

CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the “Settlement” or the “Agreement”) is made and entered by and between Plaintiffs Demetra Binder, Angela Waldner, Christina Calcagno, and Deborah O’Dea (“Plaintiffs” or “Class Representatives”), individually and on behalf of the Settlement Class (as defined herein), and Defendant Premium Brands OpCo LLC (“Premium Brands” or “Defendant”), and is subject to approval in the Action to be filed by the Plaintiffs in California State Court, San Diego County (the “Court”).

I. LITIGATION BACKGROUND

A. Plaintiffs Demetra Binder, Angela Waldner, and Christina Calcagno originally filed an action in *Demetra Binder, et al. v. Premium Brands OpCo LLC*, Case No. 1:23-cv-3939 (SDNY) on May 10, 2023, alleging that Defendant deceptively advertised discounts of its products at its Ann Taylor Factory stores and LOFT Outlet Stores. Plaintiff Deborah O’Dea filed an action against Defendant on July 11, 2024, in the matter captioned *O’Dea v. Premium Brands OpCo LLC*, Case No. 3:24-cv-1134 (D. Or.) (the “Federal Court Actions”), making similar allegations against Defendant with respect to its pricing practices.

B. The Parties participated in an in-person mediation in Los Angeles, California on August 22, 2024, with Robert Meyer, Esq. of JAMS. The Parties accepted a proposal and reached an agreement on September 16, 2024.

C. In advance of the mediation, the Parties also exchanged informal discovery, including financial and sales records. The Parties prepared comprehensive mediation briefs that discussed the claims, defenses, and alleged damages in detail.

D. Based on the above-outlined investigation and litigation, the current state of the law, the expense, burden, and time necessary to prosecute the two actions through trial and possible appeals, the risks and uncertainty of further prosecution of the actions considering the defenses at issue, the sharply contested legal and factual issues involved, and the relative benefits to be conferred upon the Settlement Class Members pursuant to this Agreement, Plaintiffs and Class Counsel have concluded that a Settlement with Defendant on the terms set forth herein is fair,

reasonable, adequate, and in the best interests of the Class Members in light of all known facts and circumstances.

E. At all times, Defendant has expressly denied and continues to deny any liability or wrongdoing of any kind or that Plaintiffs or any putative Class Member have been damaged in any amount, or at all, and further contends that, for any purpose other than Settlement, these cases are not appropriate for class treatment. Defendant does not admit or concede any actual or potential fault, wrongdoing, or liability against it in the Federal Court Actions and or any other actions. Defendant maintained during the entire pendency of the Federal Court Actions, and continues to maintain, that the challenged advertising practices are not deceptive or misleading as a matter of law. Nonetheless, taking into account the uncertainty and risks inherent in any litigation, Defendant has concluded it is desirable and beneficial that this dispute be fully and finally settled and terminated in the manner and upon the terms and conditions set forth in this Agreement. This Agreement is a compromise, and the Agreement, any related documents and any negotiations resulting in it shall not be construed as, or deemed to be, evidence of, or an admission or concession of, liability or wrongdoing on the part of Defendant, or any of the Released Parties (defined below), with respect to any claim of any fault or liability, or wrongdoing or damage whatsoever.

F. Based on the foregoing, it is the desire of the Parties to fully, finally, and forever settle, compromise, and discharge all disputes and claims arising from or related to the Federal Court Actions and the to-be-filed Action which exist between the Parties. Therefore, it is the intention of Plaintiffs and the Class Members that this Agreement shall constitute a full and complete Settlement and release of the Released Claims against Defendant.

II. DEFINITIONS

As used in this Agreement and all related documents, the following terms have the following meanings:

A. “**Action**” means the action to be filed by Plaintiffs in the Court (by agreement of the Parties) following dismissal of the Federal Court Actions.

B. “**Administration Costs**” means the actual costs reasonably charged by the Settlement Administrator for its services as provided for in this Agreement, including, but not limited to, all costs of providing notice to persons who are Class Members.

C. “**Agreement**” means this Settlement Agreement and Release, including the notices and other documents attached as exhibits to this Agreement, and any amendments thereto.

D. “**Authorized Claimant**” means any Class Member who does not validly request exclusion from the Class, and who either: (1) Defendant identifies as a Class Member and sends Email Notice, *or* (2) timely submits a completed and valid Claim Form in accordance with the terms of this Agreement.

E. “**Claim**” or “**Claim Form(s)**” means the form that a Class Member who does not receive Email Notice must complete and submit to receive a Settlement Voucher under the Agreement. The Claim Form will state that any Claim submitted will be under penalty of perjury, and shall be substantially similar to the form attached hereto as **Exhibit D**.

F. “**Claim Filing Deadline**” means the deadline by which Class Members must file all Claims under the Agreement. The Claim Filing Deadline shall be one hundred and five (105) calendar days after entry of the Preliminary Approval Order or 60 days after the Notice Date, whichever is later.

G. “**Class Members**” means:

1. All persons who, while in the state of Pennsylvania, purchased one or more products at a purported discount at Defendant’s Ann Taylor Factory Stores or LOFT Outlet Stores from September 4, 2018, to the date the Court enters the Preliminary Approval Order, and did not receive a refund or credit for their purchase(s) (“Pennsylvania Class Members”).

2. All persons who, while in the states of California (“California Class Members”), or Washington (“Washington Class Members”), purchased one or more products at a purported discount at Defendant’s Ann Taylor Factory Stores or LOFT Outlet Stores from September 4, 2020, to the date the Court enters the Preliminary Approval Order, and did not receive a refund or credit for their purchase(s).

3. All persons who, while in the states of New York (“New York Class Members”) or Wisconsin (“Wisconsin Class Members”), purchased one or more products at a purported discount at Defendant’s Ann Taylor Factory Stores or LOFT Outlet Stores from September 4, 2021, to the date the Court enters the Preliminary Approval Order, and did not receive a refund or credit for their purchase(s).

4. All persons who, while in the states of Texas (“Texas Class Members”) or Ohio (“Ohio Class Members”), purchased one or more products at a purported discount at Defendant’s Ann Taylor Factory Stores or LOFT Outlet Stores from September 4, 2022, to the date the Court enters the Preliminary Approval Order., and did not receive a refund or credit for their purchase(s).

5. All persons who, while in the state of Oregon (“Oregon Class Members”), purchased one or more products at a purported discount at Defendant’s Ann Taylor Factory Stores or LOFT Outlet Stores from September 4, 2023, to the date the Court enters the Preliminary Approval Order, and did not receive a refund or credit for their purchase(s).

Explicitly excluded from the Class Members are persons who did not receive a purported discount on any of their Ann Taylor Factory Stores or LOFT Outlet Stores purchases, and instead paid the list prices for each item purchased. For the avoidance of doubt, the Released Claims, as described in Sections III.D of this Settlement Agreement does not extend to these persons. Also excluded from the Class Members are all persons who validly opt out of the Settlement in a timely manner; governmental entities; counsel of record (and their respective law firms) for the Parties; Defendant and any of its parents, affiliates, subsidiaries, independent service providers and all of their respective officers and directors; the presiding judge in the Action, or judicial officer presiding over the matter, and all of their immediate families and judicial staff; and any natural person or entity that entered into a release with Defendant prior to the Effective Date arising from the same representations, advertising, marketing and/or sales at the Defendant’s Ann Taylor Factory Stores or LOFT Outlet Stores, relating to the underlying claims in the operative complaint in the Action.

H. **“Class Notice”** means all types of notice that will be provided to the Class Members, as described in this Agreement and ordered by the Court.

I. **“Class Counsel”** means Todd D. Carpenter and Scott G. Braden of Lynch Carpenter, LLP.

J. **“Class Period”** means:

1. For Pennsylvania Class Members, September 4, 2018, to the date the Court enters the Preliminary Approval Order.

2. For California and Washington Class Members, September 4, 2020, to the date the Court enters the Preliminary Approval Order.

3. For New York and Wisconsin Class Members, September 4, 2021, to the date the Court enters the Preliminary Approval Order.

4. For Texas and Ohio Class Members, September 4, 2022, to the date the Court enters the Preliminary Approval Order.

5. For Oregon Class Members, September 4, 2023, to the date the Court enters the Preliminary Approval Order.

K. **“Defendant”** means Premium Brands OpCo LLC.

L. **“Defendant’s Counsel”** means Stephanie Sheridan and Meegan Brooks of Benesch Friedlander Coplan & Aronoff LLP and Kirkland & Ellis LLP.

M. **“Effective Date”** means:

1. if there are no objections, the date of Final Approval;

2. if there are objections, the date upon which the last (in time) of the following events occurs: (i) the date upon which the time expires for filing or noticing any appeal of the Final Approval Order, (ii) the date of completion, in a manner that finally affirms and leaves in place the Final Approval Order without any material modification, of all proceedings arising out of any appeal(s) of the Final Approval Order; or (iii) the date of final dismissal of any appeal of, or the

final dismissal or resolution of any proceeding on certiorari with respect to, the Final Approval Order.

N. **“Email Notice”** means notice of the proposed Settlement to be provided to Class Members substantially in the same form attached hereto as **“Exhibit B.”**

O. **“Fairness Hearing”** or **“Final Approval Hearing”** means the hearing at or after which the Court will make a final decision whether to approve this Agreement and the Settlement set forth herein as fair, reasonable and adequate and to enter the Final Approval Order.

P. **“Fee Award”** means the amount of attorneys’ fees, costs, and reimbursement of expenses awarded by the Court to Class Counsel.

Q. **“Final Approval”** means the date the Court finally approves the Settlement of this Action, including but not limited to, the terms and conditions of this Agreement.

R. **“Final Approval Order”** means both the order and judgment, whether entered separately or together, that the Court enters upon finally approving the Settlement in connection with the Fairness Hearing.

S. **“Incentive Award”** means a reasonable payment, subject to Court approval, made to the named Plaintiffs as compensation for their efforts and diligence in pursuing this Action and the Federal Court Actions.

T. **“Long Form Notice”** means notice of the proposed Settlement to be provided to Class Members in substantially the same form as **“Exhibit A.”**

U. **“Notice Deadline”** or **“Notice Date”** means the date no later than thirty (30) calendar days after Preliminary Approval, or such other date set by the Court, on which the notice described in this Agreement is first issued.

V. **“Objection/Exclusion Deadline”** means the deadline to object or seek exclusion from the Settlement, which shall be the date that is one hundred and five (105) calendar days after the Court enters the Preliminary Approval Order, or sixty (60) days after the Notice Date, whichever is later, or such other date set by the Court.

W. **“Parties”** or **“Party”** means Class Representatives and Defendant.

X. **“Preliminary Approval”** means the date the Court preliminarily approves the Settlement of the Action, including but not limited to, the Class Notice and the terms and conditions of this Agreement.

Y. **“Preliminary Approval Order”** means the proposed order to be submitted to the Court in connection with the preliminary approval hearing on the Settlement.

Z. **“Released Claims”** means any and all actual, potential, filed, known or unknown, fixed or contingent, claimed or unclaimed, suspected or unsuspected, claims, demands, liabilities, rights, causes of action, contracts or agreements, extra contractual claims, damages, punitive, exemplary or multiplied damages, expenses, costs, attorneys’ fees and or obligations (including “Unknown Claims”), whether in law or in equity, accrued or un-accrued, direct, individual, or representative, whether based on the New York Consumer Protection from Deceptive Acts and Practices Act, New York False Advertising Act, the New Jersey Consumer Fraud Act, the New Jersey Truth in Consumer Contract, Warranty and Notice Act, California Unfair Competition Law, California’s False Advertising Law, the California Consumer Legal Remedies Act, the Federal Trade Commission Act, the Oregon Unlawful Trade Practices Act, the Pennsylvania Unfair Trade Practices and Consumer Protection Law, the Washington Consumer Protection Act, the Wisconsin Consumer Act, the Texas Deceptive Trade Practices-Consumer Protect Act, the Ohio Consumer Sales Practices Act, or other state, federal, local, statutory, or common law, or any other law, rule, or regulation, against the Released Parties, or any of them, arising out of the facts, transactions, events, matters, occurrences, acts, disclosures, statements, representations, omissions, or failures to act in connection with the advertisement of prices and discounts, as alleged in the Action, including all claims that were brought or could have been brought in the Federal Court Actions or Action relating to such claims. In other words, the release is limited to the universe of claims that could have been brought in the Action on the basis of Defendant’s price discounting practices, as alleged therein.

AA. **“Released Parties”** means Defendant and each of its present and former parent companies, subsidiaries, shareholders, members, officers, directors, employees, agents, servants, registered representatives, affiliates, partners, privities, predecessors, successors, personal representatives, heirs and assigns, retailers, suppliers, distributors, endorsers, consultants, and any and all other entities or persons upstream and downstream in the production/distribution channels, and any of their present and former directors, officers, employees, shareholders, agents, representatives, attorneys, accountants, insurers, and all persons acting by, through, under, or in concert with it, or any of them.

BB. **“Releasing Parties”** means Plaintiffs, those Class Members who do not timely opt out and therefore become a Settlement Class Member, and all of their respective present or past heirs, executors, estates, administrators, predecessors, successors, assigns, subsidiaries, associates, affiliates, employers, employees, agents, consultants, independent contractors, insurers, directors, managing directors, officers, partners, principals, members, attorneys, accountants, financial and other advisors, underwriters, shareholders, lenders, auditors, investment advisors, legal representatives, successors in interest, assigns and companies, firms, trusts, and corporations. For the avoidance of doubt, these Releasing Parties only include Class Members (including Class Representatives), as defined in Section II.G. above.

CC. **“Settlement Administrator”** means the third-party agent or administrator agreed to by the Parties and appointed by the Court. The Parties shall mutually agree on a capable and qualified independent entity to implement the Class Notice and claims administration requirements of this Agreement. The Parties shall work in good faith to select a mutually acceptable Settlement Administrator.

DD. **“Settlement Class Member(s)”** means any member of the Class Members who do not submit a valid and timely request for exclusion.

EE. **“Settlement Voucher(s)”** means the \$11 credits issued to each Authorized Claimant, which can be applied toward any purchase made at Ann Taylor Factory Stores or LOFT Outlet Stores. Settlement Vouchers can be combined with any other discount or offer and are

freely transferable. Settlement Vouchers may only be used in a single transaction; if the entire \$11 is not used in one transaction, Defendant is not required to honor the remaining Voucher value for future transactions. Settlement Vouchers can be used at any time, for a period of six months after they are distributed. Settlement Vouchers are not redeemable for cash (including no cash back). In the event of a return, Defendant will not credit back the Settlement Voucher amount. Settlement Vouchers are subject to additional terms and conditions, as set forth in Section III.C.

FF. “**Settlement Website**” means the website to be established by the Settlement Administrator for purposes of providing notice and other information regarding this Agreement, as described in this Agreement.

GG. “**Unknown Claims**” means claims that could have been raised in the Action and that any or all of the Releasing Parties do not know or suspect to exist, which, if known by him or her, might affect his or her agreement to release the Released Parties or the Released Claims or might affect his or her decision to agree, object, or not to object to the Settlement. Upon the Effective Date, the Releasing Parties shall be deemed to have, and shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of California Civil Code § 1542, which provides as follows:

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

Upon the Effective Date, the Releasing Parties also shall be deemed to have, and shall have, waived any and all provisions, rights and benefits, conferred by any law of any state or territory of the United States, or principle of common law, or the law of any jurisdiction outside of the United States, which is similar, comparable, or equivalent to California Civil Code § 1542. The Releasing Parties acknowledge that they may discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of this release, but that it is their

intention to finally and forever settle and release the Released Claims, notwithstanding any Unknown Claims they may have, as that term is defined in this Paragraph.

HH. “**Website Notice**” means the notice made available on the Settlement Website pursuant to this Agreement, including the Long Form Notice.

III. TERMS OF SETTLEMENT

In consideration of the mutual covenants and promises set forth herein, and subject to Court approval, the Parties agree as follows:

A. Filing of the Action and Request for Preliminary Approval: The Parties agree that Plaintiffs shall file a class action complaint naming themselves as the named Plaintiffs and asserting claims in the Court. Specifically, under the terms of this Settlement, Plaintiffs agrees to dismiss the Federal Court Actions within 5 days of the last signature on this Agreement, and will refile in the Court for purposes of effectuating this class action settlement (the “Action”), asserting similar false and/or deceptive advertising claims based on the claims the Federal Court Actions and allegations that Defendant’s advertisement of discounts on merchandise in its brick-and-mortar locations improperly leads consumers to believe that they are receiving a discount on their purchases.

B. Conditional Certification of Class. For Settlement purposes only, and without any finding or admission of any wrongdoing or fault by Defendant, and solely pursuant to the terms of this Agreement, the Parties consent to and agree to the establishment of a conditional certification of the Class Members pursuant to the applicable rules governing class actions. This certification is conditional on the Court’s approval of this Agreement. In the event the Court does not approve all material terms of the Agreement, or if the Agreement is voluntarily or involuntarily terminated for any reason, then certification of the Class Members shall be void and this Agreement and all orders entered in connection therewith, including but not limited to any order conditionally certifying the Class Members, shall become null and void and shall be of no further force and effect and shall not be used or referred to for any purposes whatsoever in the Action or in any other case or controversy. And, in such an event, this Agreement and all negotiations and proceedings

related thereto shall be deemed to be without prejudice to the rights of any and all Parties hereto, who shall be restored to their respective positions as of the date of this Agreement, and Defendant has not and shall not be deemed to have waived any opposition or defenses it has to any aspect of the claims asserted herein or to whether those claims are amenable to class-based treatment. Defendant supports certification of the Class Members for settlement purposes only. In the event the Settlement is not preliminarily approved, the Parties agree to resume settlement discussions in good faith for at least 21 days. If after 21 days, the Parties have not agreed to amended settlement terms, then the Parties agree to provide the Court with a proposed schedule within 21 days.

C. Relief for the Settlement Class Members: Authorized Claimants will each receive a Settlement Voucher. The Settlement Administrator will deliver Settlement Vouchers to Authorized Claimants by email within **thirty (30) calendar days** after the Effective Date. The Settlement Administrator will send the Settlement Voucher(s) to the most recent email address a Class Member used to make purchases at Ann Taylor Factory Stores or LOFT Outlet Stores, or, alternatively, the email address submitted on the Claim Form.

D. Releases:

1. Release of Defendant: Upon payment and distribution of all benefits owed under this Agreement (including all Settlement Vouchers, Administration Costs, and any Fee Award or Incentive Award ordered by the Court), except as to such rights or claims as may be created by this Agreement, and in consideration for the Settlement benefits described in this Agreement, Plaintiffs and the Settlement Class Members shall fully release and discharge the Released Parties from the Released Claims. This is notwithstanding that Plaintiffs and the Settlement 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 Action and/or the Released Claims herein.

E. Attorneys' Fees/Costs and Incentive Awards:

1. After the Court preliminarily approves the Settlement, Class Counsel may move the Court for a reasonable award of attorneys' fees and costs and expenses of up to

\$1,250,000 (“Fee Award”). Defendant agrees not to object to a request for a Fee Award up to this amount.

2. After the Court preliminarily approves the Settlement, Plaintiffs may apply to the Court for an Incentive Award in an amount not to exceed \$1,250 each, or \$5,000 total, for their participation as Class Representatives. Defendant agrees not to object to a request for an Incentive Award up to this amount.

3. Defendant will pay the Fee Award to Class Counsel via wire transfer within thirty (30) calendar days after entry of the Court’s Final Approval Order, subject to Class Counsel providing all payment routing information and tax identification numbers and completion of necessary forms, including but not limited to W-9 forms. Class Counsel shall be solely and legally responsible to pay all applicable taxes on the Fee Award. Court approval of attorneys’ fees, costs, and expenses, or their amount, will not be a condition of the Settlement. The Parties agree that any amount awarded as the Fee Award to Class Counsel less than the requested amount shall not be a basis for Plaintiffs or Class Counsel to void this Agreement. No interest shall be paid on the Fee Award to Class Counsel.

4. Defendant will pay any Incentive Award approved by the Court to Class Counsel’s client trust account via wire transfer within thirty (30) calendar days after the Effective Date, provided that Defendant has received W-9(s) and wiring information in advance of the Effective Date. Plaintiffs shall be solely and legally responsible to pay any and all applicable taxes on these payments. Court approval of the incentive award, or its amount, will not be a condition of the Settlement. The Parties agree that any amount awarded as the Incentive Awards to Plaintiffs less than the requested amount shall not be a basis for Plaintiffs or Class Counsel to void this Agreement.

5. Plaintiffs and Class Counsel agree to provide Defendant all identification information necessary to effectuate the payment of the Fee Award and the Incentive Award, including, but not limited to, Taxpayer Identification Number(s), and completed Internal Revenue Service Form(s) W-9.

6. Except for the Fee Award and Incentive Award to be paid to Class Counsel and Plaintiffs as specifically provided in this Agreement, Defendant does not agree to pay and shall not be responsible or liable under this Agreement for the payment of any attorneys' fees or expenses of Class Counsel, Plaintiffs, Class Members, and Settlement Class Members, any person or entity that may object to the Agreement, or any attorney who may represent any person or entity that may object to the Agreement, in connection with the Action or in connection with any claim that was or could have been alleged in the Action. Except as otherwise provided herein, each Party shall bear its own fees and costs.

IV. SETTLEMENT ADMINISTRATION AND NOTICE

A. All notice and claims administration activities shall be carried out exclusively by the Settlement Administrator.

B. Administration Costs: Defendant shall pay sums to cover any reasonable Administration Expenses to the Settlement Administrator as they become due. The Settlement Administrator shall be responsible for providing itemized invoices reflecting Administration Costs to the Parties.

C. Administration: The Settlement Administrator shall, under the supervision of the Court, administer the relief provided by this Settlement Agreement in a rational, responsive, cost effective, and timely manner. The Settlement Administrator shall maintain reasonably detailed records of its activities under this Agreement. The Settlement Administrator shall maintain all such records as are required by applicable law in accordance with its normal business practices and such records, other than the list of Class Members, will be made available to Defendant's Counsel upon request. The Settlement Administrator shall also provide reports and other information to the Court as the Court may require. The Settlement Administrator shall provide Class Counsel and Defendant's Counsel with information concerning Notice, administration, and implementation of the Settlement Agreement. Should the Court request, the Parties shall submit a timely report to the Court summarizing the work performed by the Settlement Administrator, including a report of the number of Vouchers provided to Settlement Class Members.

D. Known Class Members: Defendant will provide to the Settlement Administrator a list containing the names and email addresses of those individuals it is able to identify as Class Members through a reasonable search of its sales records, and for whom it has an email address.

E. Notice: The Settlement Administrator shall provide Class Notice in the forms approved by the Court, as detailed below, no later than thirty (30) calendar days after Preliminary Approval, or as otherwise ordered by the Court (the Notice Date).

1. Email Notice: The Settlement Administrator shall provide for Email Notice by sending an email substantially in the same form as **Exhibit B** to the email addresses for Class Members identified by Defendant in accordance with Section IV.D above.

2. Website Notice: The Settlement Administrator will establish and maintain the Settlement Website. The Settlement Website will be dedicated to the Settlement. On the Settlement Website will be posted the Long Form Notice, a copy of this Agreement, the Preliminary Approval Order, the Claim Form, and any other materials the Parties agree to include. The Settlement Website will also explain Class Members' right to opt out of or object to the Settlement and provide the dates to opt out of or object to the Settlement. The Settlement Website shall also state the date of the Fairness Hearing, that the date may change without further notice, and that Class Members should be advised to check the Settlement Website to confirm that the date has not been changed. These documents and information shall be available on the Settlement Website no later than the Notice Deadline and remain until thirty (30) calendar days after distribution of all Settlement Vouchers. The Settlement Website shall not include any advertising and shall not bear or include Defendant's logo.

3. Publication Notice: Unless otherwise ordered by the Court, within thirty (30) calendar days after the entry of the Preliminary Approval Order, the Settlement Administrator will publish a notice in a quarter (1/4) page advertisement of the Settlement in the National Edition of USA Today ("Publication Notice"). The text of the Publication Notice will be substantially similar to the form attached hereto as **Exhibit C**.

F. Final Tally: The Settlement Administrator shall provide weekly reports to counsel for Defendant and Plaintiffs stating the number of opt outs and objections received as well as the number of Claim Forms received from Class Members who did not receive Email Notice. The Settlement Administrator shall also provide a report to counsel for Defendant and Plaintiffs setting forth the total number of Settlement Vouchers distributed to Class Members. The Settlement Administrator shall provide Class Counsel with a declaration setting forth all pertinent information concerning the Class Members' response to the Settlement not later than seven (7) calendar days before Class Counsel's deadline to file the briefs in support of the Final Order and Judgment.

G. Plaintiffs and Defendant will cooperate, through counsel, with the Settlement Administrator in an effort to reasonably manage and reduce Administration Costs.

V. PROCEDURES FOR CLAIMS FORM PROCESS

A. Class Members who receive Email Notice (Known Class Members) as described in Section IV.D above, do not need to submit a Claim Form. Those Class Members will automatically receive a Settlement Voucher via email unless they opt out.

B. Class Members who did not receive Email Notice must complete and submit a valid Claim Form on or before the Claim Filing Deadline in order to receive a Settlement Voucher. For each such Class Member, the Settlement Administrator will send the Settlement Voucher to the email address specified on the Claim Form.

C. Date of Submission: The Claim Form may be submitted electronically or by postal mail. The delivery date is deemed to be the date (i) the Claim Form is deposited in the U.S. Mail as evidenced by the postmark, in the case of submission by U.S. mail, or (ii) in the case of submission electronically through the Settlement Website, the date the Settlement Administrator receives the Claim Form, as evidenced by the transmission receipt.

D. Fraud Prevention: The Settlement Administrator will use adequate and customary procedures and standards to prevent the payment of fraudulent claims. This may include measures such as using a Class Member identifier to access and file claims and/or validating claims against Defendant's records.

E. Right to Verify: The Settlement Administrator and/or Defendant may review all submitted Claim Forms for completeness, validity, accuracy, and timeliness, and may contact any Class Member, through the Settlement Administrator, to request additional information and/or documentation to determine the validity of any claim. In addition, the Settlement Administrator and/or Defendant may verify that (i) the information set forth in a submitted Claim Form is accurate; and (ii) the claimant is a Class Member.

F. Record-Keeping: The Settlement Administrator shall maintain records of all Claim Forms until sixty (60) days after all valid Claims have been finally resolved and the Settlement Administrator has issued payment to those Settlement Class Members who submitted valid Claims, and such records will be made available upon request to Plaintiffs' or Defendant's Counsel at the end of the sixty (60) day period. The Settlement Administrator also shall provide such reports, declarations, and such other information to the Court as the Court may require or as counsel for Plaintiffs or Defendant requests.

VI. PROCEDURES FOR OBJECTING TO OR REQUESTING EXCLUSION FROM SETTLEMENT

A. Objections: Any Class Member who has not submitted a timely written exclusion request and who wishes to object to the fairness, reasonableness, or adequacy of the Settlement Agreement must file written objections with the Court, with copies delivered to the Settlement Administrator, Defendant's Counsel and Class Counsel on or before the Objection/Exclusion Deadline.

1. The delivery date of any written objection is deemed to be the date the objection is deposited in the U.S. Mail, as evidenced by the postmark. It shall be the objector's responsibility to ensure receipt of any objection by the Settlement Administrator, Defendant's Counsel and Class Counsel.

2. Any written objections must contain: **(i)** the name and case number of the Action; **(ii)** the Class Member's full name, address, and telephone number; **(iii)** the words "Notice of Objection" or "Formal Objection"; **(iv)** in clear and concise terms, the legal and factual

arguments supporting the objection; **(iv)** facts supporting the person's status as a Class Member (e.g., the date and location of his/her qualifying purchase(s) and description of item(s) purchased); **(vi)** the Class Member's signature and the date; and **(vii)** the following language immediately above the Class Member's signature and date: "I declare under penalty of perjury under the laws of the State of California that the foregoing statements regarding class membership are true and correct to the best of my knowledge."

3. Any Class Member who submits a written objection, as described in this section, has the option to, but is not required to, appear at the Fairness Hearing, either in person or through personal counsel, hired at the Class Member's expense, to object to the fairness, reasonableness, or adequacy of the Settlement Agreement or to the award of attorneys' fees. However, Class Members (with or without their attorneys) intending to make an appearance at the Fairness Hearing must include on a timely and valid objection a statement substantially similar to "Notice of Intention to Appear." If an objecting Class Member (either with or without his or her attorney, or through his or her attorney acting on his or her behalf) intends to speak at the Fairness Hearing in support of the objection, the Class Member's objection must state this intention in a "Notice of Intention to Appear" served on the Settlement Administrator, Class Counsel and Defendant's Counsel no later than fifteen (15) calendar days before the Fairness Hearing. If the objecting Class Member intends to appear at the Fairness Hearing with or through counsel, he or she must also identify the attorney(s) representing the objector who will appear at the Fairness Hearing and include the attorney(s)' name, address, phone number, email address, and the state bar(s) to which counsel is admitted in the Notice of Intention to Appear. If the objecting Class Member (or the Class Member's counsel) intends to request the Court to allow the Class Member to call witnesses at the Fairness Hearing, such request must be made in the Class Member's written objection, which must also contain a list of any such witnesses and a summary of each witness's expected testimony. Only Class Members who submit timely objections, including Notices of Intention to Appear, may speak at the Fairness Hearing. If a Class Member makes an objection

through an attorney, the Class Member will be responsible for his or her personal attorneys' fees and costs.

B. Procedure for Requesting Exclusion: Class Members who wish to opt out of the Settlement must submit a written statement to the Settlement Administrator by the Objection/Exclusion Deadline. To be valid, each request for exclusion must: (a) state the Class Member's name, address, and phone number; (b) be signed by the Class Member; and (c) include the statement "I/we request to be excluded from the class settlement in *Binder et al., v. Premium Brands OpCo LLC*" and include the case number. No "class" or "mass" exclusions shall be permitted. Requests to opt-out that do not include all required information and/or that are not submitted on a timely basis, will be null, void, and ineffective. The date of the postmark on the mailing envelope shall be the exclusive means used to determine whether a Class Member's opt-out/exclusion request has been submitted timely. If the postmark is illegible, the opt-out/exclusion request shall only be deemed timely if it is received by the Settlement Administrator not less than two (2) calendar days before the Objection/Exclusion Deadline. Any Class Member who properly opts out of the Settlement Class using this procedure will not be entitled to any Settlement Voucher, will not be bound by the Settlement, and will not have any right to object, appeal or comment thereon. Class Members who do not submit a valid and timely request for exclusion on or before the Objection/Exclusion Deadline shall be bound by all terms of the Settlement and any final judgment entered in this litigation if the Settlement is approved by the Court, regardless of whether they ineffectively or untimely requested exclusion from the Settlement. However, the Parties, acting through the Settlement Administrator, may elect to treat otherwise untimely or invalid requests for exclusion as valid.

VII. PRELIMINARY APPROVAL OF SETTLEMENT

A. Preliminary Approval and Provisional Class Certification: Plaintiffs shall file their motion for preliminary approval of the Settlement Agreement as soon as practical after the Action is filed. The motion for preliminary approval of the Settlement Agreement and provisional Class certification shall request the Court to:

1. preliminarily approve this Settlement Agreement.
2. preliminarily approve the form, manner, and content of the Full Notice, Email Notice, Publication Notice, and Claim Form described in Sections IV and V above, and attached hereto as **Exhibits A-D**;
3. set the date and time of the Fairness Hearing;
4. provisionally certify the Class under California Rules of Court, rule 3.769(d), for Settlement purposes only;
5. stay all proceedings in the Action until the Court renders a final decision on approval of the Settlement and sets a briefing schedule for the papers in support of the Final Order;
6. conditionally appoint Plaintiffs as the Class Representatives for Settlement purposes only; and
7. conditionally appoint Todd D. Carpenter and Scott G. Braden of Lynch Carpenter LLP as Class Counsel for Settlement purposes only.

Defendant shall be permitted, but not required, to file its own brief or statement of non-opposition in support of the Preliminary Approval and Provisional Class Certification. In the event the Court does not enter a Preliminary Approval order like that described herein, or decides to do so only with substantial modifications, then the Parties have the right, but not the obligation, to terminate this Agreement and be fully restored to their respective positions *status quo ante*.

B. Defendant's agreement as to provisional certification is solely for purposes of effectuating the Settlement Agreement. Defendant retains all of its objections, arguments, and defenses with respect to class certification and any other issue, and reserves all rights to contest class certification and any other issue if the Settlement set out in this Agreement does not result in

entry of the Final Approval Order and Final Judgment, if the Court's approval is reversed or vacated on appeal, if this Settlement is terminated as provided herein, or if the Settlement set forth in this Settlement otherwise fails to become effective. The Parties acknowledge that there has been no stipulation to any classes or certification of any classes for any purpose other than effectuating the Settlement, and that if the Settlement set forth in this Settlement Agreement is not finally approved, if the Court's approval is reversed or vacated on appeal, if this Settlement Agreement is terminated as provided herein, or if the Settlement set forth in this Settlement Agreement otherwise fails to become effective, this Agreement as to certification of the Class Members becomes null and void ab initio, and this Settlement Agreement or any other settlement related statement may not be cited regarding certification of the Class, or in support of an argument for certifying any class for any purpose related to this Action or any other proceeding.

VIII. FINAL APPROVAL OF SETTLEMENT

A. Final Order and Judgment: Before the Fairness Hearing, Plaintiffs shall apply for Court approval of a proposed Final Order and Judgment. Class Counsel shall draft the motion papers. Defendant shall be permitted, but is not required, to file its own brief or statement of non-opposition in support of the Final Order and Judgment. Subject to the Court's approval, the Final Order and Judgment shall, among other things:

1. finally approve the Settlement Agreement as fair, reasonable and adequate;
2. finally certify the Class for Settlement purposes only, pursuant to California Code of Civil Procedure § 382;
3. find that the Notice and the Notice dissemination methodology complied with the Settlement Agreement, California Code of Civil Procedure § 382, California Rules of Court, rules 3.766 and 3.769, the California Constitution and United States Constitution;
4. issue orders related to the relief provided for in the Settlement Agreement, including distribution of the Vouchers, payment of Plaintiffs' Incentive Award, and

payment of Class Counsel's Fee Award;

5. incorporate the releases set forth in the Settlement Agreement;

6. dismiss the Action with prejudice; and

7. retain jurisdiction over the Action and the Parties relating to the administration, consummation, and/or enforcement of the Agreement and/or the Final Order and Judgment, and for any other necessary purpose.

B. The Parties agree that should the Court grant final approval of the proposed Settlement and enter Judgment, the Judgment shall include a provision for the retention of the Court's jurisdiction over the Parties to enforce the terms of this Settlement Agreement.

IX. PROPOSED SCHEDULE

For the convenience of the Parties and Settlement Class Members, below is a schedule of all proposed deadlines:

EVENT¹	PROPOSED DEADLINE
Notice Date (Last day for Settlement Administrator to send Email Notice, start operating Settlement Website, and begin the Publication Notice.)	30 calendar days after Preliminary Approval Order
Last Date for Class Counsel file the motion for the Fee Award	60 calendar days after Preliminary Approval Order
Claim Filing Deadline and Objection/Exclusion Deadline (Last day for Class Members to file a Claim, request exclusion or object to the Settlement)	105 calendar days after Preliminary Approval Order or 60 days after the Notice Date, whichever is later
Last day for Parties to file briefs in support of the Final Order and Judgment	10 calendar days before Fairness Hearing (i.e., Final Approval Hearing)

¹ In the event the Settlement is not preliminarily approved, the Parties agree to resume settlement discussions in good faith for at least 21 days. If after 21 days the Parties have not agreed to amended settlement terms, then the Parties agree to provide the Court with a proposed schedule within 21 days.

Issuance of Settlement Vouchers to Settlement Class Members	30 calendar days after the Effective Date
Payment of Attorneys' Fee Award	30 calendar days after Final Approval Order
Payment of Incentive Award	30 Days after Effective Date

The above deadlines will apply unless and until different deadlines are imposed by the Court. Any differing deadlines imposed by the Court will supersede the above deadlines.

X. PARTIES' AUTHORITY

The signatories each represent that they are fully authorized to enter into this Agreement and bind the Parties to its terms and conditions. Class Counsel in particular warrants that they are authorized to execute this Settlement Agreement on behalf of Plaintiffs and the Class Members (subject to the Court's appointment of counsel as Class Counsel and final approval by the Court after notice to all Settlement Class Members), and that all actions necessary for the execution of this Settlement Agreement have been taken.

X. MUTUAL FULL COOPERATION

The Parties agree to cooperate fully with each other to accomplish the terms of this Agreement, including but not limited to, execution of such documents and the taking of such other action as may reasonably be necessary to implement the terms of this Agreement. The Parties to this Agreement shall use their best efforts, including all efforts contemplated by this Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Agreement. As soon as practicable after execution of this Agreement, Class Counsel, with the assistance and cooperation of Defendant and its counsel, shall take all necessary steps to secure the Court's final approval of this Agreement.

XI. NO ADMISSION

This Agreement is not to be construed or deemed as an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant. Defendant denies all liability for claims asserted in the Action. Each of the Parties has entered into this Agreement with the intention to avoid further disputes and litigation with the attendant inconvenience and expenses. This Agreement is a settlement document and shall, pursuant to Fed. R. Evid. 408 and related or

corresponding state evidence laws, be inadmissible in evidence in any proceeding, action, arbitration, or hearing, including without limitation any litigation or regulatory proceeding or action, to establish liability. The preceding sentence shall not apply to an action or proceeding to approve or enforce this Agreement.

XII. NON-DISPARAGEMENT AND PUBLIC STATEMENTS

Plaintiffs and/or Class Counsel shall not, at any time, issue press releases, notify any media outlets, or make other public statements regarding the Settlement or the Action (apart from filings with the Court as necessary to obtain Preliminary or Final Approval of the Settlement, or to seek attorneys' fees, costs, or an incentive award as allowed by the Settlement) unless Defendant agrees to such press releases or public statements in advance. This provision shall not prohibit Class Counsel from communicating with any Class Member regarding the Settlement, nor from undertaking required disclosures about the Settlement to the Court, the Settlement Administrator, or the Class under applicable law or Court directive (subject to compliance with any and all applicable confidentiality obligations).

XIII. NOTICES

Unless otherwise specifically provided, all notices, demands or other communications in connection with this Agreement shall be in writing and shall be deemed served on the date of mailing by United States registered or certified mail, return receipt requested, addressed as follows:

<u>For The Classes</u>	<u>For Defendant</u>
Todd D. Carpenter Scott G. Braden LYNCH CARPENTER, LLP 1234 Camino del Mar Del Mar, CA 92014 todd@lcllp.com scott@lcllp.com	Stephanie Sheridan Meegan Brooks BENESCH, FRIEDLANDER, COPLAN & ARONOFF LLP 100 Pine Street, Suite 3100 San Francisco, CA 94111 ssheridan@beneschlaw.com mbrooks@beneschlaw.com

XIV. CONSTRUCTION

The Parties agree that the terms and conditions of this Agreement are the result of lengthy, intensive arms-length negotiations and drafting by and between the Parties, and that this Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party or his or its counsel participated in the drafting of this Agreement.

XV. MATERIAL TERMS; CAPTIONS

Each term of this Agreement is a material term of the Agreement not merely a recital and reflects not only the intent and objectives of the Parties but also the consideration to be exchanged by the Parties hereunder.

Paragraph titles or captions are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Agreement or any of its provisions.

XVI. INTEGRATION CLAUSE

This Agreement contains the entire agreement between the Parties relating to the Settlement, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or such Party's legal counsel, are extinguished.

XVII. NON-EVIDENTIARY USE

Neither this Agreement nor any of its terms shall be offered or received into evidence in the Action, or in any other action or proceeding; provided, however, that nothing contained in this section shall prevent this Agreement from being used, offered, or received in any proceeding to enforce, construe, or finalize this Agreement.

XVIII. NO COLLATERAL ATTACK

This Agreement shall not be subject to collateral attack by any Settlement Class Member or any recipient of the notices to the Settlement Class after the judgment and dismissal is entered. Such prohibited collateral attacks shall include claims that a Settlement Class Member's Settlement Voucher was improperly calculated or adjusted or that a Settlement Class Member failed to receive timely notice of the procedure for disputing the calculation of the individual

Settlement Voucher or failed to submit a timely dispute letter for any reason. Defendant, the Settlement Administrator, and all agents and employees thereof, agree to use best efforts in resolving any conflict or dispute regarding Settlement Voucher amounts with Settlement Class Members, however, Defendant shall have the ultimate decision-making authority in resolving such disputes.

XIX. AMENDMENTS

The terms and provisions of this Agreement may be amended only by a written agreement, which is both (1) signed by the Parties who have executed this Agreement and (2) approved by the Court.

XX. ASSIGNMENTS

None of the rights, commitments, or obligations recognized under this Agreement may be assigned by any Party or Settlement Class Member without the express written consent of each other Party hereto. The representations, warranties, covenants, and agreements contained in this Agreement are for the sole benefit of the Parties and Settlement Class Members under this Agreement and shall not be construed to confer any right or to avail any remedy to any other person.

Plaintiffs represent and warrant that they have not assigned any claim or right or interest therein as against the Released Parties to any other person, entity, or party, or the like, and that they are fully entitled to release the same.

XXI. GOVERNING LAW

This Agreement shall be governed by, construed, and interpreted and the rights of the Parties determined in accordance with the laws of the State of California, irrespective of the State of California's choice of law principles.

XXII. BINDING ASSIGNS

This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, trustees, executors, administrators, successors, and assigns.

XXIII. TAX CONSEQUENCES

No opinion concerning the tax consequences of this Settlement to any Settlement Class Member is given or will be given by Defendant, Defendant's Counsel, or Class Counsel, nor is any Party or his/her/its counsel providing any representation or guarantee respecting the tax consequences of the Settlement as to any Settlement Class Member. The Long Form Notice provided on the Settlement Website will direct Settlement Class Members to consult their own tax advisors regarding the tax consequences of the Settlement and any tax reporting obligations with respect thereto. Each Settlement Class Member is responsible for his/her taxes or tax reporting and other obligations respecting the Settlement, if any.

XXIV. SIGNATORIES

It is agreed that because the Class Members appear to be so numerous, it is impossible or impractical to have each member of the class execute this Agreement. The notice plan set forth herein will advise Class Members of all material terms of this Agreement, including the binding nature of the releases and thus shall have the same force and effect as if this Agreement were executed by each Class Member.

XXV. COUNTERPARTS

This Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Agreement, which shall be binding upon and effective as to all Parties and the Class Members. This Agreement may be delivered originally or by email or other electronic means, and the delivered image or electronic signature shall be treated as an original.

XXVI. CONTINUING JURISDICTION

The Court shall retain exclusive and continuing jurisdiction to interpret and enforce the terms, conditions, and obligations of this Agreement and its own orders and judgments. In the event of a breach by Defendant, a Settlement Class Member or Class Counsel under this Agreement, the Court may exercise all equitable powers over Defendant, such Settlement Class

Member or Class Counsel to enforce this Agreement and the Final Order and Judgment irrespective of the availability or adequacy of any remedy at law. Such powers include, among others, the power of specific performance and injunctive relief.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the dates indicated below:

CLASS REPRESENTATIVE AND CLASS COUNSEL:

Dated: 2/11/2025

By: _____

DocuSigned by:

Demetra S Binder

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Demetra Binder, individually and on behalf of the Settlement Class

Dated: _____ By: _____

Angela Waldner, individually and on behalf of the Settlement Class

Dated: _____ By: _____

Christina Calcagno, individually and on behalf of the Settlement Class

Dated: _____ By: _____

Deborah O'Dea, individually and on behalf of the Settlement Class

DEFENDANT AND COUNSEL FOR DEFENDANT:

PREMIUM BRANDS OPCO LLC

Dated: _____ By: _____

Member or Class Counsel to enforce this Agreement and the Final Order and Judgment irrespective of the availability or adequacy of any remedy at law. Such powers include, among others, the power of specific performance and injunctive relief.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the dates indicated below:

CLASS REPRESENTATIVE AND CLASS COUNSEL:

Dated: _____ By: _____

Demetra Binder, individually and on behalf of the
Settlement Class

Dated: 2/15/2025 By: _____

DocuSigned by:
Angela Waldner
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Angela Waldner, individually and on behalf of the
Settlement Class

Dated: _____ By: _____

Christina Calcagno, individually and on behalf of the
Settlement Class

Dated: _____ By: _____

Deborah O'Dea, individually and on behalf of the
Settlement Class

DEFENDANT AND COUNSEL FOR DEFENDANT:

PREMIUM BRANDS OPCO LLC

Dated: _____ By: _____

Member or Class Counsel to enforce this Agreement and the Final Order and Judgment irrespective of the availability or adequacy of any remedy at law. Such powers include, among others, the power of specific performance and injunctive relief.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the dates indicated below:

CLASS REPRESENTATIVE AND CLASS COUNSEL:

Dated: _____ By: _____

Demetra Binder, individually and on behalf of the
Settlement Class

Dated: _____ By: _____

Angela Waldner, individually and on behalf of the
Settlement Class

Dated: 2/14/2025 By: _____

DocuSigned by:
Christina Calcagno
68F5C7425B81499...

Christina Calcagno, individually and on behalf of the
Settlement Class

Dated: _____ By: _____

Deborah O'Dea, individually and on behalf of the
Settlement Class

DEFENDANT AND COUNSEL FOR DEFENDANT:

PREMIUM BRANDS OPCO LLC

Dated: _____ By: _____

Member or Class Counsel to enforce this Agreement and the Final Order and Judgment irrespective of the availability or adequacy of any remedy at law. Such powers include, among others, the power of specific performance and injunctive relief.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the dates indicated below:

CLASS REPRESENTATIVE AND CLASS COUNSEL:

Dated: _____ By: _____

Demetra Binder, individually and on behalf of the
Settlement Class

Dated: _____ By: _____


Angela Waldner, individually and on behalf of the
Settlement Class

Dated: _____ By: _____

Christina Calcagno, individually and on behalf of the
Settlement Class

Dated: 1/31/2025

By: _____

Signed by:

8E1E3CD5ED8A110...

Deborah O'Dea, individually and on behalf of the
Settlement Class

DEFENDANT AND COUNSEL FOR DEFENDANT:

PREMIUM BRANDS OPCO LLC

Dated: _____ By: _____

Member or Class Counsel to enforce this Agreement and the Final Order and Judgment irrespective of the availability or adequacy of any remedy at law. Such powers include, among others, the power of specific performance and injunctive relief.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the dates indicated below:

CLASS REPRESENTATIVE AND CLASS COUNSEL:

Dated: _____ By: _____

Demetra Binder, individually and on behalf of the
Settlement Class

Dated: _____ By: _____

Angela Waldner, individually and on behalf of the
Settlement Class

Dated: _____ By: _____

Christina Calcagno, individually and on behalf of the
Settlement Class


Dated: _____ By: _____

Deborah O'Dea, individually and on behalf of the
Settlement Class

DEFENDANT AND COUNSEL FOR DEFENDANT:

PREMIUM BRANDS OPCO LLC

Dated: 1/28/2025

Signed by:

D43F92CA6812402
Mara Calame