined in this Agreement.

24. “Plaintiff” means Amy Joseph.

25. “Plaintiff’s Counsel” means Class Counsel.

26. “Preliminary Approval Order” means the Order to be entered by the Court preliminarily approving the Settlement as outlined in Section X of this Agreement and which is to be substantially in the form attached as Exhibit 5 to this Agreement.

27. “Qualifying Purchase” means the purchase of an Eligible Product by a Class Member during the Class Period.

28. “Release” means the release and waiver set forth in Section VIII of this Agreement and in the Final Order and Final Judgment.

29. “Released Claims” means any and all manner of individual, class, representative, group and collective claims, actions, causes of action, suits, liabilities, rights, debts, sums of money, payments, penalties, obligations, reckonings, contracts, agreements, executions, promises, damages, losses, liens, judgments, matters and demands of whatever kind, type, description or nature whatsoever, both at law and in equity, that a Releasing Party ever had, now has, or hereafter can, shall or may ever have against any of the Released Parties, including assigned claims, mature or not yet mature, known or unknown, asserted or unasserted, suspected or unsuspected, contingent or non-contingent, that arose, or are based on actions, conduct, events, transactions or omissions occurring on or before the date notice is disseminated to members of the proposed Class, whether based on federal, state, or local law, statute, ordinance, regulation, code, contract, common law, or any other source, or any claim that a Releasing Party ever had, now has, or hereafter can, shall or may ever have against any of the Released Parties arising from, concerning, or in any way relating to the labeling, manufacturing, distribution, purchase, sale, marketing, promotion, licensing or advertising, regardless of medium, of any of the Eligible Products and/or the claims alleged in the Action including, but without in any way limiting the generality of the foregoing, those arising from, directly or indirectly, or in any way whatsoever pertaining or relating to: (1) the claims alleged or which could have been alleged in the Action; (2) any communications, disclosures, nondisclosures, representations, misrepresentations, statements, claims, omissions, warnings, messaging, marketing, promotion, advertising, packaging, displays, labeling or brochures arising from or in any way whatsoever relating to, the Plaintiff’s and Class Members’ purchase of the Eligible Products, the sale and/or resale by the Released Parties of the Eligible Products and the claims alleged in the Action; (3) any claims for rescission, restitution, injunctive relief, or unjust enrichment of any kind related in any way to the purchase, sale, labeling, advertising, licensing, marketing or promotion of the Eligible Products and the claims alleged in the Action; (4)

violations of any state or federal deceptive, unlawful and/or unfair business and/or trade practices, false, misleading or fraudulent advertising, consumer fraud and/or consumer protection statutes related in any way to the purchase, sale, labeling, advertising, promotion, licensing or marketing of the Eligible Products and the claims alleged in the Action; (5) any claims of fraud, negligence, product liability, conspiracy, violation of the Uniform Commercial Code, breach of contract, breach of express, implied and/or any other warranties and violation of the Magnuson-Moss Warranty Act related in any way to the purchase, sale, labeling, advertising, promotion, licensing or marketing of the Eligible Products and the claims alleged in the Action; or (6) damages, costs, expenses, extra-contractual damages, compensatory damages, exemplary damages, special damages, statutory damages, penalties, punitive damages and/or damage multipliers, disgorgement, declaratory relief, injunctive relief, restitution, expenses, interest, and/or attorneys' fees, costs and expenses related in any way to the purchase, sale, labeling, advertising, promotion, licensing or marketing of the Eligible Products and the claims alleged in the Action.

30. Notwithstanding any other provision of this Agreement, "Released Claims" do not include claims for personal injuries. Plaintiff and other Class Members are not releasing (i) any claims, demands, rights, damages, obligations, suits, debts, liens, and causes of action relating to personal injuries; and (ii) any of Defendant's obligations pursuant to the terms and conditions of this Agreement.

31. "Released Party" and "Released Parties" means Inventure, Utz Quality Foods, LLC ("Utz"), and TGI Friday's, Inc., TGI Friday's of Minnesota, Inc., TGI Friday's Franchisor, LLC (collectively, "TGIF"), and each of their respective past and present parents, subsidiaries, affiliated entities, shareholders, members, partners, agents, representatives, directors, officers, managers, employees, vendors, manufacturers, co-manufacturers, suppliers, distributors, resellers, business partners, licensors, licensees, attorneys, insurers, predecessors, successors and assignees, and any person or entity that manufactured, tested, inspected, audited, certified, purchased for re-sale, distributed, licensed, transported, marketed, labeled, advertised,

donated, promoted, sold, re-sold, or offered for sale at wholesale or retail any Eligible Products, or contributed to any labeling, advertising, packaging, ingredient, or component thereof, including all of their respective past and present parents, subsidiaries, affiliated entities, shareholders, members, partners, agents, representatives, directors, officers, managers, employees, vendors, customers, suppliers, business partners, attorneys, insurers, predecessors, successors and assignees. It is expressly agreed that, to the extent a Released Party (including, without limitation, Utz and TGIF) is not a Party to this Agreement, all such Released Parties are intended third-party beneficiaries of this Agreement and shall receive the same benefits from this Settlement as Inventure.

32. “Releasing Party” and “Releasing Parties” means Plaintiff and the other Class Members and any person or entity claiming by or through any Class Member, including but not limited to, spouses, children, family and household members, guardians, heirs, devisees, legatees, invitees, employees, associates, attorneys, agents, executors, administrators, predecessors, successors, assignees, or representatives of any kind.

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

34. “Settlement Administrator” means the third-party agent or administrator agreed to by the Parties and appointed by the Court. The Parties agree that Class-settlement.com shall be retained to design, consult on, and implement the Class Notice and related requirements of this Agreement, including but not limited to the settlement website, Claim review and related requirements of this Agreement, subject to the Court’s approval.

35. “Settlement Claim Procedures and Claim Calculation Protocol” means the protocol attached hereto as Exhibit 7.

36. “Settlement Fund” means the Nine Hundred Thousand Dollars and No Cents (\$900,000.00) that Inventure will pay or cause to be paid, pursuant to the terms of Section IV.A of this Agreement.

37. “Settlement Fund Balance” means the balance remaining in the Settlement Fund after payment of (i) all costs of notice and administration (including all notices required under 28 U.S.C. § 1715, Periodic Payments as defined in Section IV.A.1.a herein, the other amounts referred to in Sections IV.A.2.a and IV.A.2.b), and any other amounts owed to the Settlement Administrator, (ii) the Service Award (as defined in Section IX.A herein) to the Plaintiff, and (iii) the Attorneys’ Fees and Expenses.

38. “Summary Settlement Notice” means the Summary Class Notice to be disseminated by Internet publication substantially in the form of Exhibit 6 attached to this Agreement.

B. Other capitalized terms used in this Agreement but not defined in this Section II shall have the meanings ascribed to them elsewhere in this Agreement.

C. The terms “he or she” and “his or her” include “it,” “its,” or “their” where applicable.

### **III. CERTIFICATION OF THE SETTLEMENT CLASS**

Inventure, while continuing to deny that the Action meets the requisites for class certification under Fed. R. Civ. P. 23 for any purpose other than settlement, consents, solely for purposes and in consideration of the Settlement, to the certification of the Settlement Class, to the appointment of Class Counsel, and to the conditional approval of Plaintiff as a representative of the Class. The certification of the Settlement Class, the appointment of Plaintiff as the Class representative, and the appointment of Plaintiff’s Counsel as Class Counsel, shall be binding only with respect to this Agreement and the Settlement. If the Court fails to approve this Agreement and the Settlement\_ for any reason, or if this Agreement and the Settlement is terminated, cancelled, or fails to become effective for any reason whatsoever, this class certification, to which the Parties have stipulated solely for the purposes and in consideration of the Settlement of this Action, this Agreement, and all the provisions of the Preliminary

Approval Order, Final Order and Final Judgment, shall be vacated by their own terms, and the litigation of the Action shall revert to its status with respect to class certification and otherwise as it existed prior to the date of this Agreement. In that event, Inventure shall retain all rights it had immediately preceding the execution of this Agreement, including, *inter alia*, to object to the maintenance of the Action as a class action and to the merits of any of Plaintiff's claims, and in that event, nothing in this Agreement or other papers or proceedings related to the Settlement shall be used as evidence or argument by any party concerning whether the Action may properly be maintained as a class action under applicable law, whether any of Plaintiff's claims or Inventure's defenses have any merit, whether Inventure is liable to Plaintiff and the putative Class, and whether Plaintiff and the putative Class suffered damages.

The Parties and their respective counsel agree not to disparage each other, Releasing Parties, Released Parties and the Products in any manner likely to be harmful to them or their personal, business, market, brand or legal reputations.

Further, the Parties and their respective counsel agree not to discuss the terms of this Settlement with the news media unless and until dissemination of Class Notice is approved by the Court, except as provided in this paragraph. If contacted by the media for comment before dissemination of Class Notice, the Parties and their respective counsel shall simply state that the matter has been resolved and the resolution is subject to Court approval.

If contacted by the news media at any time after dissemination of Class Notice, the Parties and their respective counsel shall simply state that the matter has been resolved, and, if contacted prior to the Court's final approval of the Settlement, that the resolution is subject to court approval, and that consumers may visit [www.attorneyzim.com](http://www.attorneyzim.com) for Class Counsel's contact information and further information regarding the Settlement. If contacted after the Final Settlement Date, the Parties and their respective counsel shall simply state that the matter has been resolved.

Nothing contained in this Section III is intended to or shall have the effect of limiting or restricting the Parties' counsels' ability to practice law, or from discussing any matters with current or future clients.

#### **IV. SETTLEMENT CONSIDERATION**

Settlement relief shall consist of monetary consideration to be used for, among other things, payments to Class Members who submit valid Claims, as further set forth in this Agreement.

##### **A. Settlement Fund:**

1. Inventure agrees to pay or cause to be paid the aggregate sum of Nine Hundred Thousand Dollars and No Cents (\$900,000.00) as follows:

a. **Periodic Payment(s):** Within fifteen (15) calendar days after Inventure's receipt of any reasonable invoice submitted by the Settlement Administrator for amounts referred to in Sections IV.A.2.a and IV.A.2.b, and approved by Class Counsel and Defendant's Counsel, Defendant shall pay or cause to be paid the sum of said approved invoice to the Settlement Administrator ("Periodic Payment(s)").

b. **Settlement Fund Balance Payment:** Within ten (10) calendar days after the Final Settlement Date, Defendant shall pay or cause to be paid to the Settlement Administrator an amount equal to the Settlement Fund Balance to be used for the payment of Claims of Class Members, any Court-approved Attorneys' Fees and Expenses and Service Award payment, and any remaining costs, fees and expenses owed or owing to the Settlement Administrator. The Settlement Fund Balance shall not exceed the difference of Inventure's total monetary obligation under this Settlement (*i.e.* Nine Hundred Thousand Dollars and Zero Cents (\$900,000.00)) and the funds it previously paid, or caused to be paid, to the Settlement Administrator in furtherance of this Settlement. In no event shall the Settlement Fund Balance be payable before the Final Settlement Date, and Inventure's total monetary obligation under this Settlement shall not exceed Nine Hundred Thousand Dollars and No Cents (\$900,000.00).

c. **Attorneys' Fees and Expenses:** Determination of Attorneys' Fees and Expenses shall be made in accordance with Section IX of this Agreement or as otherwise



ordered by the Court. The applicable payment deadline may be extended by mutual consent of the Parties.

d. Service Award Payment: Determination of a Service Award (as this term is defined in Section IX.A) shall be made in accordance with Section IX of this Agreement or as otherwise ordered by the Court. The applicable payment deadline may be extended by mutual consent of the Parties.

2. Settlement Fund proceeds shall be used for the payment of: (a) the costs and expenses that are associated with disseminating the Notice to the Class, including, but not limited to, the Class Notice and the Summary Settlement Notice; (b) the costs and expenses associated with the administration of the Settlement (including any costs charged or incurred by the Settlement Administrator in satisfying Inventure's obligation pursuant to 28 U.S.C. § 1715(a) and 28 U.S.C. § 1715(b)); (c) timely, valid, and approved Claims submitted by Class Members pursuant to the Claim Process; (d) the Residual Funds, if any, pursuant to Section IV.E.4 of this Agreement; (e) payment of the Attorneys' Fees and Expenses; and (f) payment of the Service Award to the Plaintiff. Approval and payment of costs and expenses under subsections (a) and (b) of this paragraph shall be in accordance with the terms and conditions of this Agreement and the Settlement Claim Procedures and Claim Calculation Protocol. Payment of Attorneys' Fees and Expenses under subsection (e) of this paragraph and the Service Award under subsection (f) of this paragraph shall be in accordance with Section IX of this Agreement and subject to Court approval.

3. Inventure shall not be liable for payment of any costs, fees, expenses, awards, and approved Claims or any other liabilities under this Agreement beyond its payment of the full amount of the Settlement Fund as provided in this Agreement. The Parties agree that Inventure's payment of Nine Hundred Thousand Dollars and No Cents (\$900,000.00) into the Settlement Fund is the full extent of Inventure's monetary payment obligation under this Agreement. This payment obligation pursuant to the terms and conditions of this Agreement, and any other obligations of Inventure set forth in this Agreement, will be in full satisfaction of

all individual and Class claims asserted in the Action.

B. Notice Pursuant to 28 U.S.C. §1715: No later than ten (10) calendar days after this Agreement is filed with the Court, Inventure, through the Settlement Administrator, shall cause to be mailed the items specified in 28 U.S.C. § 1715(b) to each State and Federal official, as specified in 28 U.S.C. § 1715(a).

C. Claim Form Submission, Review, and Administration of the Settlement:

1. Class Members may submit a Claim through the Claim Process during the Claim Period and the Settlement Administrator shall review and process the Claims pursuant to this Agreement and the Settlement Claim Procedures and Claim Calculation Protocol, which is attached as Exhibit 7 to this Agreement. As part of the Claim Process, Class Members shall be eligible for the relief provided in this Agreement, provided Class Members fully complete and timely submit the Claim Form to the Settlement Administrator within the Claim Period, except as otherwise provided in this Agreement and the Settlement Claim Procedures and Claim Calculation Protocol.

2. As further specified in the Settlement Claim Procedures and Claim Calculation Protocol, the Claim Form shall advise Class Members that the Settlement Administrator has the right, but not the obligation, to request verification of the purchase of Eligible Products, including, but not limited to, documentation demonstrating purchase of any and all of the Eligible Products during the Class Period. If the Class Member does not timely comply and/or is unable to timely produce documents to substantiate and/or verify the information on the Claim Form, or the Claim is otherwise not approved, the Claim shall be disqualified.

3. Each Class Member shall submit a Claim Form stating that he or she purchased one or more of the Eligible Products. The Claim Form shall be signed under an affirmation, substantially in the following language: “I declare or affirm, under penalty of perjury, that the information in this claim form is true and correct to the best of my knowledge and that I purchased the amount of Eligible Product(s) claimed above during the Class Period.

I understand that my claim form may be subject to audit, verification, and Court review.” Claim Forms will be: (a) included on the Settlement website to be designed and administered by the Settlement Administrator; and (b) made readily available from the Settlement Administrator, as provided in the Preliminary Approval Order.

4. The Settlement Administrator shall provide periodic updates to Class Counsel and to Defendant’s Counsel regarding Claim Form submissions beginning within fourteen (14) calendar days after the commencement of the dissemination of the Class Notice or the Summary Settlement Notice and continuing on a monthly basis thereafter.

5. The Settlement Administrator shall pay timely, valid, and approved Claims commencing no later than twenty-one (21) calendar days after the Settlement Fund Balance is transferred to the Settlement Administrator.

D. Relief Available to Class Members:

1. Eligible Class Members who made one or more Qualifying Purchases and submit a Claim Form pursuant to the terms and conditions of this Agreement are entitled to a payment of Zero Dollars and Thirty Cents (\$0.30) per Qualifying Purchase up to a maximum of Twenty (20) Qualifying Purchses, equating to a maximum of Six Dollars and No Cents (\$6.00) (the “Initial Claim Amount”) per household, subject to the adjustments set forth in Section IV.E.1 and IV.E.2.

E. Adjustments and Remaining Funds:

1. If the total of the valid and approved Claims submitted by Class Members exceeds the Settlement Fund Balance designated for payment of valid and approved Claims (*i.e.* the remainder of the Settlement Fund after payment of a Court-approved Service Award and Attorneys’ Fees and Expenses, and payment of the Settlement Administrator’s fees, costs and expenses not to exceed the Settlement Administrator Cap (as that term is defined herein)), each eligible Class Member’s Initial Claim Amount shall be reduced on a *pro rata* basis, such that the aggregate value of the payments for such Claims does not exceed the Settlement Fund

Balance designated for the payment of such Claims. The Settlement Administrator shall determine each eligible Class Member's *pro rata* share based upon each Class Member's Claim Form, the Settlement Fund Balance designated for valid and approved Claims, and the total number of such Claims. Accordingly, the actual amount recovered by each Class Member will not be determined until after the Claim Period has ended and all Claim Forms have been received, and may not be determined until after the Final Settlement Date.

2. If the total of the valid and approved Claims submitted by Class Members is less than the Settlement Fund Balance designated for payment of valid and approved Claims, each eligible Class Member's Initial Claim Amount shall be increased on a *pro rata* basis, such that the aggregate value of the payments for such Claims equals the Settlement Fund Balance designated for the payment of such Claims. The Settlement Administrator shall determine each eligible Class Member's *pro rata* share based upon each Class Member's Claim Form, the Settlement Fund Balance designated for the payment of valid and approved Claims, and the total number of such Claims.

3. To the extent that checks issued to Class Members are not cashed within ninety (90) days after the date of issuance (the "Check Cashing Deadline"), the check will be void, and any resulting unclaimed funds shall be part of the Residual Funds (as that term is defined below), no portion of which will be returned to Defendant.

4. If there are any funds remaining in the Settlement Fund Balance after the Claim Process and the Check Cashing Deadline ("Residual Funds"), the Settlement Administrator shall distribute the balance of the Residual Funds to the non-profit organization, BBB National Programs, National Advertising Division, as *cy pres* recipient within Fourteen (14) calendar days after the Check Cashing Deadline.

V. **NOTICE TO THE CLASS**

A. **Duties of the Settlement Administrator:**

1. The Parties shall jointly recommend, and Class Counsel shall retain, Class-settlement.com to be the Settlement Administrator to help implement the terms of this Agreement. Following the Court's preliminary approval of this Agreement and the Court's appointment of the proposed Settlement Administrator, the Settlement Administrator shall disseminate notice to the Class as provided for in a Declaration of the Settlement Administrator, as specified in the Preliminary Approval Order and in this Agreement, and in order to comply with all applicable laws, including, but not limited to, the Due Process Clause of the Constitution of the United States. The Settlement Administrator shall abide by the terms, conditions, and obligations of this Agreement, the Settlement Claim Procedures and Claim Calculation Protocol, and the Orders issued by the Court in this Action.

2. In addition to the functions specified elsewhere in this Agreement, the Settlement Administrator shall be responsible for, without limitation, consulting on and designing the Notice to the Class via various forms of media, including implementing the media purchases. In particular, the Settlement Administrator shall be responsible for: (a) arranging for the publication on the Settlement Website of the Class Notice; (b) designing and implementing Notice to the Class by various electronic media, including targeted banner advertisements to reach the target audience; (c) responding to requests from Class Counsel and/or Inventure's Counsel; and (d) otherwise implementing and/or assisting with the dissemination of the Notice of the Settlement.

3. The Settlement Administrator also shall be responsible for, without limitation, dissemination of the Class Notice as provided in this Agreement and Orders of the Court, and implementing the terms of the Claim Process and related administrative activities that include communications with governmental agencies and authorities and Class Members concerning the Settlement, Claim Process, and their options thereunder. In particular, the Settlement Administrator shall be responsible for: (a) disseminating the Class Notice as set

forth in a Declaration of the Settlement Administrator; (b) making mailings, if any, required under the terms of this Agreement; (c) establishing a website that contains important documents, including the Claim Form that can be completed and submitted online; (d) establishing a toll-free voice response unit to which Class Members may refer for information about the Action and the Settlement; (e) receiving and maintaining on behalf of the Court any Class Member correspondence regarding requests for exclusion and objections to the Settlement; (f) forwarding inquiries from Class Members 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, and any correspondence; (h) reviewing Claim Forms according to the review protocols set forth in this Agreement and in the Settlement Claim Procedures and Claim Calculation Protocol, attached hereto as Exhibit 7; (i) otherwise implementing and/or assisting with the Claim review process and payment of the Claims, pursuant to the terms and conditions of this Agreement; and (j) on behalf of Inventure, provide requisite notice to governmental agencies and authorities, including, without limitation, notice pursuant to 28 U.S.C. § 1715(a) and 28 U.S.C. § 1715(b).

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

5. The Settlement Administrator shall administer the Settlement in accordance with the terms of this Agreement (including but not limited to the Settlement Claim Procedures and Claim Calculation Protocol, attached hereto as Exhibit 7) 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 Agreement or by court order;

b. Receive opt-out and other requests from members of the Class to exclude themselves from the Settlement and provide to Class Counsel and Defense Counsel a copy thereof within seven (7) days of receipt. If the Settlement Administrator receives any exclusion forms or other requests from Class Members to exclude themselves from the Settlement after the deadline for the submission of such forms and requests, the Settlement Administrator shall promptly provide Class Counsel and Defense Counsel with copies thereof; and

c. Receive and maintain on behalf of the Court all correspondence from any Class Member regarding the Settlement.

6. If the Settlement Administrator makes a material or fraudulent misrepresentation to, or conceals requested material information from, Class Counsel, Inventure, or Inventure's Counsel, then the Party to whom the misrepresentation is made shall, in addition to any other appropriate relief, have the right to petition the Court to immediately replace the Settlement Administrator. If the Settlement Administrator fails to perform adequately on behalf of the Parties, the Parties may agree to petition the Court to replace the Settlement Administrator. Neither Party shall unreasonably withhold consent to remove the Settlement Administrator under such circumstances. 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.

7. The Settlement Administrator shall begin accepting Claim Forms as they are submitted by Class Members for processing.

8. Not later than fourteen (14) calendar days after the end of the Claim Period, the Settlement Administrator shall provide to Class Counsel and Inventure's Counsel, a sworn declaration: (a) listing those persons who have opted out or excluded themselves from the Settlement; (b) the details outlining the scope, methods and results of the Notice Program; and (c) the number and dollar amount of Claims submitted.

9. The Settlement Administrator shall promptly provide copies of any requests for exclusion, objections, and/or related correspondence to Class Counsel and Inventure's Counsel.

10. The Settlement Administrator shall administer the Settlement in accordance with the terms of this Agreement and in accordance with the Claim Procedure and Claim Calculation Protocol, attached hereto as Exhibit 7.

11. Any Class Member who, in accordance with the terms and conditions of this Agreement, neither seeks exclusion from the Class nor files a Claim Form, will not be entitled to receive any payment pursuant to this Settlement, but will be bound together with all other Class Members by all of the terms of this Agreement, including the terms of the Final Order and Final Judgment to be entered in the Action and the Releases provided for in this Agreement, and will be barred from bringing any action in any forum (state or federal) against any of the Released Parties concerning the matters subject to the Release.

12. Claim Forms that do not meet the requirements set forth in this Agreement, in the Class Notice, and in the Claim Form instructions shall be rejected. Where a good faith basis exists, the Settlement Administrator may reject a Class Member's Claim Form for, among other reasons, the following:

- a. The Class Member failed to provide adequate support of his or her claim pursuant to a request of the Settlement Administrator;
- b. The Class Member did not purchase Eligible Products;
- c. The Class Member failed to fully complete and/or sign the Claim Form;
- d. The Class Member submitted an illegible Claim Form;
- e. More than one Claim Form is submitted by persons who reside in the same household;
- f. The Claim Form is fraudulent;
- g. The Claim Form is duplicative of another Claim Form;



- h. The person submitting the Claim Form is not a Class Member;
  - i. The person submitting the Claim Form is requesting that funds be paid to a person or entity that is not the Class Member for whom the Claim Form is submitted;
  - j. Failure to submit a Claim Form by the end of the Claim Period;
- and/or,
- k. The Claim Form otherwise does not meet the requirements of this Agreement.

13. The Settlement Administrator shall determine whether a Claim Form meets the requirements set forth in this Agreement. Each Claim Form shall be submitted to and reviewed by the Settlement Administrator, who shall determine in accordance with the terms and conditions of this Agreement 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.

14. Any Class Member who fails to submit a Claim Form by the end of the Claim Period shall be forever barred from receiving any benefit pursuant to this Agreement, but shall in all other respects be bound by all of the terms of this Agreement, the terms of the Final Order and Final Judgment to be entered in the Action, and the releases provided for in this Agreement, and will be barred from bringing any action in any forum (state or federal) against any of the Released Parties concerning any of the matters subject to the Release. The Claim Form shall be deemed to have been submitted when it is postmarked, if mailed, or when it is electronically submitted on the Settlement Website.

15. 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.

16. Inventure and the Released Parties are not obligated to (and will not be obligated to) compute, estimate, or pay any taxes on behalf of Plaintiff, any Class Member, Class Counsel, or the Settlement Administrator.

17. The Settlement Administrator has agreed to cap its total compensation and remuneration, including any and all fees, costs and expenses associated with carrying out the terms and conditions of the Settlement, including, without limitation, the functions described in this Section and elsewhere in this Agreement. In no event shall Settlement Administrator seek compensation or remuneration for fees, costs and expenses in excess of One Hundred Sixty Thousand Dollars and No Cents (\$160,000.00) (“the Settlement Administrator Cap”), and Defendant shall not be responsible for payment of any such fees, costs and expenses in excess of that sum.

B. Class Notice:

1. Dissemination of the Class Notice: Within thirty (30) calendar days after the entry of the Preliminary Approval Order (the “Notice Date”), and subject to the requirements of this Agreement and the Preliminary Approval Order, the Settlement Administrator shall provide Notice pursuant to the Notice Program as follows:

a. Dissemination of Summary Settlement Notice: On or before the Notice Date, the Settlement Administrator shall disseminate the Summary Settlement Notice, as specified in this Agreement and the Preliminary Approval Order, and as set forth in the Declaration of the Settlement Administrator;

b. Activation of Settlement Website: On or before the Notice Date, the Settlement Administrator shall establish and activate the Settlement Website with the URL address [www.InventureSettlement.com](http://www.InventureSettlement.com) for public accessibility and post to it this Agreement, the Claim Form (Exhibit 1 to this Agreement), and the Class Notice (Exhibit 2 to this Agreement), as

specified in this Agreement and the Preliminary Approval Order, and as set forth in the Declaration of the Settlement Administrator.

c. Publication of Class Notice on Settlement Website: On or before the Notice Date, the Settlement Administrator shall publish the Class Notice on the Settlement Website, as specified in this Agreement and the Preliminary Approval Order, and as set forth in the Declaration of the Settlement Administrator; and

d. Provision of List of Other Counsel: Inventure's Counsel shall provide to the Settlement Administrator, within ten (10) calendar days of the entry of the Preliminary Approval Order, a list of any counsel for anyone who has litigation against Inventure that involves substantially similar allegations as the Action involving the Eligible Products. The Settlement Administrator shall mail copies of the Class Notice to all such legal counsel. Inventure will promptly direct the Settlement Administrator to serve the Class Notice on counsel for any Class Members who subsequently initiate litigation, arbitration, or other proceedings against Inventure relating to claims alleging events occurring during the Class Period, the Eligible Products, and/or otherwise involving the Release.

2. Contents of the Class Notice: The Claim Form and the Class Notice shall be in forms substantially similar to the documents attached to this Agreement as Exhibits 1 and 2, respectively, and shall advise Class Members of the following:

a. General Terms: The Class Notice shall contain a plain and concise description of the nature of the Action and the proposed Settlement, including information on the identity of Class Members, how the proposed Settlement would provide relief to the Class and Class Members, what claims are released under the proposed Settlement and other relevant terms and conditions.

b. Opt-Out Rights: The Class Notice shall inform Class Members that they have the right to opt out of the Settlement. The Class Notice shall provide the deadlines and

procedures for exercising this right.

c. Objection to Settlement: The Class Notice shall inform Class Members of their right to object to the proposed Settlement and appear at the Fairness Hearing. The Class Notice shall provide the deadlines and procedures for exercising these rights.

d. Fees and Expenses: The Class Notice shall inform Class Members about the amounts being sought by Class Counsel as Attorneys' Fees and Expenses and the individual award to Plaintiff, and that such amounts will be paid out of the Settlement Fund.

e. Consumer Information: The Class Notice shall inform the Class Members that any information they provide may be submitted to a federal or state agency in the administration of this relief.

f. Claim Form: The Class Notice shall include the Claim Form, which shall inform each Class Member that he or she must fully complete and timely return the Claim Form within the Claim Period to be eligible to obtain relief pursuant to this Agreement.

C. The Summary Settlement Notice: The Settlement Administrator shall publish the Summary Settlement Notice (*e.g.*, banner ads, etc.) on the Internet as described in a Declaration of the Settlement Administrator. The Summary Settlement Notice agreed upon by the Parties is in the form substantially similar to the one attached to this Agreement as Exhibit 6.

D. Settlement Website: Prior to the dissemination of the Notice pursuant to Sections V.B and V.C, the Settlement Administrator shall establish a Settlement Website, [www.InventureSettlement.com](http://www.InventureSettlement.com), which domain name shall be owned by Inventure and licensed by Inventure to the Settlement Administrator to use solely for the purposes of this Agreement, that will inform Class Members of the terms and conditions of this Agreement, their rights, dates, deadlines, and related information. The website shall include, in .pdf format, materials agreed upon by the Parties and/or required by the Court. Banner ads on the Internet shall direct Class Members to the website. The Settlement Website shall be taken off-line by the Settlement Administrator within ten (10) calendar days after the Check Cashing Deadline.

E. Toll-Free Telephone Number: Prior to the dissemination of the Notice pursuant to Sections V.B and V.C, the Settlement Administrator shall establish a toll-free telephone number that will provide Settlement-related information to Class Members.

**VI. REQUESTS FOR EXCLUSION**

A. Class Members may elect to opt out of the Class or the Settlement, relinquishing their rights to benefits under this Agreement. Members of the Class who opt out of the Settlement will not release their claims pursuant to this Agreement. Putative Class Members wishing to opt out of the Settlement must send to the Settlement Administrator by U.S. Mail a personally signed letter including the case name and case number, their name and address, and providing a clear statement communicating that they elect to be excluded from the Class in the Action. Any request for exclusion or opt-out must be postmarked on or before the opt-out deadline date specified in the Preliminary Approval Order, which shall be forty-five (45) calendar days from the date of the first dissemination of the Notice, or as the Court otherwise may direct. 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. The Settlement Administrator shall forward copies of any written requests for exclusion to Class Counsel and Inventure's Counsel. The Settlement Administrator shall provide the Parties' respective counsel with a list reflecting all requests for exclusion no later than fourteen (14) calendar days after the objection deadline date.

B. Any potential Class Member who does not file a timely and proper written request for exclusion as provided in the preceding Section VI.A shall be bound by all subsequent proceedings, orders, and judgments, including, but not limited to, the Release, in the Action, even if he or she has litigation pending or subsequently initiates litigation against Inventure relating to the claims and transactions released in the Action. Inventure's willingness to enter into this Agreement is conditioned upon this Agreement providing adequate protections that it will resolve all or substantially all of the Class Members' claims against Inventure. Inventure retains the right to withdraw from this Agreement if the number of Class Members who properly and timely exercise their rights under this Agreement to exclude themselves from the Class exceeds two

hundred seventy five (275) Class Members. In the event that Inventure wishes to exercise its right to withdraw from this Agreement pursuant to this section, it must notify Class Counsel of its intention to withdraw from and terminate this Agreement in writing, within five (5) calendar days after receipt of the Settlement Administrator's list of all requests for exclusion, as required by Section VI.A, above. In the event that Inventure exercises its option to withdraw from and terminate this Agreement under this section, this Agreement and the Settlement proposed in this Agreement shall become null and void and the Parties will be returned to their respective positions existing immediately before the execution of this Agreement.

**VII. OBJECTIONS TO SETTLEMENT AND APPEARANCE AT FAIRNESS HEARING**

A. Any Class Member who has not filed a timely written request for exclusion and who wishes to object to the fairness, reasonableness, or adequacy of this Agreement or the proposed Settlement, or to the award of Attorneys' Fees and Expenses, or the individual Service Award to Plaintiff, must deliver to the Class Counsel and to Inventure's Counsel identified in the Class Notice, and file with the Court (through the Case Management/Electronic Case Files ("CM/ECF") or through any other method in which the Court will accept filings), no later than the objection deadline date specified in the Preliminary Approval Order, which shall be forty-five (45) calendar days from the date of the first dissemination of the Notice, or as the Court otherwise may direct: (1) a written statement of the objections, as well as the specific reason(s), if any, for each objection, including any legal support the Class Member wishes to bring to the Court's attention; (2) any evidence or other information the Class Member wishes to introduce in support of the objections; (3) a statement of whether the Class Member intends to appear and argue at the Fairness Hearing; (4) the amount of time for speaking that will be requested by the objector at the Fairness Hearing; (5) if a Class Member or counsel for the Class Member has objected to a class action settlement on any prior occasion, 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) a statement of the objector's membership in the Settlement Class, including all information

required by the Claim Form; and (7) all other information specified or required under Fed.R.Civ.P. 23(e)(5). Class Members may do so either on their own or through an attorney retained at their own expense. The Parties shall request that the Court allow any interested party to file a reply to any objection, as described in this Section VII.A, no later than fourteen (14) calendar days before the Fairness Hearing.

B. Any Class Member, including one who files and serves a written objection, as described in the preceding Section VII.A, may appear at the Fairness Hearing, either in person or through personal counsel hired at the Class Member's expense, to object to or comment on the fairness, reasonableness, or adequacy of this Agreement or the proposed Settlement, or to the award of Attorneys' Fees and Expenses or any Service Award to the individual Plaintiff. Class Members or their attorneys who intend to make an appearance at the Fairness Hearing must deliver a notice of intention to appear to Class Counsel identified in the Class Notice and to Inventure's Counsel, and file said notice with the Court (through CM/ECF or through any other method in which the Court will accept filings), no later than the objection deadline date specified in the Preliminary Approval Order, or as the Court may otherwise direct.

C. Any Class Member who fails to comply with the provisions of Section VII.A above shall waive and forfeit any and all rights he or she may have to object, and shall be bound by all the terms of this Agreement and by all proceedings, orders, and judgments, including, but not limited to, the Release, in the Action.

D. Any Class Member who objects to the Settlement shall be entitled to all of the benefits of the Settlement if this Agreement and the terms contained therein are approved, as long as the objecting Class Member complies with all requirements of this Agreement applicable to Class Members, including the timely submission of Claim Forms and other requirements contained in this Agreement.

### **VIII. RELEASE AND WAIVER**

A. The Parties agree to the following Release and waiver, which shall take effect upon entry of the Final Order and Final Judgment.

B. In consideration for the benefits described in this Agreement, the Releasing Parties fully, finally and forever release, relinquish, acquit, and discharge the Released Parties from the Released Claims.

C. Upon entry of the Final Order and Final Judgment, each and every Releasing Party shall be permanently barred and enjoined from initiating, asserting, and/or prosecuting any claim covered by the Release against any Released Party in any court or any forum whatsoever.

D. Plaintiff represents and warrants that she is the sole and exclusive owner of all claims that she is personally releasing under this Agreement. Plaintiff further acknowledges that she has 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 claims subject to the Release, including without limitation, the Released Claims and any claim for benefits, proceeds or value under the Action.

E. Without in any way limiting its scope, and, except to the extent otherwise specified in this Agreement, this Release covers by example and without limitation, any and all claims for attorneys' fees, costs, expert fees, consultant fees, interest, litigation fees, or any other fees, costs, and/or disbursements incurred by Class Counsel, or by Plaintiff or the Class Members.

F. Class Members acknowledge that they may hereafter discover facts in addition to or different from those that they now know or believe to be true concerning the subject matter of the Release, but nevertheless, fully, finally and forever settle and release any and all claims covered by the Release, known or unknown, suspected or unsuspected, contingent or non-contingent, which now exist, may hereafter exist, or heretofore have existed that arose, or are based on actions, conduct, events, transactions or omissions occurring on or before the entry of the Final Order and Final Judgment, without regard to subsequent discovery or the existence of such different or additional facts concerning any of the Released Parties. Plaintiff expressly understands and acknowledges, and all Class Members will be deemed by the Final Order and Final Judgment to acknowledge, that certain principles of law, including, but not limited to §1542 of the Civil Code of the State of California which provides that:



**A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.**

G. To the extent that anyone might argue that foregoing principles of law are applicable,—notwithstanding that the Parties have chosen Illinois law to govern this Agreement,—Plaintiff hereby agrees that the provisions of all such principles of law or similar federal or state laws, rights, rules, or legal principles, to the extent they are found to be applicable, are hereby knowingly and voluntarily waived, relinquished and released by Plaintiff and all Class Members.

H. Nothing in this Release shall preclude any action to enforce the terms of the Agreement, including participation in any of the processes detailed in the Agreement.

I. Plaintiff and Defendant hereby agree and acknowledge that the provisions of this Release together constitute an essential and material term of the Agreement and shall be included in any Final Order and Final Judgment entered by the Court.

**IX. ATTORNEYS' FEES AND EXPENSES AND SERVICE AWARD**

A. Class Counsel may petition the Court for a Service Award for Plaintiff (“Service Award”) fourteen (14) calendar days before the objection deadline date, and such petition may be supplemented fourteen (14) days prior to the Fairness Hearing, to be paid out of the Settlement Fund. The purpose of such award shall be to compensate Plaintiff for efforts and risks taken by her on behalf of the Class. Inventure agrees not to object to a petition for Service Award of up to Two Thousand Five Hundred Dollars and No Cents (\$2,500.00). The Settlement Administrator will pay or cause to be paid from the Settlement Fund Balance the Service Award in the amount approved by the Court, not to exceed Two Thousand Five Hundred Dollars and No Cents (\$2,500.00), within ten (10) calendar days after the Settlement Fund Balance is transferred to the Settlement Administrator and in accordance with the instructions provided by Class Counsel or as

otherwise directed by the Court. Inventure shall have no obligation to pay any Service Award if the Final Settlement Date does not occur or if such an award is not approved by the Court.

B. Class Counsel will make an application to the Court for an award of reasonable attorneys' fees plus expenses incurred up to the submission of the application to the Court fourteen (14) calendar days before the objection deadline date, and such application may be supplemented fourteen (14) days prior to the Fairness Hearing, which shall be paid out of the Settlement Fund and be the sole aggregate compensation payable by Defendant to Class Counsel. The Court shall determine the amount of the Attorneys' Fees and Expenses. Class Counsel agrees that once Defendant has fully funded the Settlement Fund, Defendant's obligations to Class Counsel shall be fully satisfied and discharged, and Class Counsel shall have no further or other claim against Inventure. The Settlement Administrator will pay or cause to be paid, Attorneys' Fees and Expenses from the Settlement Fund Balance to Class Counsel in the amount approved by the Court, not to exceed Two Hundred Forty Seven Thousand Five Hundred Thirty Dollars and No Cents (\$247,530.00) (\$246,667.00 in attorneys' fees and \$863.00 in expenses), within ten (10) calendar days after the Settlement Fund Balance is transferred to the Settlement Administrator and in accordance with the instructions provided by Class Counsel or as otherwise directed by the Court. Class Counsel agrees not to seek or accept Attorneys' Fees and Expenses exceeding Two Hundred Forty Seven Thousand Five Hundred Thirty Dollars and No Cents (\$247,530.00), and Inventure agrees not to object to Class Counsel's request for Attorney's Fees and Expenses up to and including Two Hundred Forty Seven Thousand Five Hundred Thirty Dollars and No Cents (\$247,530.00). Further, Inventure shall have no obligation to pay Attorneys' Fees and Expenses to Class Counsel if the Final Settlement Date does not occur.

C. The procedure for and the allowance or disallowance by the Court of any application for a Service Award to the Plaintiff and/or any Attorneys' Fees and Expenses, or

reimbursement to be paid to Class Counsel are not part of the settlement of valid and approved Claims as set forth in this Agreement, although such amounts will be paid from the Settlement Fund, and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the settlement of valid and approved Claims as set forth in this Agreement. Any such separate order, finding, ruling, holding, or proceeding relating to any such applications for Attorneys' Fees and Expenses, or any separate appeal from any separate order, finding, ruling, holding, or proceeding relating to them or reversal or modification of them, shall not operate to terminate or cancel this Agreement or otherwise affect or delay the finality of the Final Order and Final Judgment but will delay the Final Settlement Date and, thereby, payment of the Service Award and Attorneys' Fees and Expenses.

D. Any order or proceeding relating to the application for the Attorneys' Fees and Expenses and a Service Award, or any appeal from any order relating thereto or reversal or modification thereof, will not operate to terminate or cancel this Agreement or affect or delay the finality of the Final Order and Final Judgment approving this Agreement, but will delay the Final Settlement Date and, thereby payment of the Service Award and Attorneys' Fees and Expenses.

E. Inventure shall not be liable for or obligated to pay any fees, expenses, costs, or disbursements to, or incur any expense on behalf of any person or entity, either directly or indirectly, in connection with the Action or this Agreement, other than the amount or amounts expressly provided for in this Agreement.

**X. PRELIMINARY APPROVAL ORDER, FINAL ORDER, FINAL JUDGMENT AND RELATED ORDERS**

A. The Parties shall seek from the Court, within fifteen (15) calendar days after the full execution of this Agreement or as otherwise directed by the Court, a Preliminary Approval Order in a form substantially similar to Exhibit 5. The Preliminary Approval Order shall, among other things:

1. Certify a nationwide settlement-only Class, approve Plaintiff Amy Joseph as Class representative and appoint Thomas A. Zimmerman, Jr., Jeffrey D. Blake,

Matthew C. De Re, and Sharon Harris on behalf of Zimmerman Law Offices, P.C. as Class Counsel, pursuant to Fed. R. Civ. P. 23;

2. Preliminarily approve the Settlement;
3. Require the dissemination of the Notice and the taking of all necessary and appropriate steps to accomplish this task;
4. Determine that the Notice complies with all legal requirements, including, but not limited to, the Due Process Clause of the United States Constitution;
5. Schedule a date and time for a Fairness Hearing to determine whether the Preliminary Approval Order and this settlement should be finally approved by the Court;
6. Require Class Members who wish to exclude themselves to submit an appropriate and timely written request for exclusion as directed in this Agreement and the Class Notice and that a failure to do so shall bind those Class Members who remain in the Class;
7. Require Class Members who wish to object to this Agreement to submit an appropriate and timely written statement as directed in this Agreement and the Class Notice;
8. Require Class Members who wish to appear at the Fairness Hearing to object to this Agreement to submit an appropriate and timely written statement as directed in this Agreement and the Class Notice;
9. Require attorneys representing individual Class Members, at their own expense, to file a notice of appearance as directed in this Agreement and the Class Notice;
10. Issue a preliminary injunction pursuant to the Agreement;
11. Appoint the Settlement Administrator;
12. Authorize Inventure to take all necessary and appropriate steps to establish the means necessary to implement this Agreement; and
13. Issue other related orders to effectuate the preliminary approval of this Agreement.

B. The Parties shall seek to obtain from the Court a Final Order and Final Judgment in the forms substantially similar to Exhibits 3 and 4, respectively. The Final Order and Final

Judgment shall, among other things:

1. 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;
2. Finally approve this Agreement and the Settlement, pursuant to Fed. R. Civ. P. 23;
3. Finally certify the Class for settlement purposes only;
4. Find that the Notice and the Notice dissemination methodology complied with all laws, including, but not limited to, the Due Process Clause of the United States Constitution;
5. Dismiss the Action with prejudice;
6. Incorporate the Release set forth in this Agreement and make the Release effective as of the date of the Final Order and Final Judgment;
7. Issue a permanent injunction pursuant to this Agreement;
8. Authorize the Parties to implement the terms of this Agreement;
9. Retain jurisdiction relating to the administration, consummation, enforcement, and interpretation of this Agreement, the Final Order and Final Judgment, and for any other necessary purpose; and
10. Issue related Orders to effectuate the final approval of this Agreement and its implementation.

**XI. MODIFICATION OR TERMINATION OF THIS AGREEMENT**

A. The terms and provisions of this Agreement 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 Agreement 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

limit the rights of Class Members under this Agreement.

B. This Agreement shall terminate at the discretion of either Inventure, through Inventure's Counsel, or Plaintiff, through Class Counsel, if: (1) the Court, or any appellate court(s), rejects, modifies, or denies approval of any portion of this Agreement that the terminating Party in his or her sole judgment and discretion reasonably determines is material, including, without limitation, the terms of relief, the findings, or conclusions of the Court, the provisions relating to Notice, the definition of the Class, and/or the terms of the Release; or (2) the Court, or any appellate court(s), does not enter or completely affirm, or alters or expands, any portion of the Final Order and Final Judgment, or any of the Court's findings of fact or conclusions of law, that the terminating Party in his or her sole judgment and discretion reasonably determines is material. Except as otherwise provided in this Agreement, the terminating Party must exercise the option to withdraw from and terminate this Agreement, as provided in this Section XI.B, by a signed writing served on the other Parties no later than twenty (20) calendar days after receiving notice of the event prompting the termination. In the event that a terminating Party exercises his or her option to withdraw from and terminate this Agreement, this Agreement and the Settlement proposed in this Agreement shall become null and void and the Parties will be returned to their respective positions existing immediately before the execution of this Agreement.

C. If an option to withdraw from and terminate this Agreement arises under Section XI.B above, neither Plaintiff nor Inventure is required for any reason or under any circumstance to exercise that option and any exercise of that option shall be in good faith.

D. If this Agreement is terminated pursuant to Section XI.B, above, then:

1. This Agreement shall be null and void and shall have no force or effect, and no Party to this Agreement shall be bound by any of its terms, except for the terms of this Section XI.D;
2. The Parties will petition to have any stay orders entered pursuant to this Agreement lifted;

3. All of the provisions of this Agreement, and all negotiations, statements, and proceedings relating to it shall be without prejudice to the rights of Inventure, Plaintiff or any Class Member, all of whom shall be restored to their respective positions existing immediately before the execution of this Agreement, except that the Parties shall cooperate in requesting that the Court set a new scheduling order such that neither party's substantive or procedural rights is prejudiced by the attempted Settlement;

4. Released Parties expressly and affirmatively reserve all defenses, arguments, and motions as to all claims that have been or might later be asserted in the Action, including, without limitation, the argument that the Action may not be litigated as a class action;

5. Plaintiff and all other Class Members, on behalf of themselves and their heirs, assigns, executors, administrators, predecessors, and successors, expressly and affirmatively reserve and do not waive all motions as to, and arguments in support of, all claims, causes of actions or remedies that have been or might later be asserted in the Action including, without limitation, any argument concerning class certification, consumer fraud, and treble, punitive, or other damages;

6. Neither this Agreement, the fact of it having been made, nor the negotiations leading to it, nor any discovery or action taken by a Party or Class Member pursuant to this Agreement, or any documents or communications pertaining to this Agreement shall be admissible or entered into evidence for any purpose whatsoever in the Action or in any proceeding, other than to enforce the terms of this Agreement;

7. The Parties stipulate that any Settlement-related order(s) or judgment(s) entered in this Action after the date of execution of this Agreement shall be deemed vacated and shall be without any force or effect;

8. All costs incurred by the Settlement Administrator prior to the termination of this Agreement pursuant to this Section XI, including but not limited to, Notice, publication, and administration costs will be paid from the Settlement Fund. Neither the Class, Plaintiff nor Class Counsel shall be responsible for any of these costs or other Settlement-related costs, other

than their Attorneys' Fees and Expenses;

9. Notwithstanding the terms of this Section XI.D, if the Settlement is not consummated, the Parties reserve their respective rights to include any time spent in Settlement efforts as part of any statutory fee petition filed at the conclusion of the case; and

E. Notwithstanding any provision herein, the amount of any award by the Court, if any, for the Service Award or the Attorneys' Fees and Expenses, or the denial of the Service Award or Attorneys' Fees and Expenses, shall not operate to serve as a basis to terminate or cancel this Agreement.

## **XII. GENERAL MATTERS AND RESERVATIONS**

A. Except as otherwise set forth herein, the obligation of the Parties to conclude the proposed Settlement is and shall be contingent upon entry by the Court of the Final Order and Final Judgment approving this Agreement and the Settlement, from which the time to appeal has expired or which has remained unmodified after any appeal(s).

B. This Agreement reflects, among other things, the compromise and settlement of disputed claims among the Parties hereto, and neither this Agreement nor the Releases provided in it, nor any consideration for this Agreement, nor any actions taken to carry out this Agreement are intended to be, nor may they be deemed or construed to be, an admission or concession of liability, or the validity of any claim, or defense, or of any point of fact or law (including but not limited to matters respecting class certification) on the part of any Party. Inventure expressly denies the allegations of the Action. Neither this Agreement, nor the fact of settlement, nor the settlement proceedings, nor settlement negotiations, nor any related document, shall be used as an admission of any fault or omission by Inventure, or be offered or received in evidence as an admission, concession, presumption, or inference of any wrongdoing by Inventure in any proceeding, other than such proceedings as may be necessary to consummate, interpret, or enforce this Agreement following the entry of the Final Order and Final Judgment.

C. The Parties and their counsel agree to keep the existence and contents of this Agreement confidential until the date on which this Agreement is filed with the Court, provided,



however, that this section shall not prevent Inventure and/or its parents from disclosing such information, prior to the date on which this Agreement is filed, to state and federal agencies and regulators, independent accountants, actuaries, advisors, auditors, tax advisers, financial analysts, insurers, indemnitees, or attorneys, nor shall it prevent the Parties and their counsel from disclosing such information to persons or entities (such as experts, courts, co-counsel, and/or administrators) to whom the Parties agree disclosure must be made in order to effectuate the terms and conditions of this Agreement; provided further, that Inventure may disclose publicly the terms of the Agreement that it deems necessary to carry out its or its parents' business operations and obligations and to meet its regulatory obligations or fiduciary duties.

D. Plaintiff and Plaintiff's Counsel agree that the confidential information made available to them solely through the settlement process was made available, as agreed, on the condition that neither Plaintiff nor their counsel may disclose it to third parties (other than experts or consultants retained by Plaintiff in connection with this case); that it not be the subject of public comment; that it not be used by Plaintiff or Plaintiff's Counsel in any way in this litigation should the Settlement not be consummated, and that it is to be returned if the Settlement is not concluded; provided, however, that nothing contained in this Agreement shall prohibit Plaintiff from seeking such information through formal discovery or from referring to the existence of such information in connection with the Settlement of this litigation.

E. Within one hundred and eighty (180) calendar days after the Final Settlement Date (unless the time is extended by agreement of the Parties), Plaintiff's Counsel, and any expert or other consultant employed by them in such capacity or any other individual with access to documents provided by Inventure to Plaintiff's Counsel, shall either: (i) return to Inventure's Counsel, all such documents and materials (and all copies of which documents in whatever form made or maintained) produced by or on behalf of Inventure in the Action and any and all handwritten notes summarizing, describing, or referring to such documents; or (ii) certify in writing to Inventure that all such documents and materials (and all copies of such documents in whatever form made or maintained) produced by or on behalf of Inventure in the Action and any

and all handwritten notes summarizing, describing, or referring to such documents have been destroyed, provided, however, that this section shall not apply to any documents made part of the record in connection with a Claim, nor to any documents made part of a Court filing, nor to Plaintiff's Counsel's work product. Inventure's Counsel agrees to hold all documents returned by Plaintiff's Counsel, and any expert or other consultant or any other individual employed by Plaintiff's Counsel in such capacity with access to documents provided by or on behalf of Inventure until one year after the distribution of the Settlement Fund Balance to Class Members who submitted valid and acceptable Claim Forms.

F. Two (2) years after the distribution of the Settlement Fund Balance to Class Members who submitted valid and acceptable Claim Forms, the Settlement Administrator shall destroy any and all documents and materials related to the Action or the Settlement, including any Claim Forms, information related to Class Members, and any and all information and/or documentation submitted by or relating to Class Members.

G. Inventure's execution of this Agreement shall not be construed to release—and Inventure expressly does not intend to release—any claim Inventure may have or make against any insurer or third party for contribution or indemnification or any cost or expense incurred in connection with this Settlement, including, without limitation, for attorneys' fees, costs, and expenses.

H. Class Counsel represents that: (1) it is authorized by Plaintiff to enter into this Agreement on behalf of Plaintiff; and (2) it is seeking to protect the interests of the Class. Class Counsel shall take all necessary actions to accomplish approval of the Settlement, the Class Notice, and dismissal of the Action, pursuant to the terms and conditions of this Agreement.

I. Plaintiff represents and certifies that: (1) she has agreed to serve as representative of the Class; (2) she is willing, able, and ready to perform all of the duties and obligations of representative of the Class; (3) she has read the operative amended class action complaint, or has had the contents of such pleadings described to her; (4) she is familiar with the results of the fact-finding undertaken by Class Counsel; (5) she has read this Agreement or has received a detailed

description of it from Class Counsel and she has agreed to its terms; (6) she has consulted with Class Counsel about the Action and this Agreement and the obligations imposed on her as a representative of the Class; (7) she has authorized Class Counsel to execute this Agreement on her behalf; and (8) she shall remain and serve as representative of the Class until the terms of this Agreement are effectuated, this Agreement is terminated in accordance with its terms, or the Court at any time determines that Plaintiff cannot represent the Class.

J. Defendant represents and warrants that the individual(s) executing this Agreement is/are authorized to enter into this Agreement on behalf of Defendant.

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 Agreement and the Settlement embodied in this Agreement, carrying out the terms of this Agreement, 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. In the event that the Court fails to approve the Settlement or fails to issue the Final Order and Final Judgment, the Parties agree to use all reasonable efforts, consistent with this Agreement and subject to Section XI.B herein, to cure any defect identified by the Court. Each Party will cooperate with the other Party 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.

K. This Agreement, complete with its exhibits, sets forth the sole and entire agreement among the Parties with respect to its subject matter, and it may not be altered, amended, or modified except by written instrument executed by Class Counsel and Inventure's Counsel. The Parties expressly acknowledge that no other agreements, arrangements, or understandings not expressed in this Agreement exist among or between them and that in deciding to enter into this

Agreement, they rely solely upon their judgment and knowledge. This Agreement supersedes any prior agreements, understandings, or undertakings (written or oral) by and between the Parties regarding the subject matter of this Agreement.

L. This Agreement and its exhibits, and any amendments thereto, shall be governed by and interpreted according to the laws of the State of Illinois, notwithstanding its conflict of laws provisions.

M. Any disagreement and/or action to enforce this Agreement shall be commenced and maintained only in the Court in which this Action is pending.

N. Whenever this Agreement requires or contemplates that one of the Parties shall or may give notice to the other, notice shall be provided by e-mail or next-day (excluding Saturdays, Sundays and Legal Holidays) express delivery service as follows and shall be effective upon receipt:

1. *If to Inventure, then to:*

Richard Fama  
Cozen O'Connor  
3WTC  
175 Greenwich St. 55<sup>th</sup> Floor  
New York, New York 10007  
Telephone: 212-908-1229  
Facsimile: 866-263-1334  
E-mail: rfama@cozen.com

and

Christopher Hennessy  
Cozen O'Connor  
123 North Wacker Drive Suite 1800  
Chicago, Illinois 60606  
Telephone: 312-474-4493  
Facsimile: 312-878-2003  
E-mail: chennessy@cozen.com

2. *If to Plaintiff, then to:*

Thomas A. Zimmerman, Jr.  
Sharon A. Harris  
Matthew C. De Re

Jeffrey D. Blake  
ZIMMERMAN LAW OFFICES P.C.  
77 West Washington St. Suite 1220  
Chicago, Illinois 60602  
Telephone: 312-440-0020  
Facsimile: 312-440-4180  
E-mail: tom@attorneyzim.com  
sharon@attorneyzim.com  
matt@attorneyzim.com  
jeff@@attorneyzim.com

O. All time periods set forth herein shall be computed in calendar days unless otherwise expressly provided. In computing any period of time prescribed or allowed by this Agreement or by order of the Court, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a Legal Holiday (as defined in Fed. R. Civ. P. 6(a)(6)), or, when the act to be done is the filing of a paper in court, a day on which weather or other conditions have made the office of the clerk of the court inaccessible, in which event the period shall run until the end of the next day that is not one of the aforementioned days.

P. 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 Agreement.

Q. The Class, Plaintiff, Class Counsel, Inventure, or Inventure's Counsel shall not be deemed to be the drafter of this Agreement 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. All Parties agree that the Parties' respective counsel drafted this Agreement during and as a result of 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 Agreement was made or executed.

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

S. The Parties expressly acknowledge and agree that this 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 Fed. R. Evid. 408 and any equivalent rule of evidence in any state. In no event shall this 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 Action, any other action, or in any judicial, administrative, regulatory, or other proceeding, except in a proceeding to enforce this Agreement or the rights of the Parties or their counsel. Without limiting the foregoing, neither this 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 or entity, including, but not limited to, the Released Parties, Plaintiff, or the Class, that the Action or any other proposed action would be certifiable as a class action under Fed. R. Civ. Pro. 23 if litigated, or as a waiver by the Released Parties, Plaintiff, or the Class of any applicable privileges, claims, or defenses.

T. Plaintiff expressly affirms that the allegations contained in the complaints filed in the Action were made in good faith and have a basis in fact, but she considers it desirable for the Action to be settled and dismissed because of the substantial benefits that the proposed Settlement will provide to Class Members.

U. The Parties, their successors and assigns, and their counsel undertake to implement the terms of this Agreement in good faith, and to use good faith in resolving any disputes that may arise in the implementation of the terms of this Agreement.

V. The waiver by one Party of any breach of this Agreement by another Party shall not be deemed a waiver of any prior or subsequent breach of this Agreement.


W. If one Party to this Agreement considers another Party to be in breach of its obligations under this Agreement, that Party must provide the breaching Party with written notice of the alleged breach and provide a reasonable opportunity to cure the breach before taking any action to enforce any rights under this Agreement.

X. The Parties, their successors and assigns, and their counsel agree to cooperate fully with one another in seeking Court approval of this Agreement and to use their best efforts to effect the prompt consummation of this Agreement and the proposed Settlement.

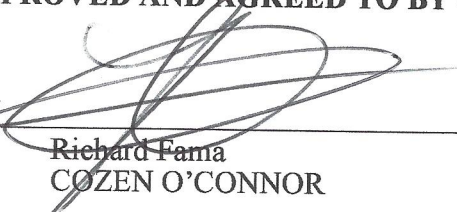
Y. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any Party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Agreement may be executed and delivered by facsimile or otherwise electronically as a .pdf and, upon such delivery, the facsimile or .pdf will be deemed to have the same effect as if the original signature had been delivered to the other Parties.

Agreed to on the dates indicated below.

**APPROVED AND AGREED TO BY AND ON BEHALF OF INVENTURE FOODS, INC.**

BY  DATE May 10, 2023  
NAME: Theresa Shea  
TITLE: Executive Vice President, General Counsel & Corporate Secretary

**APPROVED AND AGREED TO BY COUNSEL FOR INVENTURE FOODS, INC.**

BY  DATE 5/19/23  
Richard Fama  
COZEN O'CONNOR

**APPROVED AND AGREED TO BY AMY JOSEPH AS CLASS REPRESENTATIVE**

BY \_\_\_\_\_ DATE \_\_\_\_\_  
Amy Joseph

**APPROVED AND AGREED TO BY CLASS COUNSEL**

BY \_\_\_\_\_ DATE \_\_\_\_\_  
Thomas A. Zimmerman, Jr.  
ZIMMERMAN LAW OFFICES, P.C.

X. The Parties, their successors and assigns, and their counsel agree to cooperate fully with one another in seeking Court approval of this Agreement and to use their best efforts to effect the prompt consummation of this Agreement and the proposed Settlement.

Y. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any Party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Agreement may be executed and delivered by facsimile or otherwise electronically as a .pdf and, upon such delivery, the facsimile or .pdf will be deemed to have the same effect as if the original signature had been delivered to the other Parties.

Agreed to on the dates indicated below.

**APPROVED AND AGREED TO BY AND ON BEHALF OF INVENTURE FOODS, INC.**

BY \_\_\_\_\_ DATE \_\_\_\_\_  
NAME: Theresa Shea  
TITLE: \_\_\_\_\_

**APPROVED AND AGREED TO BY COUNSEL FOR INVENTURE FOODS, INC.**

BY \_\_\_\_\_ DATE \_\_\_\_\_  
Richard Fama  
COZEN O'CONNOR

**APPROVED AND AGREED TO BY AMY JOSEPH AS CLASS REPRESENTATIVE**

BY  \_\_\_\_\_ DATE 5/16/2023  
23813522F4194F4...  
Amy Joseph

**APPROVED AND AGREED TO BY CLASS COUNSEL**

BY  \_\_\_\_\_ DATE 5/16/2023  
DCF645802B2E4D2...  
Thomas A. Zimmerman, Jr.  
ZIMMERMAN LAW OFFICES, P.C.