

**CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE**

This Class Action Settlement Agreement and Release (“Agreement”), effective upon the date of the signatories below, is made by and between Plaintiffs Bryan Swetz, Michael Charles, Olivia Kossel, Tina Donohue, and Alyce Lacey (collectively, the “Class Representatives”) on behalf of the Settlement Class defined below, on the one hand, and The Clorox Company (“Clorox”) (collectively, the “Parties”) on the other hand.

**1. RECITALS.**

WHEREAS:

A. On or around October 25, 2022, Clorox announced that laboratory testing had identified *Pseudomonas aeruginosa* bacteria in certain of its Pine-Sol® Scented products;

B. On or around October 25, 2022, Clorox, in coordination with the U.S. Consumer Product Safety Commission (“CPSC”), initiated a recall of certain Pine-Sol® products including, but not limited to, Pine-Sol® Scented Multi-Surface Cleaners in Lavender Clean®, Sparkling Wave®, and Lemon Fresh scents; all CloroxPro® Pine-Sol® All Purpose Cleaners in Lavender Clean®, Sparkling Wave®, Lemon Fresh, and Orange Energy® Scents; and Clorox® Professional™ Pine-Sol® Lemon Fresh cleaners (collectively, the “Class Products”). As part of the recall, Clorox offered refunds to purchasing consumers.

C. On or around November 1, 2022, Plaintiff Bryan Swetz filed a putative class action against Clorox in the U.S. District Court for the Southern District of New York styled *Swetz v. Clorox Co.*, Case No. 7:22-cv-9374-PMH (the “*Swetz Action*”), on behalf of a putative nationwide class of consumers who purchased the Class Products, as well as a putative New York subclass of consumers who purchased the Class Products, asserting claims for (1) violations of N.Y. G.B.L. § 349, (2) violations of N.Y. G.B.L. § 350, and (3) breach of express warranty;

D. On or around November 3, 2022, Plaintiff Michael Charles filed a putative class action against Clorox in the U.S. District Court for the Northern District of California styled *Charles v. Clorox Co.*, Case No. 4:22-cv-6855-HSG (the “*Charles Action*”), on behalf of a putative nationwide class of consumers who purchased the Class Products, as well as putative California and New York subclasses of consumers who purchased the Class Products, asserting claims for (1) violations of N.Y. G.B.L. § 349, (2) violations of N.Y. G.B.L. § 350, (3) violations of the California Consumers Legal Remedies Act (“CLRA”), Cal. Civ. Code §§ 1750 *et seq.*, (4) violations of the California False Advertising Law (“FAL”), Cal. Bus. & Prof. Code §§ 17500 *et seq.*, (5) violations of the California Unfair Competition Law (“UCL”), Cal. Bus. & Prof. Code §§ 17200 *et seq.*, and (6) breach of express warranty;

E. On or around December 9, 2022, Plaintiff Olivia Kossel filed a putative class action against Clorox in the U.S. District Court for the Southern District of New York styled *Kossel v. Clorox Co.*, Case No. 7:22-cv-10450 (the “*Kossel Action*”);

F. On or around February 16, 2023, Plaintiffs Olivia Kossel, Tina Donohue, Alyce Lacey, and Alexis McChorn filed an amended class action complaint in the *Kossel Action*;

G. On or around March 17, 2023, Plaintiffs Olivia Kossel, Tina Donohue, Alyce Lacey, and Alexis McChorn filed their operative second amended class action complaint in the *Kossel* Action on behalf of a putative “Economic Injury Class” of all United States residents who purchased the Class Products, as well as a putative “Physical Injury Class” of all United States residents who allegedly suffered physical injuries as a result of using the Class Products, asserting claims for (1) violations of the UCL, (2) violations of the FAL, (3) strict products liability under a design defect theory, (4) strict products liability under a manufacturing defect theory, and (5) strict products liability under a failure-to-warn theory;

H. Clorox denies the allegations in the *Swetz* Action, the *Charles* Action, and the *Kossel* Action (collectively, the “Actions”) and denies any liability to the Class Representatives or any member of the putative classes the Class Representatives seek to represent in the Actions;

I. Clorox and the Class Representatives on behalf of the Class (as defined below) wish to resolve any and all past, present, and future claims the Class has or may have against Clorox on a nationwide basis as they relate to the allegations in the Actions regarding the purchase of the Class Products (except that the Settlement embodied in the terms of this Agreement does not resolve or release any physical or bodily injury claims on behalf of the *Kossel* Plaintiffs or any other Class Member);

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

**NOW THEREFORE**, the Parties, for good and valuable consideration, the sufficiency of which is hereby acknowledged, understand and agree to the terms and conditions set forth below.

## **2. DEFINITIONS.**

As used in this Agreement, the following capitalized terms have the meanings specified below.

**2.1 “Actions”** refers collectively to the civil actions styled *Swetz v. Clorox Co.*, No. 7:22-cv-9374-PMH (S.D.N.Y.) (the “*Swetz* Action”), *Charles v. Clorox Co.*, No. 4:22-cv-6855-HSG (N.D. Cal.) (the “*Charles* Action”), and *Kossel v. Clorox Co.*, No. 7:22-cv-10450-PMH (S.D.N.Y.) (the “*Kossel* Action”).

**2.2 “Agreement” or “Settlement Agreement”** means this Class Action Settlement Agreement and all attachments and exhibits hereto.

**2.3 “Cash Award”** means a cash payment from the Settlement Fund to a Settlement Class Member with an Approved Claim.

**2.4 “Claim”** means a request for relief submitted by or on behalf of a Class Member on a Claim Form filed with the Class Administrator in accordance with the terms of this Agreement.

(a) **“Approved Claim”** means a claim approved by the Class Administrator, according to the terms of this Agreement.

(b) **“Claimant”** means any Class Member who submits a Claim Form for the purpose of claiming a Cash Award, in the manner described in Section 5 of this Agreement.

(c) **“Claim Form”** means the document to be submitted by Claimants seeking direct monetary benefits pursuant to this Agreement.

(d) **“Claims Deadline”** means the date by which a Claimant must submit a Claim Form to be considered timely. The Claims Deadline shall be sixty-three (63) calendar days after the Settlement Notice Date.

(e) **“Claims Process”** means the process by which Class Members may make claims for relief, as described in Section 5 of this Agreement.

**2.5 “Claims Administration”** means the administration of the Claims Process by the Class Administrator.

**2.6 “Class” or “Settlement Class”** means all persons in the United States who, between November 1, 2018 and the Preliminary Approval Date, purchased in the United States, for household use and not for resale or distribution, one or more of the Class Products, as defined below. The Settlement Class does not include: (1) the Honorable Philip M. Halpern and members of his immediate family; (2) Clorox; (3) any entity in which Clorox has a controlling interest; (4) any of Clorox’s subsidiaries, parents, affiliates, and officers, directors, employees, legal representatives, heirs, successors, or assigns; and (5) any persons who timely exclude themselves from the Settlement Class.

**2.7 “Class Administrator”** means the independent company approved by the Court to provide the Class Notice and to administer the Claims Process.

**2.8 “Class Counsel”** means the following attorneys of record for the Class Representatives and the Class in the Action, unless otherwise modified by the Court:

The Sultzer Law Group, P.C.  
270 Madison Avenue, Suite 1800  
New York, NY 10016

Levin Sedran & Berman  
510 Walnut Street, Suite 500  
Philadelphia, PA 19106

Leeds Brown Law, P.C.  
1 Old Country Road, Suite 347  
Carle Place, NY 11514

Squitieri & Fearon, LLP  
305 Broadway, 7th Floor  
New York, NY 10007

**2.9 “Class Member”** means any person who is a member of the Class.

**2.10 “Class Notice”** means both those documents notifying Class Members, pursuant to the Notice Plan, of the Settlement, and the substance of those documents.

(a) **“Long Form Notice”** refers to the proposed full Class Notice that is attached to this Agreement as **Exhibit 1**, which the Parties acknowledge may be modified by the Court without affecting the enforceability of this Agreement.

(b) **“Notice Plan”** means the plan for dissemination of Class Notice to be submitted to the Court in connection with a motion for preliminary approval of this Settlement.

(c) **“Settlement Notice Date”** means twenty-one (21) calendar days after the Preliminary Approval Date.

(d) **“Short Form Notice”** means the summary Class Notice that is attached to this Agreement as **Exhibit 2**, which the Parties acknowledge may be modified by the Court without affecting the enforceability of this Agreement.

**2.11 “Class Period”** means November 1, 2018 to the Preliminary Approval Date.

**2.12 “Class Products”** means all Pine-Sol® Scented products, including, but not limited to, Pine-Sol® Multi-Surface Cleaners in Lavender Clean®, Sparkling Wave®, and Lemon Fresh scents; all CloroxPro® Pine-Sol® All Purpose Cleaners in Lavender Clean®, Sparkling Wave®, Lemon Fresh, and Orange Energy® scents; and Clorox® Professional™ Pine-Sol® Lemon Fresh cleaners. For the avoidance of doubt, the Class Products are not limited to products purchased during the Class Period.

**2.13 “Class Representative(s)”** refers collectively to the named Plaintiffs Bryan Swetz, Michael Charles, Olivia Kossel, Tina Donohue, and Alyce Lacey.

**2.14 “Clorox”** means The Clorox Company, the Defendant in the Actions.

**2.15 “Court”** means the Honorable Philip M. Halpern, U.S. District Judge for the U.S. District Court, Southern District of New York, or any judge who may succeed him.

**2.16 “CPSC”** means the United States Consumer Product Safety Commission.

**2.17 “Effective Date”** means the date on which the Judgment becomes final. For purposes of this definition, the Judgment shall become final: (a) if no appeal from the Judgment is filed, the date of expiration of the time for filing or noticing any appeal from the Judgment; or (b) if an appeal from the Judgment is filed, and the Judgment is affirmed or the appeal dismissed, the date of such affirmance or dismissal; or (c) if a petition for certiorari seeking review of the appellate judgment is filed and denied, the date the petition is denied; or (d) if a petition for writ of certiorari is filed and granted, the date of final affirmance or final dismissal of the review proceeding initiated by the petition for a writ of certiorari.

**2.18 “Fee Award”** means the amount of attorneys’ fees and reimbursement of expenses and costs awarded by the Court to Class Counsel, which will be paid out of the Settlement Fund.

**2.19 “Final Approval Hearing”** means the hearing to be conducted by the Court to determine whether to finally approve the Settlement and to enter Judgment.

**2.20 “Final Approval Order”** means the order to be submitted to the Court in connection with a Motion for Final Approval and the Final Approval Hearing, substantially in the form attached hereto as **Exhibit 4**.

**2.21 “Judgment”** means the Court’s act of entering a final judgment on the docket as described in Federal Rule of Civil Procedure 58.

**2.22 “Notice and Other Administrative Costs”** means all costs and expenses actually incurred by the Class Administrator in administering the Settlement, including the publication of Class Notice, establishment of the Settlement Website, providing CAFA notice, the processing, handling, reviewing, and paying of claims made by Claimants, and paying taxes and tax expenses related to the Settlement Fund (including all federal, state, or local taxes of any kind and interest or penalties thereon, as well as expenses incurred in connection with determining the amount of and paying any taxes owed and expenses related to any tax attorneys and accountants), with all such costs and expenses to be paid from the Settlement Fund. All taxes on the income of the Settlement Fund, and any costs or expenses incurred in connection with the taxation of the Settlement Fund shall be paid out of the Settlement Fund, shall be considered to be a Notice and Other Administrative Cost, and shall be timely paid by the Class Administrator without prior order of the Court. The Parties shall have no liability or responsibility for the payment of any such taxes.

**2.23 “Objection Deadline”** means the date by which Class Members must file with the Court a written statement objecting to any terms of the Settlement or to Class Counsel’s request for fees or expenses and shall be sixty-three (63) calendar days after the Settlement Notice Date.

**2.24 “Opt-Out Deadline”** means the deadline by which a Class Member must exercise his or her option to opt out of the settlement so as not to release his or her claims as part of the Released Claims and shall be sixty-three (63) calendar days after the Settlement Notice Date.

**2.25 “Party” or “Parties”** refers collectively to the Class Representatives and Clorox.

**2.26 “Person”** means any individual, corporation, partnership, association, or any other legal entity.

**2.27 “Plaintiffs”** means the Class Representatives, either individually or on behalf of the Class.

**2.28 “Preliminary Approval Date”** means the date of entry of the Court’s order granting preliminary approval of the Settlement.

**2.29 “Preliminary Approval Order”** means the proposed order to be submitted to the Court in connection with the Motion for Preliminary Approval, substantially in the form attached hereto as **Exhibit 3**.

**2.30 “Proof of Purchase”** means an itemized retail sales receipt or other document (including, but not limited to, a retail store club or loyalty card record) showing, at a minimum, the

purchase of one or more Class Products in the United States, the purchase price of each Class Product, the date and place of the purchase, the number of units of Class Products purchased.

**2.31 “Recall”** refers to the recall of the Class Products announced by Clorox and the CPSC on or around October 25, 2022.

**2.32 “Released Claims”** means the claims released by the Class Members via this Agreement.

**2.33 “Released Clorox Persons”** means Clorox, and any past, current, or future parent companies (including intermediate parents and ultimate parents) and subsidiaries, related companies, holding entities, affiliates, predecessors, successors, and assigns, and each of their respective current and former officers, directors, employees, agents, attorneys, insurers, advisors, stockholders, representatives, heirs, administrators, executors, successors and assigns, and any other person or entity acting on Clorox’s behalf.

**2.34 “Request for Exclusion”** means the written submission submitted by a Settlement Class Member to be excluded from the Settlement consistent with the terms of this Agreement.

**2.35 “Service Award”** means any award approved by the Court that is payable to the Class Representatives from the Settlement Fund.

**2.36 “Settlement”** means the resolution of the Actions embodied in the terms of this Agreement.

**2.37 “Settlement Fund”** means the qualified settlement fund this Agreement obligates Clorox to fund in the amount of \$5,650,000, which is in the form of a non-reversionary common fund and is established in accordance with 26 C.F.R. §§ 1.468B-1(c) and (e)(1).

**2.38 “Settlement Payment”** means the amount to be paid to valid Claimants as detailed in Section 5.

**2.39 “Settlement Website”** means a website maintained by the Class Administrator to provide the Class with information relating to the Settlement.

### **3. SETTLEMENT FUND.**

**3.1 Settlement Consideration.** Clorox agrees to establish a non-reversionary common fund of \$5,650,000 (the “Settlement Fund”), which shall be used to pay all Settlement expenses, including Notice and Other Administrative Costs; the Fee Award; Service Awards; and Class Members’ Claims. Clorox shall not be liable to pay more than the amount of the Settlement Fund or to pay anything apart from the Settlement Fund.

**3.2 Creation & Administration of Qualified Settlement Fund.** The Class Administrator is authorized to establish the Settlement Fund under 26 C.F.R. §§ 1.468B-1(c) and (e)(1), to act as the “administrator” of the Settlement Fund pursuant to 26 C.F.R. § 1.468B- 2(k)(3), and to undertake all duties as administrator in accordance with the Treasury Regulations promulgated under § 1.468B of the Internal Revenue Code of 1986. All costs incurred by the Class Administrator operating as administrator of the Settlement Fund shall be construed as costs of Claims Administration and shall



be borne solely by the Settlement Fund. Interest on the Settlement Fund shall inure to the benefit of the Class.

**3.3 Clorox's Payment into Settlement Fund.** Within seven (7) calendar days after Preliminary Approval, or another date agreed upon by the Parties in writing or ordered by the Court, Clorox shall establish the Settlement Fund by paying \$5,650,000 into the qualified settlement fund established by the Class Administrator pursuant to Paragraph 3.2.

**4. ATTORNEYS' FEES, COSTS, AND SERVICE AWARDS.**

**4.1 Application for Attorneys' Fees and Costs and Service Awards.** At least 14 days before the Objection Deadline, Class Counsel and Class Representatives shall file a motion, set for hearing on the same date as the Final Approval Hearing, requesting a Fee Award and Service Awards, to be paid from the Settlement Fund. Class Representatives agree that they will seek Service Awards not to exceed one thousand dollars (\$1,000.00 USD) each.

**4.2 Distribution of Attorneys' Fees and Costs.** The Class Administrator shall pay to Class Counsel from the Settlement Fund the amount of attorneys' fees and costs awarded by the Court within the earlier of seven (7) days after the Effective Date, or the date the Class Administrator begins making distributions to Class Members, subject to Class Counsel providing all payment routing information and tax ID numbers. Payment of the Fee Award will be made from the Settlement Fund by wire transfer to Class Counsel in accordance with wire instructions to be provided by Class Counsel.

**4.3 Distribution of Service Awards.** Any Service Award approved by the Court for the Class Representatives shall be paid from the Settlement Fund within the earlier of seven (7) days after the Effective Date, or the date the Class Administrator begins making distributions to Class Members.

**4.4 Settlement Independent of Award of Fees, Costs, and Service Awards.** The awards of attorneys' fees and costs, and payment to the Class Representatives are subject to and dependent upon the Court's approval. However, this Settlement is not dependent or conditioned upon the Court's approving Class Counsel's and Class Representatives' requests for such payments or awarding the particular amounts sought by Class Counsel and Class Representatives. In the event the Court declines Class Counsel's or Class Representatives' requests or awards less than the amounts sought, this Settlement will continue to be effective and enforceable by the Parties, provided, however, that the Class Representatives and Class Counsel retain the right to appeal any decision by the Court regarding attorneys' fees and costs, and service awards, even if the Settlement is otherwise approved by the Court.

**5. CLAIMS PROCESS.**

**5.1 Claim Form.** To obtain monetary relief as part of the Settlement, a Class Member must fill out and submit a Claim Form, completed online or in hard copy mailed to the Class Administrator. The Claim Form will ask the Claimant to provide customary identifying information, including his or her name, mailing address, email address, and telephone number. The Claim Form will also ask the Claimant to confirm, under penalty of perjury, that he or she purchased one or more of the Class Products following the commencement of the Class Period and to state the number of Class Products he or she purchased. The Claim Form will also give the Claimant the option to provide

Proof of Purchase for his or her purchase(s) of the Class products, if available. A maximum of one (1) Claim Form may be submitted per household.

**5.2 Cash Award without Proof of Purchase.** Each Class Member who submits an Approved Claim that is not accompanied by Proof of Purchase shall be entitled to receive a total of \$3.57 USD per Class Product purchased, which reflects the average retail price of the Class Products during the Class Period, up to a maximum of two (2) Class Products.

**5.3 Cash Award with Proof of Purchase.** Each Class Member who submits an Approved Claim that is accompanied by Proof of Purchase shall be entitled to receive a full refund of the amount of money he or she spent on the Class Products that is documented by Proof of Purchase. A Class Member who received a refund for one or more of the Class Product(s) in connection with the Recall shall not receive a Cash Award for refunded Class Product(s), but may receive a Cash Award for Class Product(s) not refunded in connection with the Recall.

**5.4 Claim Timing.** Claim Forms must be submitted or postmarked on or before the Claims Deadline to be considered timely. The Claims Deadline shall be clearly and prominently stated in the Preliminary Approval Order, the Class Notice, on the Settlement Website, and on the Claim Form.

**5.5 Claim Validation.** The Class Administrator shall be responsible for reviewing all Claims to determine their validity. The Class Administrator shall reject any Claim that does not comply in any material respect with the instructions on the Claim Form or with the terms of this Section 5, that is submitted after the Claims Deadline, or that the Class Administrator identifies as fraudulent. The Class Administrator reserves the right to seek additional information from Class Members to provide reasonable bases for the Class Administrator to monitor for and detect fraud. Such additional information may include, for example, retailers and locations (city and state) at which the Class Products were purchased. The Class Administrator shall retain sole discretion in accepting or rejecting claims and shall have no obligation to notify Class Members of rejected claims unless otherwise ordered by the Court.

**5.6 Pro Rata Adjustment of Cash Awards.** If the total value of all approved Claims either exceeds or falls short of the funds available for distribution to Class Members, then the amounts of the cash payments will be reduced or increased *pro rata*, as necessary, to use all funds available for distribution to Class Members. Any such *pro rata* adjustment will be calculated prior to distribution of funds (*i.e.*, will be made in a single distribution).

**5.7 Timing of Distribution.** The Class Administrator shall pay out Approved Claims in accordance with the terms of this Agreement commencing within thirty (30) days after the Effective Date, or as otherwise ordered by the Court. The Parties shall work with the Class Administrator to choose one or more manners of payment that are secure, cost-effective, and convenient for Claimants.

**5.8 Uncleared Payments: Second Distribution and Cy Pres.** Those Class Members whose payments are not cleared within one hundred and eighty (180) days after issuance will be ineligible to receive a cash settlement benefit and the Class Administrator will have no further obligation to make any payment from the Settlement Fund pursuant to this Agreement or otherwise to such Class Member. Any funds that remain unclaimed or remain unused after the initial distribution will be distributed to Class Members who cashed the initial payment, on a *pro rata* basis, to the extent



the cost of such redistribution is considered economical by the Class Administrator, Class Counsel, and Clorox. If such redistribution is not considered economical, or if unpaid funds remain after a second distribution, any unpaid funds will be donated *cy pres* to Equal Justice Works, or, if not approved by the Court, to one or more other Court-approved, non-sectarian, not-for-profit firms whose work is sufficiently tethered to the allegations in the Actions.

**5.9 Taxes on Distribution.** Any person who receives a Cash Award will be solely responsible for any taxes or tax-related expenses owed or incurred by that person by reason of that Award. Such taxes and tax-related expenses will not be paid from the Settlement Fund. In no event shall Clorox, the Class Representatives, Class Counsel, the Class Administrator, or any of the other Released Parties have any responsibility or liability for taxes or tax-related expenses arising in connection with the issuance of Cash Awards or other payments made from the Settlement Fund to Class Representatives, Settlement Class Members, or any other person or entity.

**6. CLASS NOTICE AND CLAIMS ADMINISTRATION.**

**6.1 Class Administrator.** The Class Administrator shall assist with various administrative tasks including, without limitation:

- (a) Establishing and operating the Settlement Fund;
- (b) Arranging for the dissemination of the Class Notice pursuant to the Notice Plan agreed to by the Parties and approved by the Court;
- (c) Making any mailings required under the terms of this Agreement or any Court order or law, including handling returned mail;
- (d) Answering inquiries from Class Members and/or forwarding such inquiries to Class Counsel;
- (e) Receiving and maintaining Requests for Exclusion;
- (f) Establishing a Settlement Website;
- (g) Establishing a toll-free informational telephone number for Class Members;
- (h) Receiving and processing (including monitoring for fraud and validating or rejecting) Class Member claims and distributing payments to Class Members;
- (i) Providing regular updates on the claims status to counsel for all Parties; and
- (j) Otherwise assisting with the implementation and administration of the Settlement.

**6.2 Class Notice.** Class Notice shall be effectuated by the Claims Administrator as outlined in the Notice Plan. The Notice Plan provides for direct notice using email addresses of potential Class Members who sought a refund under the Recall (to the extent emails for such Class Members are in Clorox's possession or control and direct notice is practicable under the circumstances), combined with a robust media campaign consisting of state-of-the-art targeted

internet notice, social media notice, and search engine marketing. The Notice Plan further provides for a sponsored listing on a leading consumer-facing website and the implementation of a dedicated settlement website and toll-free telephone line where Settlement Class members can learn more about their rights and options pursuant to the terms of this Settlement Agreement. The Class Notice shall conform to all applicable requirements of the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process Clause), and any other applicable law, and shall otherwise be in the manner and form approved by the Parties and Court.

**6.3 Timing of Class Notice.** Class Notice shall commence no later than twenty-one (21) calendar days following entry of the Preliminary Approval Order (“Settlement Notice Date”). After Preliminary Approval and prior to the Settlement Notice Date, the Claim Administrator shall establish the Settlement Website, which shall contain the Long Form Notice in both downloadable PDF format and HTML format with a clickable table of contents; answers to frequently asked questions; a Contact Information page that includes the address for the Claim Administrator and addresses and telephone numbers for Plaintiffs’ Counsel; the Consolidated Amended Class Action Complaint; the Agreement; the signed Preliminary Approval Order; a downloadable and online version of the Claim Form; a downloadable and online version of the form by which Settlement Class Members may exclude themselves from the Settlement Class; and (when it becomes available) Plaintiffs’ application for Attorneys’ Fees and Costs and/or an application for Incentive Awards.

**6.4 Supervision of Claims Administrator.** The Parties shall supervise the Claim Administrator in the performance of the notice functions set forth in Sections 6.2 and 6.3.

**6.5 CAFA Notice.** The Class Action Fairness Act of 2005 (“CAFA”) requires Clorox to inform certain federal and state officials about this Agreement and proposed Settlement. *See* 28 U.S.C. § 1715. Under the provisions of CAFA, the Class Administrator, on behalf of Clorox, shall serve notice upon the appropriate officials within ten (10) calendar days after the Parties file the proposed Agreement with the Court. *See* 28 U.S.C. § 1715(b). The costs of such notice shall be paid from the Settlement Fund.

**6.6 Opt-Out Procedures.** Class Members who wish to opt out of and be excluded from the Settlement must submit a Request for Exclusion to the Class Administrator, postmarked or submitted online no later than the Opt-Out Deadline. The Request for Exclusion must be personally completed and submitted by the Class Member or his or her attorney, and so-called “mass” or “class” opt-outs shall not be permitted or recognized. The Class Administrator shall periodically notify Class Counsel and Clorox’s counsel of any Requests for Exclusion. All Class Members who submit a timely, valid Request for Exclusion will be excluded from the Settlement and will not be bound by the terms of this Agreement, and all Class Members who do not submit a timely, valid Request for Exclusion will be bound by this Agreement and the Judgment, including the release in Paragraph 8.1 below.

**6.7 Procedures for Objecting to the Settlement.** Class Members have the right to appear and show cause why the Settlement should not be granted final approval, subject to each of the provisions of this paragraph:

**(a) Timely Written Objection Required.** Any objection to the Settlement must be in writing and must be filed with the Court on or before the Objection Deadline.

**(b) Form of Written Objection.** Any objection regarding or related to the Agreement must contain (i) a caption or title that clearly identifies the proceeding and that the document is an objection, (ii) information sufficient to identify and contact the objecting Class Member or his or her attorney if represented, (iii) information sufficient to establish the person's standing as a Settlement Class Member, (iv) a clear and concise statement of the Class Member's objection, as well as any facts and law supporting the objection, (v) the objector's signature, and (vi) the signature of the objector's counsel, if any (the "Objection").

**(c) Authorization of Objections Filed by Attorneys Representing Objectors.** Class Members may object either on their own or through an attorney hired at their own expense, but a Class Member represented by an attorney must sign either the Objection itself or execute a separate declaration stating that the Class Member authorizes the filing of the Objection.

**(d) Effect of Both Opting Out and Objecting.** If a Class Member submits both an Opt-Out Form and files an Objection, the Class Member will be deemed to have opted out of the Settlement, and thus to be ineligible to object. However, any objecting Class Member who has not timely submitted a completed Opt-Out Form will be bound by the terms of the Agreement upon the Court's final approval of the Settlement.

**(e) Appearance at Final Approval Hearing.** Objecting Class Members may appear at the Final Approval Hearing and be heard. Such Class Members are requested, but not required, in advance of the Final Approval Hearing, to file with the Court a Notice of Intent to Appear.

**(f) Right to Discovery.** Upon Court order, the Parties will have the right to obtain document discovery from and take depositions of any Objecting Class Member on topics relevant to the Objection.

**(g) Response to Objections.** The Parties shall have the right, but not the obligation, either jointly or individually, to respond to any objection, with a written response due the same day as the Motion for Final Approval, or as otherwise ordered by the Court.

## **7. COURT APPROVAL**

**7.1 Preliminary Approval.** After executing this Agreement, the Parties will submit to the Court the Agreement, and will request that the Court enter the Preliminary Approval Order in substantially similar form as the proposed order attached as **Exhibit 3**. In the Motion for Preliminary Approval, Plaintiffs will request that the Court grant preliminary approval of the proposed Settlement, provisionally certify the Class for settlement purposes and appoint Class Counsel, approve the forms of Notice and find that the Notice Plan satisfies the Due Process Clause and Rule 23 of the Federal Rules of Civil Procedure, and schedule a Final Approval Hearing to determine whether the Settlement should be granted final approval, whether an application for attorneys' fees and costs should be granted, and whether an application for service awards should be granted.

**7.2 Final Approval.** A Final Approval Hearing to determine final approval of the Agreement shall be scheduled as soon as practicable, subject to the calendar of the Court, but no sooner than twenty-one (21) calendar days after the Claims Deadline, Objection Deadline, and Opt-Out Deadline. If the Court issues the Preliminary Approval Order and all other conditions precedent of the Settlement have been satisfied, no later than fourteen (14) calendar days before the Final Approval Hearing, all Parties will move, individually or collectively, for a Final Approval Order in

substantially similar form as the proposed order attached as **Exhibit 4**, with Class Counsel filing a memorandum of points and authorities in support of the motion. Clorox may, but is not required to, file a memorandum in support of the motion.

**7.3 Failure to Obtain Approval.** If this Agreement is not given preliminary or final approval by the Court, or if an appellate court reverses final approval of the Agreement, the Parties will seek in good faith to revise the Agreement as needed to obtain Court approval. Failing this, the Parties will be restored to their respective places in the litigation. In such event, the terms and provisions of this Agreement will have no further force or effect with respect to the Parties and will not be used in this or any other proceeding for any purposes, and any Judgment or Order entered by the Court in accordance with the terms of this Agreement will be treated as vacated. The Parties agree that, in the event of any such occurrence, the Parties shall stipulate or otherwise take all necessary action to resume the Actions at the procedural posture they occupied immediately prior to the filing of the Parties' Notice of Settlement, as though this Agreement had never been reached.

## **8. RELEASES.**

**8.1 Release of Clorox and Related Persons.** Upon the Effective Date, each Class Member who has not opted out will be deemed to have, and by operation of the Judgment will have, fully, finally, and forever released, relinquished, and discharged the Released Clorox Persons from any and all claims, demands, rights, suits, liabilities, injunctive and/or declaratory relief, and causes of action, including costs, expenses, penalties, and attorneys' fees, whether known or unknown, matured or unmatured, at law or in equity, existing under federal or state law, that any Class Member has or may have against the Released Clorox Persons that, as set forth in *TBK Partners, Ltd. v. Western Union Corp.*, 675 F.2d 456 (2d Cir. 1982), are based on the identical factual predicate, or depend on the same set of facts alleged in the Actions regarding the Class Products, which have been, or which could have been asserted in the Actions, and in connection with the conduct of the Actions, that have been brought, could have been brought, or are currently pending in any forum in the United States; provided, however, that this Agreement does not release any claims for non-economic damages premised on alleged physical or bodily injuries arising from any Class Member's use of or exposure to the Class Products.

**8.2 Covenant Not to Sue.** The Class Representatives agree and covenant, and each Class Member who has not opted out will be deemed to have agreed and covenanted, not to sue any of Released Clorox Persons, with respect to any of the Released Claims, or otherwise to assist others in doing so, and agree to be forever barred from doing so, in any court of law or equity, or any other forum.

## **9. MISCELLANEOUS PROVISIONS.**

**9.1 Change of Time Periods.** The time periods and/or dates described in this Settlement Agreement are subject to Court approval and may be modified upon order of the Court or written stipulation of the Parties without notice to Settlement Class Members. The Parties reserve the right, by agreement and subject to the Court's approval, to grant any reasonable extension of time that might be needed to carry out any of the provisions of this Settlement Agreement.

**9.2 Time for Compliance.** If the date for performance of any act required by or under this Settlement Agreement falls on a Saturday, Sunday, or court holiday, that act may be performed

on the next business day with the same effect as it had been performed on the day or within the period of time specified by or under this Settlement Agreement.

**9.3 Entire Agreement.** This Agreement shall constitute the entire Agreement among the Parties with regard to the subject matter of this Agreement and shall supersede any previous agreements, representations, communications, and understandings among the Parties with respect to the subject matter of this Agreement. The Parties acknowledge, stipulate, and agree that no covenant, obligation, condition, representation, warranty, inducement, negotiation, or undertaking concerning any part or all of the subject matter of the Agreement has been made or relied upon except as expressly set forth herein.

**9.4 Notices Under Agreement.** All notices or mailings required by this Agreement to be provided to or approved by Class Counsel and Clorox, or otherwise made pursuant to this Agreement, shall be provided as follows:

***Class Counsel***

Jason P. Sultzer  
sultzerj@thesultzerlawgroup.com  
The Sultzer Law Group, P.C.  
270 Madison Avenue, Suite 1800  
New York, NY 10016

***Clorox***

Dean N. Panos  
dpanos@jenner.com  
Jenner & Block LLP  
353 N. Clark St.  
Chicago, IL 60654

**9.5 Good Faith.** The Parties acknowledge that each intends to implement the Agreement. The Parties have at all times acted in good faith and shall continue to, in good faith, cooperate and assist with and undertake all reasonable actions and steps in order to accomplish all required events on the schedule set by the Court, and shall use reasonable efforts to implement all terms and conditions of this Agreement.

**9.6 Binding on Successors.** This Agreement shall be binding upon and inure to the benefit of the heirs, successors, assigns, executors, and legal representatives of the Parties to the Agreement and the released Parties and persons, including all Clorox Released Persons.

**9.7 Arms'-Length Negotiations.** This Agreement compromises claims that are contested, and the Parties agree that the consideration provided to the Class and other terms of this Agreement were negotiated in good faith and at arms' length by the Parties, and reflect an Agreement that was reached voluntarily, after consultation with competent legal counsel, and guided in part by the Parties' private mediation with the Honorable Steven Gold (Ret.) of JAMS, an experienced jurist and mediator. The Parties reached the Agreement after considering the risks and benefits of litigation. The determination of the terms of, and the drafting of, this Agreement, has been by mutual agreement after negotiation, with consideration by and participation of all Parties hereto and their counsel. Accordingly, the rule of construction that any ambiguities are to be construed against the drafter shall have no application.

**9.8 Waiver.** The waiver by one Party of any provision or breach of this Agreement shall not be deemed a waiver of any other provision or breach of this Agreement.

**9.9 Modification in Writing Only.** This Agreement and any and all parts of it may be amended, modified, changed, or waived only by a writing signed by duly authorized agents of Clorox and Plaintiffs.



**9.10 Headings.** The descriptive headings of any paragraph or sections of this Agreement are inserted for convenience of reference only and do not constitute a part of this Agreement.

**9.11 Governing Law.** This Agreement shall be interpreted, construed, and enforced according to the laws of the State of New York, without regard to conflicts of law.

**9.12 Continuing Jurisdiction.** After entry of the Judgment, the Court shall have continuing jurisdiction over the Actions solely for purposes of (a) enforcing this Agreement, (b) addressing settlement administration matters, and (c) addressing such post-Judgment matters as may be appropriate under court rules or applicable law.

**9.13 Publicity.** The Parties agree that if Class Counsel wishes to make any written press releases, disclosures on their website(s), or statements to the media about this Agreement before the Court issues a Final Approval Order, such releases or statements will have to be approved by Clorox in advance. Notwithstanding the foregoing, Defendant and Class Counsel can answer any inquiries initiated by members of the Settlement Class. For the avoidance of any doubt, nothing in this Agreement prevents the Parties from making any disclosures required to effectuate this Agreement or from making any disclosures required by law.

**9.14 Execution.** This Agreement may be executed in one or more counterparts. All executed counterparts and each of them will be deemed to be one and the same instrument. Photocopies and electronic copies (e.g., PDF copies) shall be given the same force and effect as original signed documents.


[signatures on following pages . . .]



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

**Plaintiffs, on behalf of the Class:**

\_\_\_\_\_ Dated: \_\_\_\_\_, 2023  
Bryan Swetz

  
\_\_\_\_\_ Dated: 7/27, 2023  
Michael Charles

\_\_\_\_\_ Dated: \_\_\_\_\_, 2023  
Olivia Kossel

\_\_\_\_\_ Dated: \_\_\_\_\_, 2023  
Tina Donohue

\_\_\_\_\_ Dated: \_\_\_\_\_, 2023  
Alyce Lacey

**The Clorox Company:**

By: \_\_\_\_\_ Dated: \_\_\_\_\_, 2023

Name: \_\_\_\_\_

Title: \_\_\_\_\_

[signatures continue on following page . . . ]

not be deemed a waiver of any other provision or breach of this Agreement.

**9.9 Modification in Writing Only.** This Agreement and any and all parts of it may be amended, modified, changed, or waived only by a writing signed by duly authorized agents of Clorox and Plaintiffs.

**9.10 Headings.** The descriptive headings of any paragraph or sections of this Agreement are inserted for convenience of reference only and do not constitute a part of this Agreement.

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[signatures on following pages . . .]

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

**Plaintiffs, on behalf of the Class:**

\_\_\_\_\_ Dated: \_\_\_\_\_, 2023  
Bryan Swetz

\_\_\_\_\_ Dated: \_\_\_\_\_, 2023  
Michael Charles

*Olivia M. Kossel* Dated: July 25, 2023  
Olivia Kossel

\_\_\_\_\_ Dated: \_\_\_\_\_, 2023  
Tina Donohue

\_\_\_\_\_ Dated: \_\_\_\_\_, 2023  
Alyce Lacey

**The Clorox Company:**

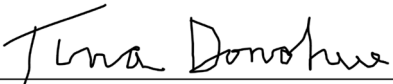
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**Plaintiffs, on behalf of the Class:**

\_\_\_\_\_ Dated: \_\_\_\_\_, 2023  
Bryan Swetz

\_\_\_\_\_ Dated: \_\_\_\_\_, 2023  
Michael Charles

\_\_\_\_\_ Dated: \_\_\_\_\_, 2023  
Olivia Kossel

  
\_\_\_\_\_ Dated: July 27, 2023  
Tina Donohue

\_\_\_\_\_ Dated: \_\_\_\_\_, 2023  
Alyce Lacey

**The Clorox Company:**

By: \_\_\_\_\_ Dated: \_\_\_\_\_, 2023

Name:  
\_\_\_\_\_

Title:  
\_\_\_\_\_

[signatures continue on following page . . . ]



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

**Plaintiffs, on behalf of the Class:**

\_\_\_\_\_  
Bryan Swetz Dated: \_\_\_\_\_, 2023

\_\_\_\_\_  
Michael Charles Dated: \_\_\_\_\_, 2023

\_\_\_\_\_  
Olivia Kossel Dated: \_\_\_\_\_, 2023

\_\_\_\_\_  
Tina Donohue Dated: \_\_\_\_\_, 2023

  
Alyce Lacey Dated: July 26, 2023

**The Clorox Company:**

By: \_\_\_\_\_ Dated: \_\_\_\_\_, 2023

Name: \_\_\_\_\_

Title: \_\_\_\_\_

[signatures continue on following page . . . ]

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**Plaintiffs, on behalf of the Class:**

\_\_\_\_\_ Dated: \_\_\_\_\_, 2023  
Bryan Swetz

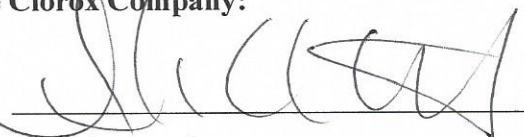
\_\_\_\_\_ Dated: \_\_\_\_\_, 2023  
Michael Charles

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\_\_\_\_\_ Dated: \_\_\_\_\_, 2023  
Alyce Lacey

**The Clorox Company:**

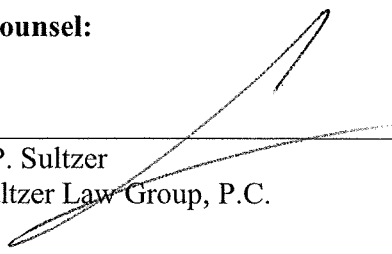
By:  \_\_\_\_\_ Dated: July 26, 2023

Name: Angela Hill

Title: VP - Chief Legal Officer

[signatures continue on following page . . . ]

**Class Counsel:**

  
\_\_\_\_\_  
Jason P. Sultzer  
The Sultzer Law Group, P.C.

Dated: July 26, 2023

\_\_\_\_\_  
Charles E. Schafer  
Levin Sedran & Berman, LLP

Dated: \_\_\_\_\_, 2023

\_\_\_\_\_  
Jeffrey K. Brown  
Leeds Brown Law, P.C.

Dated: \_\_\_\_\_, 2023

\_\_\_\_\_  
Stephen J. Fearon, Jr.  
Squitieri & Fearon, LLP

Dated: \_\_\_\_\_, 2023

**Counsel for The Clorox Company:**

\_\_\_\_\_  
Dean N. Panos  
Jenner & Block LLP

Dated: \_\_\_\_\_, 2023

**Class Counsel:**

\_\_\_\_\_  
Jason P. Sultzer  
The Sultzer Law Group, P.C.

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\_\_\_\_\_  
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**Counsel for The Clorox Company:**

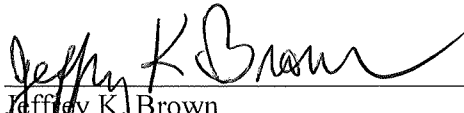
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Jenner & Block LLP

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Jenner & Block LLP Dated: \_\_\_\_\_, 2023

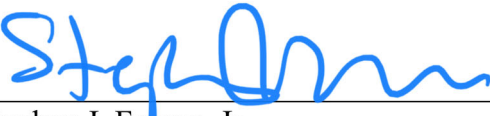


**Class Counsel:**

\_\_\_\_\_  
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The Sultzer Law Group, P.C. Dated: \_\_\_\_\_, 2023

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Leeds Brown Law, P.C. Dated: \_\_\_\_\_, 2023

  
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Squitieri & Fearon, LLP Dated: July 27, 2023

**Counsel for The Clorox Company:**

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Dean N. Panos  
Jenner & Block LLP Dated: \_\_\_\_\_, 2023

**Class Counsel:**

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Jason P. Sultzer  
The Sultzer Law Group, P.C.

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Levin Sedran & Berman, LLP

Dated: \_\_\_\_\_, 2023

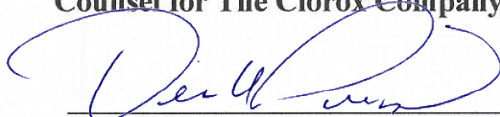
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Dated: \_\_\_\_\_, 2023

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Dated: July 26, 2023