

**CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE**

This Settlement Agreement and Release (the “Settlement” or the “Agreement”) is made and entered by and between Plaintiff Debbie Lei (“Plaintiff” or “Class Representative”), individually and on behalf of the Settlement Class (as defined herein), and Defendant Zazzle Inc. (“Zazzle” or “Defendant”), and is subject to approval in the action *Debbie Lei v. Zazzle Inc.* to be filed in the Superior Court of the State of California (the “Court”).

**I. 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 Plaintiff in the Superior Court of the State of California pursuant to this Agreement.

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 in the Settlement Class.

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

E. “**Class Counsel**” means Simon Franzini and Grace Bennett of Dovel & Luner, LLP.

F. “**Class Period**” means September 11, 2019 to September 25, 2023.

G. “**Defendant**” means Zazzle Inc.

H. “**Defendant’s Counsel**” means Benesch Friedlander Coplan & Aronoff LLP.

I. “**Effective Date**” means: if there are no objections, the date of Final Approval; 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.

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

K. **“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.

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

M. **“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.

N. **“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.

O. **“Incentive Award”** means a reasonable payment, subject to Court approval, made to the named Plaintiff as compensation for her efforts and diligence in pursuing this Action.

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

Q. **“Membership Benefit(s)”** means the automatic enrollment of Settlement Class Members in a free one-month subscription to Zazzle Plus. Such enrollment will be triggered by a Class Member’s use of a Settlement Voucher when a placing an order on Zazzle.com. More information on Membership Benefits is included in Section III.C.

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

S. **“Objection/Exclusion Deadline”** means the deadline to object or seek exclusion from the Settlement, which shall be the date that is thirty (30) days after the Notice Date, or such other date set by the Court.

T. **“Parties”** or **“Party”** means the Class Representative and Defendant.

U. **“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.

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

W. **“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, of every nature and description whatsoever, whether based on the Consumer Legal Remedies Act (CLRA), 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 any facts, transactions, events, matters, occurrences, acts, disclosures, statements, representations, omissions, or failures to act regarding the allegations set forth in Class Representative’s demand letter, including all claims that were brought or could have been brought in the Action relating to such claims.

X. **“Released Parties”** means Defendant Zazzle Inc., 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, but only in their capacity as such.

Y. **“Releasing Parties”** means Plaintiff, those Settlement Class Members who do not timely opt out of the Settlement Class, 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, but only in their capacity as such.

Z. **“Settlement Administrator”** means the third-party agent or administrator agreed to by the Parties and appointed by the Court. The Parties agree that, subject to the Court’s approval, and subject to Defendant’s consent which shall not be unreasonably withheld, Plaintiff shall select an independent entity to implement the Class Notice requirements of this Agreement. Plaintiff will attempt to negotiate a fair price for the settlement administration services with the Settlement Administrator.

AA. **“Settlement Award(s)”** means the Settlement Vouchers and Membership Benefits provided to Settlement Class Members.

BB. **“Settlement Class”** means:

- All persons who, while in the states of California or Washington, purchased one or more products at a purported discount on Defendant’s website Zazzle.com from July 1, 2020 to September 25, 2023.
- All persons who, while in the states of Oregon, purchased one or more products at a purported discount on Defendant’s website Zazzle.com from July 1, 2023 to September 25, 2023.

- Explicitly excluded from the Settlement Class are persons who did not receive a purported discount on any of their Zazzle.com purchases, and instead paid the list prices for each item purchased.

Excluded from the Settlement Class 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 on the Defendant's website, Zazzle.com, underlying the claims in the operative complaint in the Action.

CC. “**Settlement Class Member(s)**” means any member of the Settlement Class who has not submitted a valid request for exclusion.

DD. “**Settlement Voucher(s)**” means the \$5 credits issued to each Settlement Class Member, which can be applied toward any purchase made on Zazzle.com. One Settlement Voucher will be issued automatically to each Settlement Class Member. Class Members who spent more than \$35 on Zazzle.com during the Class Period will receive a second Settlement Voucher. Settlement Vouchers are subject to additional terms and conditions, as set forth in Section III.C.

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

FF. “**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.

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

## **II. LITIGATION BACKGROUND**

A. Plaintiff Debbie Lei alleges that, during the Class Period, Defendant deceptively advertised discounts of its products on its website, Zazzle.com. Based on these allegations, Plaintiff sent a notice and demand letter to Defendant outlining Defendant’s allegedly deceptive practices and explaining her intent to file a class action lawsuit, on September 7, 2023. Shortly after Plaintiff sent her notice letter, the Parties began communicating about possible settlement, and agreed that Plaintiff would hold off on filing her lawsuit while the Parties mediated this case. Plaintiff alleges violations of certain consumer protection statutes, as well as claims for breach of contract, breach of express warranty, quasi-contract/unjust enrichment, and intentional and

negligent misrepresentation. She seeks injunctive relief, compensatory damages, and restitution in amounts by which Defendant was allegedly unjustly enriched based on its product sales.

B. The Parties began discussing settlement in September 2023, and engaged in negotiations regarding Plaintiff's allegations over a nine-month period. The Parties scheduled a mediation, and, in the lead up to it, exchanged informal discovery, including financial and sales records relevant to the claims and alleged damages. The Parties prepared comprehensive mediation briefs that discussed the claims, defenses, and alleged damages in detail. And Plaintiff also provided a draft Complaint asserting her allegations in detail.

C. The Parties participated in an in-person mediation in San Francisco on March 20, 2024, with the Honorable Edward Infante (Ret.) of JAMS. The Parties did not reach a settlement but continued to engage in extensive and contentious negotiations over the following weeks, including through independent follow-up calls with the mediator. On April 5, 2024, Judge Infante issued a mediator's proposal on remaining issues in the negotiations. The Parties accepted this proposal and reached an agreement on April 9, 2024.

D. As a result of these lengthy, substantive, and good faith negotiations, the Parties had sufficient information to assess the strengths and weaknesses of the claims and defenses.

E. Based on the above-outlined investigation and litigation, the current state of the law, the expense, burden and time necessary to prosecute the Action through trial and possible appeals, the risks and uncertainty of further prosecution of this Action 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, Plaintiff 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 Settlement Class in light of all known facts and circumstances.

F. At all times, Defendant has expressly denied and continues to deny any liability or wrongdoing of any kind or that Plaintiff or any putative Class member has been damaged in any amount or at all in connection with the claims alleged in the Action, and further contends that, for

any purpose other than Settlement, this Action is not appropriate for class treatment. Defendant does not admit or concede any actual or potential fault, wrongdoing, or liability against it in the Action or any other actions. Defendant maintained during the entire pendency of the Action, 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 the Action 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 Release Parties, with respect to any claim of any fault or liability or wrongdoing or damage whatsoever.

G. 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 Actions which exist between the Parties. Therefore, it is the intention of Plaintiff and the Settlement Class that this Agreement shall constitute a full and complete Settlement and release of the Released Claims against Defendant.

### **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 Plaintiff shall file a class action complaint naming herself as the named Plaintiff and asserting claims in the Superior Court of the State of California.

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 Settlement Class 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 Settlement Class shall be void and this Agreement and all orders entered in connection therewith, including but not limited to any order conditionally certifying the Settlement Class, 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 Settlement Class 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.

1. Benefits to Settlement Class Members: Subject to the rights, terms, and conditions of this Agreement, every Settlement Class Member will automatically receive a website purchase credit (Settlement Voucher) in the amount of \$5. Class Members who spent more than \$35 (inclusive of shipping and handling costs, but exclusive of tax) will receive two \$5 website purchase credits. The final number of Settlement Class Members will be established when Defendant provides the Class List to the Settlement Administrator. In addition to the Settlement Vouchers, each Settlement Class Member who uses a Settlement Voucher will receive a one-month free membership (Membership Benefit) in Zazzle Plus, discussed below.

2. Settlement Voucher Delivery: The Settlement Administrator will provide a \$5 Settlement Voucher to each Settlement Class Member without any requirement for the Settlement Class Member to fill out a claim form or take any other affirmative action. The Settlement Administrator, with consultation with Defendant if needed, will provide a second \$5

Settlement Voucher to each Settlement Class Member who spent more than \$35 on Zazzle.com during the Class Period. The Settlement Administrator will deliver Settlement Vouchers to Settlement Class Members by email within **fourteen (14) 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 on Zazzle.com.

3. Use of Settlement Vouchers: Settlement Vouchers can be used to make any purchase of any product on Zazzle.com, with no restriction. Settlement Vouchers can be combined with any other discount or offer, and are freely transferable. Settlement Vouchers are stackable and can be combined, meaning that Class Members who receive two Settlement Vouchers can choose to apply both (or \$10) to one order. Settlement Vouchers are a one-time use. Settlement Vouchers can be used at any time, with no blackout dates, for a period of at least one year after they are distributed.

4. Membership Benefit Delivery and Use: Zazzle will provide Settlement Class Members with a one-month free membership in its “Zazzle Plus” program (Membership Benefit). The Membership Benefit will begin when a Settlement Class Member makes a purchase using a Settlement Voucher and will provide Settlement Class Members with all benefits included with a Zazzle Plus membership, including free shipping on that purchase to any location in the continental United States, as well as Alaska and Hawaii (and unlimited free shipping on any other Zazzle purchases during the duration of the Membership Benefit). For the avoidance of doubt, unlimited free shipping will apply to the purchase using a Settlement Voucher that triggers distribution of the Membership Benefit. Membership Benefits will automatically end after one month and will not automatically renew or be converted into a paid Zazzle Plus membership, whether on an opt-out or opt-in basis, and Class Members will have no obligation to cancel or otherwise end their Zazzle Plus membership. Under no circumstances will Class Members be charged for the free membership in Zazzle Plus provided under this Agreement, and the Zazzle Plus membership will not automatically renew.

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 awarded 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, Plaintiff and the Settlement Class shall fully release and discharge the Released Parties from the Released Claims, including all claims, demands, actions, and causes of action of any kind or nature whatsoever, whether at law or equity, arising under federal, state, or local law, that Plaintiff or Settlement Class Members ever had, now have, or may have against the Released Parties in any other court, tribunal, arbitration panel, commission, or agency, or before any governmental and/or administrative body, or any other adjudicatory body, on the basis of or arising from the Released Parties' representations, advertising, marketing and/or sales on the Defendant's website, Zazzle.com, during the Class Period, which were alleged in the operative complaint, or which arise from the same facts and claims alleged in the operative complaint in the Action. This is notwithstanding that Plaintiff and the Settlement Class 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. The Released Claims shall include all claims that have or could have been asserted by any or on behalf of any Settlement Class Member in the Action that are based on or arise out of the same factual predicate as the Action.

E. Attorneys' Fees/Costs and Incentive Awards.

1. As part of this Settlement, Defendant has agreed to pay Class Counsel reasonable attorneys' fees and costs, as approved by the Court, of up to \$650,000, without reducing the amount of money available to provide Settlement Awards to Class Members, or reducing the amount of money available to pay for the work performed by the Settlement Administrator. 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 \$650,000 ("Fee Award").

Defendant agrees that a Fee Award of up to \$650,000 is reasonable, and agrees not to object to a request for a Fee Award up to this amount. Should the Court award less than the full \$650,000 available to pay for Class Counsel's Fee Award, any difference between the \$650,000 made available and the amount actually awarded by the Court shall be divided and distributed in equal amounts to Settlement Class Members as Settlement Vouchers. Under no circumstances shall any of the \$650,000 made available to pay for Class Counsel's Fee Award revert to or be kept by Defendant.

2. As part of this Settlement, Defendant has agreed to pay Plaintiff Debbie Lei an Incentive Award of up to \$2,500. After the Court preliminarily approves the Settlement, named Plaintiff Debbie Lei may apply to the Court for an Incentive Award in an amount not to exceed \$2,500, for her participation as Class Representative. Defendant agrees that an Incentive Award of up to \$2,500 is reasonable, and 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 Judgment, subject to Class Counsel providing all payment routing information and tax I.D. numbers and completion of necessary forms, including but not limited to W-9 forms. Court approval of attorneys' fees, costs, and expenses, or their amount, will not be a condition of the Settlement. 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. Court approval of the incentive award, or its amount, will not be a condition of the Settlement.

4. Plaintiff 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.

5. Except for the Fee Award and Incentive Award to be paid to Class Counsel and Plaintiff 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, Plaintiff, the Settlement Class, 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.

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 will be made available to Class Counsel and 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. Notice.

1. Defendant will provide the Settlement Administrator a customer list of Settlement Class Members, including name, the California, Washington, or Oregon shipping address associated with each Settlement Class Member's most recent purchase to a California, Washington, or Oregon address, the most current email associated with a purchase on Zazzle.com, and the Settlement Class Members who have spent more than \$35 on Zazzle.com during the Class Period, for the purpose of administering the settlement reached pursuant to this Agreement.

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

3. Email Notice. The Settlement Administrator shall provide for Email Notice by sending an email substantially in the same form as **Exhibit A** to the email addresses for Settlement Class Members identified by Defendant. This contact information for the Settlement Class Members will be shared with the Settlement Administrator but not Class Counsel.

4. 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, a webpage to provide email addresses, and any other materials the Parties agree to include. The Settlement Website will also explain Settlement 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 Settlement 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 30 days after distribution of all Settlement Awards. The Settlement Website shall not include any advertising and shall not bear or include Defendant's logo or trademarks.

5. Toll-Free Number. The Settlement Administrator shall establish and host an automated case-specific toll-free number to allow Class Members to learn more and to request further information about the Action.

E. Final Tally. The Settlement Administrator shall provide weekly reports to counsel for Defendant and Plaintiff stating the number of opt outs and objections received. The Settlement Administrator shall also provide a report to counsel for Defendant and Plaintiff setting forth the total number of Settlement Vouchers distributed to Class Members.

F. Class Counsel and Defendant will cooperate with the Settlement Administrator in an effort to reasonably manage and reduce Administration Costs.

**V. PROCEDURES FOR OBJECTING TO OR REQUESTING EXCLUSION FROM SETTLEMENT**

A. Objections. Only Settlement Class Members may object to the Settlement. A Settlement Class Member who wishes to object to the Settlement must do so in writing by the Objection/Exclusion Deadline. All written objections and supporting papers must (a) contain and clearly identify the case name and number; and (b) be mailed to the Settlement Administrator. The Settlement Administrator will provide any written objections received to Class Counsel within five (5) calendar days, and Class Counsel will file them with the Court. Written objections must also contain: (1) the full name, address and telephone number of the Settlement Class Member; (2) a written statement of all grounds for the objection accompanied by legal support for the objection (if any); (3) any papers, briefs or other documents upon which the objection is based; (4) a list of all persons who will be called to testify in support of the objection (if any); (5) a statement of whether the Settlement Class Member intends to appear at the Fairness Hearing; (6) proof of membership in the Class, or a signed statement attesting, under penalty of perjury, that they were a California, Washington, or Oregon resident who purchased one or more products from Defendant's website during the Class Period; (7) a list of all objections filed by the objector and/or his or her counsel to class action settlements in the last three years; and (8) the signature of the Settlement Class Member and her or his counsel, if any. No Settlement Class Member shall be

heard at the Fairness Hearing (whether personally or through counsel) unless written notice of the Settlement Class Member's intention to appear at the Fairness Hearing, and copies of any written objections or briefs, have been timely submitted to the Court. The date of the postmark on the mailing envelope or a legal proof of service accompanied by a file-stamped copy of the submission shall be the exclusive means used to determine whether an objection and/or notice of intention to appear has been timely filed and served. If the postmark is illegible, the objection and/or notice to appear shall be deemed untimely unless it is received by the Settlement Administrator within **two (2) calendar days** of the Objection/Exclusion Deadline. Settlement Class Members who fail to timely submit a written objection in the manner specified above shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement. Class Counsel shall, at least **fourteen (14) calendar days** (or such other number of days as the Court shall specify) before the Fairness Hearing, file any responses to any written objections submitted to the Court by Settlement Class Members in accordance with this Agreement.

B. Procedure for Requesting Exclusion. Settlement Class Members who wish to opt out of this 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 Settlement Class Member's name, address, and phone number; (b) be signed by the Settlement Class Member; and (c) include the statement "I/we request to be excluded from the class settlement in *Debbie Lei v. Zazzle Inc.*" 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 Settlement Class Member's opt-out/exclusion request has been timely submitted. If the postmark is illegible, the opt-out/exclusion request shall be deemed untimely unless it is received by the Settlement Administrator within **two (2) calendar days** of the Objection/Exclusion Deadline. Any Settlement Class Member who properly opts out of the Settlement Class using this procedure will not be

entitled to any Settlement Award, will not be bound by the Settlement, and will not have any right to object, appeal or comment thereon. Settlement Class Members who fail to 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.

C. Termination Right. At their discretion, each Party has the unconditional right, but not the obligation, to terminate this Agreement if the total number of opt-outs exceeds 5% of the Settlement Class.

## **VI. PRELIMINARY APPROVAL OF SETTLEMENT**

A. Following full execution of this Agreement, Plaintiff will move the Court for entry of a Preliminary Approval Order that specifically includes provisions that: (a) preliminarily approve the Settlement as fair, adequate and reasonable to the Settlement Class, and within the reasonable range of possible final approval; (b) conditionally certify the Settlement Class for Settlement purposes only and appoint Class Counsel as counsel for the Settlement Class for Settlement purposes only; (c) approve the forms of Class Notice and find that the notice constitutes the best notice practicable under the circumstances, provides due and sufficient notice to the Settlement Class and fully satisfies the requirements of due process and the applicable rules governing class action settlements; (d) direct that notice be provided to the Settlement Class, in accordance with this Agreement, by the Notice Deadline; (e) establish a procedure for persons in the Settlement Class to object to the Settlement or exclude themselves from the Settlement Class by the Objection/Exclusion Deadline, after which no one shall be allowed to object to the Settlement or exclude himself or herself from the Settlement Class or seek to intervene; (f) pending final determination of whether the Settlement should be approved, bar all persons in the Settlement Class from commencing or prosecuting against any of the Released Parties any action, arbitration, or proceeding in any court, arbitration forum or tribunal asserting any of the Released Claims; (g) pending final determination of whether the Settlement should be approved, stay all proceedings

in the Action except those related to effectuation of the Settlement; (h) schedule the Fairness Hearing on Final Approval of the Settlement; and (i) provide that, in the event the proposed Settlement set forth in this Agreement is not approved by the Court, or in the event that this Agreement becomes null and void pursuant to its terms, this Agreement and all orders entered in connection therewith, including but not limited to any order conditionally certifying the Settlement Class, 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 that 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. 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.

B. Defendant's agreement as to certification of the Settlement Class is solely for purposes of effectuating the Settlement and no other purpose. 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 Settlement Class 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.

**VII. FINAL APPROVAL OF SETTLEMENT**

Not later than **seventy-five (75) calendar days** after Preliminary Approval, or on a date ordered by the Court, Plaintiff shall file a Motion for Final Approval of the Settlement. Plaintiff shall request that the Court enter a Final Approval Order that specifically includes provisions that:

(a) finally approve the Settlement as fair, reasonable and adequate to the Settlement Class Members; (b) find that the Class Notice as given was the best notice practicable under the circumstances, is due and sufficient notice to the Settlement Class and fully satisfies the requirements of due process and the applicable rules governing class action settlements; (c) approve the plan of distribution of the Settlement Awards; (d) finally certify the Settlement Class; (e) confirm that Plaintiff and the Settlement Class Members have released all Released Claims and are permanently barred and enjoined from asserting, commencing, prosecuting or continuing any of the Released Claims against the Released Parties; and (f) dismiss the Action with prejudice, without costs to any Party, except as provided in this Agreement, and subject to the Court’s retaining continuing jurisdiction over the Parties for the purpose of enforcement of the terms of this Agreement.

**IX. PROPOSED SCHEDULE**

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

<b>EVENT<sup>1</sup></b>	<b>PROPOSED DEADLINE</b>
Notice Date	30 Days After Preliminary Approval Order
Objection/Exclusion Deadline	30 Days After Notice Date
Motion for Final Approval	75 Days After Preliminary Approval Order
Class Counsel to File Responses to Any Written Objections	14 Days Before Final Approval Hearing
Final Approval Hearing	As Set By the Court
Effective Date	Final Approval (assuming no objections)

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<sup>1</sup> 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.

Settlement Vouchers to Settlement Class Members	14 Days After Effective Date
Payment of Attorneys' Fee Award	30 Days After Final Judgment
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 Plaintiff and the Settlement Class (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**

Plaintiff 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; provided that Class Counsel may post Court orders regarding the Action and brief summaries of those orders on their website(s) without permission from Defendant, so long as any reference in such order(s) to materials subject to any confidentiality obligations are properly redacted. This provision shall not prohibit Class Counsel from communicating with any person in the Settlement Class 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:

<b><u>For The Class</u></b>	<b><u>For Defendant</u></b>
Simon Franzini DOVEL & LUNER, LLP 201 Santa Monica Blvd., Suite 600 Santa Monica, California 90401 simon@dovel.com	Meegan Brooks BENESCH, FRIEDLANDER, COPLAN & ARONOFF LLP 100 Pine Street, Suite 3100 San Francisco, CA 94111 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 Award 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 Award or failed to submit a timely dispute letter for any reason.

**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.

Plaintiff represents and warrants that she has 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 she is 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. CLASS COUNSEL SIGNATORIES**

It is agreed that because the Settlement Class appears 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 Settlement 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 Settlement 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 Settlement Class. 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**

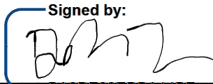
The Superior Court of the State of California shall retain exclusive and continuing jurisdiction to interpret and enforce the terms, conditions, and obligations of this Agreement and its own orders and judgments. In the event of a breach by Defendant, a Settlement Class Member or Class Counsel under 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:

*[Signatures on following pages.]*

**CLASS REPRESENTATIVE AND CLASS COUNSEL:**


Dated: 10/1/2024

By:  Signed by:  
BA0DE09EDBA14BE...

Debbie Lei, individually and on behalf of the Settlement Class

DOVEL & LUNER, LLP

Dated: 10/1/2024

By:  DocuSigned by:  
Simon Franzini  
5ABC15D58A40496...

Simon Franzini  
Attorney for Plaintiffs

**DEFENDANT AND COUNSEL FOR DEFENDANT:**

ZAZZLE INC.


Dated: 9/27/2024

By:   
\_\_\_\_\_  
JASON KANG

CFO

BENESCH, FRIEDLANDER, COPLAN  
& ARONOFF LLP

Dated: 9/27/2024

By:   
\_\_\_\_\_  
Meegan Brooks  
Attorney for Defendant