

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

MICHAEL GOLDEMBERG, ANNIE LE, and
HOWARD PETLACK, on behalf of
themselves and all others similarly situated,

Plaintiffs,

vs.

JOHNSON & JOHNSON CONSUMER
COMPANIES, INC.,

Defendant.

Case No.: 7:13-cv-03073-NSR-LMS

Hon. Nelson S. Román

JOINT STIPULATION OF SETTLEMENT

I. RECITALS

A. This Joint Stipulation of Settlement (“Agreement”) is entered into by and among Plaintiffs, Michael Goldemberg (“Goldemberg”), Annie Le (“Le”), and Howard Petlack (“Petlack”) (collectively “Plaintiffs”), on behalf of themselves and the Settlement Class Members, and Defendant, Johnson & Johnson Consumer Companies, Inc., presently organized under Johnson & Johnson Consumer, Inc., (“J&JCC” or “Defendant”), and resolves in full this Action. Capitalized terms used herein are defined in Section II of this Agreement or indicated in parentheses elsewhere in this Agreement. Subject to Court approval as required by the applicable Federal Rules of Civil Procedure, and as provided herein, Plaintiffs and Defendant (“the Parties”) hereby stipulate and agree that, in consideration for the promises and covenants set forth in the Agreement and upon the entry by the Court of a Final Judgment and Order Approving Settlement and the occurrence of the Effective Date, this Action shall be settled and compromised upon the terms and conditions contained herein.

B. WHEREAS, on April 8, 2013, Plaintiff Goldemberg sent Defendant a notice letter and draft Complaint regarding a potential civil action to be filed in the United States District Court for the Southern District of New York regarding certain of J&JCC's products. Thereafter, on May 7, 2013, Plaintiff Goldemberg filed a class action complaint against Defendant asserting a claim under New York's consumer-protection statute for deceptive acts and practices, as well as New York common law claims for breach of express warranty and unjust enrichment, regarding Defendant's Aveeno Active Naturals Products (the "Aveeno Products"), advertised as "Active Naturals." *Goldemberg v. Johnson & Johnson Consumer Cos., Inc.*, No. 7:13-cv-03073-NSR (S.D.N.Y.) (the "Action"). Subsequently, on July 16, 2014, Plaintiff Goldemberg, along with Plaintiffs Le and Petlack, filed an Amended Complaint in the Southern District of New York. In addition to the three claims asserted in the original complaint, the Amended Complaint raised causes of action for intentional misrepresentation under New Jersey common law; false advertising, unfair and unlawful business acts or practices, and unfair methods of competition and unfair or deceptive acts or practices under California's consumer-protection statutes; breach of express warranty under California common law; and unfair or deceptive acts or practices in the conduct of trade or commerce under Florida's consumer-protection statute. On August 29, 2014, Plaintiffs filed a Second Amended Complaint ("SAC") that removed the claim for intentional misrepresentations under New Jersey common law and otherwise reasserted the claims in the Amended Complaint. J&JCC filed an Answer to the SAC on September 18, 2014 denying the allegations and claims asserted in the SAC.

C. WHEREAS, on October 4, 2016, the Court certified damages classes of individuals who purchased certain Aveeno Products in New York, California, and Florida during the class period. In addition, the Court certified Rule 23(b)(2) classes for injunctive relief.

D. WHEREAS, counsel for all Parties have reached the resolution set forth in this Agreement, providing for, among other things, the settlement of the Action between and among Plaintiffs, on behalf of themselves and the Settlement Class, and Defendant on the terms and subject to the conditions set forth below; and

E. WHEREAS, Class Counsel have determined that a settlement of this Action on the terms reflected in this Agreement is fair, reasonable, adequate, and in the best interests of Plaintiffs and the Settlement Class; and

F. WHEREAS, Defendant, to avoid the costs, disruption, and distraction of further litigation, and without admitting the truth of any allegations made in the Action, or any liability with respect thereto, has concluded that it is desirable that the claims against it be settled and dismissed on the terms reflected in this Agreement.

NOW, THEREFORE, this Agreement is entered into by and among the Parties, by and through their respective counsel and representatives, and in consideration of the mutual promises, covenants, and agreements contained herein and for value received, the Parties agree that: (1) upon the Effective Date, the Action and all Released Claims shall be settled and compromised as between Plaintiffs and the Settlement Class on the one hand, and J&JCC on the other hand; and (2) upon final approval of the Agreement, the Final Judgment and Order Approving Settlement shall be entered dismissing the Action with prejudice and releasing all Released Claims against the Released Parties.

II. DEFINITIONS

A. As used in this Agreement and the attached exhibits (which are an integral part of the Agreement and are incorporated in their entirety by reference), the following terms shall have the meanings set forth below, unless this Agreement specifically provides otherwise:

1. “Action” means *Goldemberg v. Johnson & Johnson Consumer*

Companies, Inc., Case No. 7:13-cv-03073-NSR (S.D.N.Y.).

2. “Agreement” means this Joint Stipulation of Settlement (including all exhibits attached hereto).

3. “Attorneys’ Fees and Expenses” means such attorneys’ fees and expenses as may be awarded by the Court to compensate Class Counsel (subject to Court approval), as described more particularly in Section X of this Agreement.

4. “Authorized Claimant(s)” means any Settlement Class Member who submits a valid Claim Form.

5. “Award” means the relief obtained by Settlement Class Members pursuant to Section IV of this Agreement.

6. “Claim” means a request for relief submitted by a Settlement Class Member on a Claim Form to the Settlement Administrator in accordance with the terms of the Agreement.

7. “Claim Form” means the form to be used by a Settlement Class Member to submit a Claim to the Settlement Administrator. The proposed Claim Form is subject to Court approval and attached hereto as Exhibit 5.

8. “Claims Deadline” means the date by which all Claim Forms must be postmarked or submitted online to the Settlement Administrator to be considered timely. The Claims Deadline shall be stated in the Preliminary Approval Order, Class Notice, on the Settlement Website, and in the Claim Form, and shall be no later than the 120th Day after the date of the first publication of the Long-form Notice or Short-form Notice, whether online, via print publication, or via press release, whichever is earlier. All Claims postmarked or submitted online after the Claims Deadline shall be untimely and barred from entitlement to any monetary

Award, unless the Parties agree otherwise.

9. “Class Counsel” means Todd S. Garber, D. Gregory Blankinship, and Jeremiah Frei-Pearson of Finkelstein, Blankinship, Frei-Pearson & Garber, LLP and Kim E. Richman of the Richman Law Group.

10. “Class Notice” or “Notice” means the forms of notice to be disseminated to Settlement Class Members informing them about the Agreement. Copies of each of the proposed Notices are attached respectively as Exhibits 3 (“Long-form Notice”) and 4 (“Short-form Notice”) and will be submitted to the Court for approval in connection with the Motion for Preliminary Approval of Settlement.

11. “Class Period” means May 7, 2007, up to and including the date the Court enters the Preliminary Approval Order.

12. “Class Representatives” or “Plaintiffs” means Michael Goldemberg, Annie Le, and Howard Petlack.

13. “Court” means the U.S. District Court for the Southern District of New York, in which the Action was filed and where the parties will seek approval of the Settlement.

14. “Covered Products” means any size of any Aveeno product bearing the phrase “Active Naturals” on its label, including the following:

- Aveeno Active Naturals Daily Moisturizing Lotion;
- Aveeno Active Naturals Daily Moisturizing Body Wash;
- Aveeno Active Naturals Daily Moisturizing Lotion with Broad Spectrum SPF 15;
- Aveeno Active Naturals Skin Relief 24hr Moisturizing Lotion;
- Aveeno Active Naturals Skin Relief Healing Ointment;
- Aveeno Active Naturals Skin Relief Overnight Cream;
- Aveeno Active Naturals Skin Relief Hand Cream;
- Aveeno Active Naturals Skin Relief Moisture Repair Cream;
- Aveeno Active Naturals Skin Relief Body Wash;
- Aveeno Active Naturals Skin Relief Shower & Bath Oil;
- Aveeno Active Naturals Eczema Therapy Moisturizing Cream;
- Aveeno Active Naturals Positively Nourishing Calming Body Lotion;

- Aveeno Active Naturals Positively Nourishing Comforting Whipped Souffle;
- Aveeno Active Naturals Positively Nourishing Energizing Body Lotion;
- Aveeno Active Naturals Positively Nourishing Hydrating Body Wash;
- Aveeno Active Naturals Positively Nourishing Antioxidant Infused Body Wash with White Peach and Ginger;
- Aveeno Active Naturals Positively Nourishing Smoothing Body Wash;
- Aveeno Active Naturals Positively Nourishing Calming Body Wash;
- Aveeno Active Naturals Positively Ageless Firming Body Lotion;
- Aveeno Active Naturals Positively Ageless Skin Strengthening Hand Cream;
- Aveeno Active Naturals Stress Relief Moisturizing Lotion;
- Aveeno Active Naturals Stress Relief Body Wash;
- Aveeno Active Naturals Stress Relief Foaming Bath;
- Aveeno Active Naturals Creamy Moisturizing Oil;
- Aveeno Active Naturals Therapeutic Shave Gel;
- Aveeno Active Naturals Positively Smooth Shave Gel;
- Aveeno Active Naturals 1% Hydrocortisone Anti-Itch Cream;
- Aveeno Active Naturals Anti-Itch Concentrated Lotion;
- Aveeno Active Naturals Calamine & Pramoxine HCl Anti-Itch Cream;
- Aveeno Active Naturals Moisturizing Bar;
- Aveeno Active Naturals Protect + Hydrate Lotion Sunscreen with Broad Spectrum SPF 30;
- Aveeno Active Naturals Protect + Hydrate Lotion Sunscreen with Broad Spectrum SPF 70;
- Aveeno Active Naturals Hydrosport Wet Skin Spray Sunscreen with Broad Spectrum SPF 30;
- Aveeno Active Naturals Positively Radiant Targeted Tone Corrector;
- Aveeno Active Naturals Positively Radiant Makeup Removing Wipes;
- Aveeno Active Naturals Positively Radiant Daily Moisturizer Broad Spectrum SPF 15;
- Aveeno Active Naturals Positively Radiant Daily Moisturizer Broad Spectrum SPF 30;
- Aveeno Active Naturals Positively Radiant Tinted Moisturizer Broad Spectrum SPF 30, fair to light;
- Aveeno Active Naturals Positively Radiant Tinted Moisturizer Broad Spectrum SPF 30, medium;
- Aveeno Active Naturals Positively Radiant Intensive Night Cream;
- Aveeno Active Naturals Positively Radiant Skin Brightening Daily Scrub;
- Aveeno Active Naturals Positively Radiant Brightening Cleanser;
- Aveeno Active Naturals Positively Radiant Daily Cleansing Pads;
- Aveeno Active Naturals Ultra-Calming Daily Moisturizer Broad Spectrum SPF 15;
- Aveeno Active Naturals Ultra-Calming Foaming Cleanser;
- Aveeno Active Naturals Ultra-Calming Makeup Removing Wipes;

- Aveeno Active Naturals Clear Complexion BB Cream Broad Spectrum SPF 30, medium;
- Aveeno Active Naturals Clear Complexion BB Cream Broad Spectrum SPF 30, fair to light;
- Aveeno Active Naturals Clear Complexion Daily Moisturizer;
- Aveeno Active Naturals Clear Complexion Foaming Cleanser;
- Aveeno Active Naturals Clear Complexion Daily Cleansing Pads;
- Aveeno Active Naturals Clear Complexion Cream Cleanser;
- Aveeno Active Naturals Clear Complexion Cleansing Bar;
- Aveeno Active Naturals Positively Ageless Youth Perfecting Moisturizer Broad Spectrum SPF 30;
- Aveeno Active Naturals Positively Ageless Reconditioning Night Cream;
- Aveeno Active Naturals Positively Ageless Restructuring Treatment Cream;
- Aveeno Active Naturals Positively Ageless Lifting & Firming Eye Cream;
- Aveeno Active Naturals Positively Ageless Complete Anti-Aging System;
- Aveeno Active Naturals Positively Ageless Resurfacing Scrub;
- Aveeno Active Naturals Positively Ageless Daily Exfoliating Cleanser;
- Aveeno Active Naturals Smart Essentials Daily Nourishing Moisturizer Broad Spectrum SPF 30;
- Aveeno Active Naturals Smart Essentials Nighttime Moisture Infusion;
- Aveeno Active Naturals Smart Essentials Daily Detoxifying Scrub;
- Aveeno Active Naturals Protect + Hydrate Lotion Sunscreen with Broad Spectrum SPF 50 for Face;
- Aveeno Active Naturals Nourish+ Moisturize Shampoo;
- Aveeno Active Naturals Nourish+ Moisturize Conditioner;
- Aveeno Active Naturals Nourish+ Condition Leave-In Treatment;
- Aveeno Active Naturals Pure Renewal Shampoo;
- Aveeno Active Naturals Pure Renewal Conditioner;
- Aveeno Active Naturals Pure Renewal Dry Shampoo;
- Aveeno Active Naturals Nourish+ Dandruff Control Shampoo;
- Aveeno Active Naturals Nourish+ Dandruff Control Conditioner;
- Aveeno Active Naturals Nourish+ Shine Shampoo;
- Aveeno Active Naturals Nourish+ Shine Conditioner;
- Aveeno Active Naturals Nourish+ Strengthen Shampoo;
- Aveeno Active Naturals Nourish+ Strengthen Conditioner;
- Aveeno Active Naturals Nourish+ Volumize Shampoo;
- Aveeno Active Naturals Nourish+ Volumize Conditioner;
- Aveeno Active Naturals Men's Face Wash;
- Aveeno Active Naturals Men's Shave Gel;
- Aveeno Active Naturals Men's After Shave Lotion;
- Aveeno Active Naturals Daily Moisturizing Body Yogurt Lotion;
- Aveeno Active Naturals Daily Moisturizing Body Yogurt Wash;
- Aveeno Active Naturals Intense Relief Repair Cream;
- Aveeno Active Naturals Intense Relief Hand Cream;

- Aveeno Active Naturals Intense Relief Overnight Cream;
- Aveeno Active Naturals Soothing Bath Treatment;
- Aveeno Active Naturals Skin Relief Gentle Scent™ Lotion;
- Aveeno Active Naturals Skin Relief Gentle Scent™ Body Wash;
- Aveeno Active Naturals Eczema Therapy Hand Cream;
- Aveeno Active Naturals Eczema Therapy Itch Relief Balm;
- Aveeno Active Naturals Positively Nourishing Purifying Body Wash;
- Aveeno Active Naturals Positively Nourishing Ultra Hydrating Whipped Souffle;
- Aveeno Active Naturals Positively Nourishing Energizing Body Wash;
- Aveeno Active Naturals Positively Nourishing Soothing Body Wash;
- Aveeno Active Naturals Positively Nourishing Refreshing Body Wash;
- Aveeno Active Naturals Positively Nourishing Invigorating Body Wash;
- Aveeno Active Naturals Positively Radiant Exfoliating Body Wash;
- Aveeno Active Naturals Positively Smooth Moisturizing Lotion;
- Aveeno Active Naturals Positively Radiant Moisturizing Lotion;
- Aveeno Active Naturals Daily Firming Body Lotion;
- Aveeno Active Naturals Positively Ageless Skin Strengthening Body Cream;
- Aveeno Active Naturals Continuous Radiance Moist Lotion;
- Aveeno Active Naturals Intense Relief Foot Cream;
- Aveeno Active Naturals Ultra-Calming Shave Gel;
- Aveeno Active Naturals Positively Smooth Shower and Shave Cream;
- Aveeno Active Naturals Daily Moisturizing Sheer Hydration Lotion;
- Aveeno Active Naturals Advanced Care Body Wash;
- Aveeno Active Naturals Moisturizing Foaming Bath;
- Aveeno Active Naturals Stress Relief Foaming Bath;
- Aveeno Active Naturals Positively Radiant Anti-Wrinkle Cream;
- Aveeno Active Naturals Positively Radiant Eye Brightening Cream;
- Aveeno Active Naturals Positively Smooth Facial Moisturizer;
- Aveeno Active Naturals Ultra-Calming Night Cream;
- Aveeno Active Naturals Clear Complexion Correcting Treatment;
- Aveeno Active Naturals Positively Rejuvenating Serum;
- Aveeno Active Naturals Positively Ageless Eye Serum;
- Aveeno Active Naturals Positively Ageless Lifting & Firming Moisturizer;
- Aveeno Active Naturals Positively Ageless Lifting & Firming Night Cream;
- Aveeno Active Naturals Daily Moisturizer SPF 30;
- Aveeno Active Naturals Absolutely Ageless Nourishing Cleanser;
- Aveeno Active Naturals Absolutely Ageless Daily Moisturizer with Broad Spectrum SPF 30;
- Aveeno Active Naturals Absolutely Ageless Intensive Renewal Serum;
- Aveeno Active Naturals Absolutely Ageless Restorative Night Cream;
- Aveeno Active Naturals Absolutely Ageless Eye Cream;
- Aveeno Active Naturals Nourish+ Revitalize Shampoo;
- Aveeno Active Naturals Nourish+ Soothe Shampoo;
- Aveeno Active Naturals Nourish+ Revitalize Conditioner;

- Aveeno Active Naturals Living Color Shampoo;
- Aveeno Active Naturals Living Color Conditioner;
- Aveeno Active Naturals Living Color Shine Enhancing Glaze;
- Aveeno Active Naturals Nourish + Style Hairspray;
- Aveeno Active Naturals Nourish + Style Gel Crème;
- Aveeno Active Naturals Nourish + Style Smooth Crème;
- Aveeno Active Naturals Nourish + Style Volumize Foam;
- Aveeno Active Naturals Nourish + Style Curl Defining Spray;
- Aveeno Active Naturals Ultra-Calming Shave Gel;
- Aveeno Baby Sun Continuous Protection Sensitive Skin Lotion Sunscreen SPF 50;
- Aveeno Baby Sun Continuous Protection Sensitive Skin Pf 50 Sunscreen Stick;
- Aveeno Active Naturals Sun Protect & Hydrate SPF 70 Lotion Sunscreen;
- Aveeno Active Naturals Sun Protect & Hydrate SPF 30 Lotion Sunscreen;
- Aveeno Active Naturals Sun Protect & Hydrate SPF 50 Face Lotion Sunscreen;
- Aveeno Active Naturals Sun Hydrosport SPF 30 Spray Sunscreen;
- Aveeno Active Naturals Sun Natural Protection SPF 50 Lotion Sunscreen;
- Aveeno Active Naturals Positively Ageless Sunblock Lotion Face SPF 90;
- Aveeno Active Naturals Baby Sun Natural Protection SPF 50 Lotion Sunscreen ;
- Aveeno Active Naturals Positively Ageless Sunblock Lotion, Face SPF 70;
- Aveeno Active Naturals Continuous Protection Sunblock Spray, SPF 70;
- Aveeno Active Naturals Continuous Protection Sunblock Spray, SPF 50;
- Aveeno Active Naturals Positively Ageless Sunblock Spray, SPF 50;
- Aveeno Active Naturals Continuous Protection Sunblock Lotion Face, SPF 30;
- Aveeno Active Naturals Baby Sun Natural Protection SPF 30 Lotion Sunscreen;
- Aveeno Active Naturals Baby Sun Natural Protection SPF 50 Sunscreen Stick;
- Aveeno Active Naturals Continuous Protection Face SPF 30 Lotion Sunscreen;
- Aveeno Active Naturals Continuous Protection SPF 85 Lotion Sunscreen;
- Aveeno Active Naturals Sun Hydrosport Lotion Sunscreen SPF 85;
- Aveeno Active Naturals Sun Hydrosport SPF 50 Sunblock Spray;
- Aveeno Active Naturals Sun Hydrosport SPF 85 Sunblock Spray;
- Aveeno Active Naturals Baby Continuous Protection Sunblock Lotion SPF 55;
- Aveeno Active Naturals Continuous Protection SPF 45 Lotion Sunscreen;
- Aveeno Active Naturals Continuous Protection SPF 55 Lotion Sunscreen;
- Aveeno Active Naturals Continuous Protection SPF 55 Spray Sunscreen;
- Aveeno Active Naturals Advanced Relief Cold Sore Treatment;
- Aveeno Active Naturals Essential Moisture™ Lip Conditioner with SPF 15;
- Aveeno Active Naturals Intense Relief Medicated Therapy;
- Aveeno Active Naturals Positively Radiant 60 Second In-Shower Facial;
- Aveeno Active Naturals Positively Radiant Overnight Hydrating Facial;
- Aveeno Baby Wash & Shampoo;
- Aveeno Baby Calming Comfort Bath;
- Aveeno Baby Eczema Therapy Moisturizing Cream;
- Aveeno Baby Eczema Therapy Nighttime Balm;

- Aveeno Baby Soothing Relief Moisturizing Cream;
- Aveeno Baby Soothing Relief Creamy Wash;
- Aveeno Baby Essential Moisture Shampoo;
- Aveeno Baby Soothing Relief Diaper Rash Cream;
- Aveeno Baby Daily Moisture Lotion; and
- Aveeno Baby Eczema Therapy Soothing Bath Treatment.

15. Excluded from the definition of Covered Products are those included in a separate class action, *Langan v. Johnson & Johnson Consumer Cos.*, 13-cv-01471-JAM (D. Conn): purchases of the Aveeno Baby Wash and Shampoo until November of 2012 and Aveeno Baby Calming Comfort Bath until November of 2013, beginning on the following dates in the following states: in Alaska from January 25, 2011 in California, Connecticut, Delaware, the District of Colombia, Illinois, New York and Wisconsin from January 25, 2010; in Florida, Hawaii, Massachusetts, and Washington from January 25, 2009; in Arkansas and Missouri from January 25, 2008; in Michigan, New Jersey, and Vermont from January 25, 2007; in Rhode Island from January 25, 2003.

16. “Days” means calendar days, except that, when computing any period of time prescribed or allowed by this Agreement, the day of the act, event, or default from which the designated period of time begins to run shall not be included. Further, when computing any period of time prescribed or allowed by this Agreement, the last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. All calculations of days and times may be adjusted with the consent of all parties to permit compliance by Defendant with the Class Action Fairness Act, 28 U.S.C. §§ 1711-1715, including the notifications of appropriate regulators under 28 U.S.C. §1715(b) and expiration of the 90-day review period in 28 U.S.C. § 1715 before the Final Approval Hearing is held to review and approve the Agreement.

17. “Effective Date” means:

(a) if no appeal is taken from the Final Judgment and Order Approving Settlement, thirty (30) Days after the Court enters the Final Judgment and Order Approving Settlement; or

(b) if an appeal is taken from the Final Judgment and Order Approving Settlement, the date on which all appellate rights (including petitions for rehearing or re-argument, petitions for rehearing en banc, petitions for certiorari or any other form of review, and proceedings in the United States Supreme Court or any other appellate court) have expired, been exhausted, or been finally disposed of in a manner that affirms the Final Judgment and Order Approving Settlement.

18. “Eligible Claims” means claims submitted by Authorized Claimants against the Settlement Fund.

19. “Escrow Account” means the interest-bearing account to be established by the Settlement Administrator.

20. “Escrow Agent” means the escrow agent agreed upon by the parties and approved by the Court to hold funds pursuant to the terms of this Agreement.

21. “Final Approval Hearing” means the hearing to be conducted by the Court on such date as the Court may order to determine the fairness, adequacy, and reasonableness of the Agreement and to determine the Attorneys’ Fees and Expenses and any Service Awards. The Parties shall request the Court set the Final Approval Hearing no earlier than ninety (90) Days after the Notice Date.

22. “Final Judgment and Order Approving Settlement” means the Final Judgment and Order Approving Settlement to be entered by the Court to be submitted by the

Parties, substantially in the form of Exhibit 1:

- a. approving the Settlement as fair, adequate, and reasonable;
- b. confirming the certification of the Settlement Class;
- c. dismissing the Action with prejudice;
- d. discharging the Released Parties of and from all further liability for the Released Claims;
- e. permanently barring and enjoining the Releasing Parties from instituting, filing, commencing, prosecuting, maintaining, continuing to prosecute, directly or indirectly, as an individual or collectively, representatively, derivatively, or on behalf of them, or in any other capacity of any kind whatsoever, any action in any state court, any federal court, before any regulatory authority, or in any other tribunal, forum, or proceeding of any kind against the Released Parties that asserts any Released Claims; and
- f. issuing such other findings and determinations as the Court and/or the Parties deem necessary and appropriate to implement the Agreement.

23. “Initial Claim Amount” means the amount a Settlement Class Member claims on a Claim Form that is timely, valid, and approved by the Settlement Administrator. The value basis of the Initial Claim Amount is described in Section IV. The Initial Claim Amount is subject to *pro rata* increase or decrease, depending on the value of all approved Claims submitted, pursuant to Section IV.

24. “Motion for Preliminary Approval of Settlement” means the motion, to be

filed by Plaintiffs, and not opposed by J&JCC, for Preliminary Approval of this Agreement and all supporting papers/exhibits attached thereto.

25. “Notice and Claim Administration Expenses” means all costs and expenses incurred by the Settlement Administrator, including all notice expenses, the cost of administering the Notice Program, and the costs of processing all Claims made by Settlement Class Members.

26. “Notice Date” means the last date, set by the Court, by which the Settlement Administrator completes the notice plan described in Section VII. The Notice Date shall be no later than forty-five (45) Days after the Court enters a Preliminary Approval Order.

27. “Objection Date” means the date by which Settlement Class Members must file with the Court and serve on the Parties any objections to the Settlement and shall be no later than 30 Days before the date first set for the Final Approval Hearing or as required by applicable law.

28. “Opt-Out Date” means the postmark date by which a Request for Exclusion must be submitted to the Settlement Administrator in order for a Settlement Class Member to be excluded from the Settlement Class, and shall be no later than 30 Days before the date first set for the Final Approval Hearing.

29. “Preliminary Approval Order” means the order to be entered by the Court, to be submitted by the Parties substantially in the form of Exhibit 2, preliminarily approving the Settlement, conditionally certifying the Settlement Class, setting the date of the Final Approval Hearing, approving the Notice Program, Class Notice, and Claim Form, and setting the Opt-Out Date, Objection Date, and Notice Date.

30. “Proof of Purchase” means a receipt or other documentation from a third

party reasonably establishing the fact and date of purchase of a Covered Product during the Class Period in the United States, the District of Columbia, and all U.S. territories, including Puerto Rico, Guam, and the Virgin Islands.

31. “Released Claim(s)” and “Released Parties” mean those claims and parties released of liability under Section IX.

32. “Request(s) for Exclusion” means the written communication that must be submitted to the Settlement Administrator and postmarked on or before the Opt-Out Date by a Settlement Class Member who wishes to be excluded from the Settlement Class.

33. “Residual Settlement Amount” means any funds remaining in the Settlement Fund after the payment of all Eligible Claims, Notice and Claim Administration Expenses, Service Awards, any Attorneys’ Fees and Expenses, and any escrow charges and taxes related to the Settlement Fund.

34. “Service Award(s)” means the payment, subject to Court approval, of up to Ten Thousand Dollars (\$10,000) each, to Plaintiffs Michael Goldemberg, Annie Le, and Howard Petlack, from the Settlement Fund.

35. “Settlement Administrator” means the entity(ies) retained by the Parties and approved by the Court to design and implement the program for disseminating Notice to the Class, administer the claims portion of this Settlement, and perform overall administrative functions.

36. “Settlement Class” and “Settlement Class Member(s)” each means all persons who purchased Covered Products during the Class Period within the United States, including the District of Columbia, and all U.S. territories, including Puerto Rico, Guam, and the Virgin Islands and each of their respective spouses, executors, representatives, heirs, successors,

bankruptcy trustees, guardians, wards, agents, and assigns, and all those who claim through them or who assert duplicative claims for relief on their behalf, from May 7, 2007 to the date the Court enters the Preliminary Approval Order. Excluded from the Settlement Class are current and former officers and directors of Defendant, members of the immediate families of the officers and directors of Defendant, Defendant's legal representatives, heirs, successors, or assigns, and any entity in which they have or have had a controlling interest, and the judicial officer to whom this lawsuit is assigned.

37. "Settlement Fund" means the amount of Six Million Seven Hundred Fifty Thousand Dollars (\$6,750,000.00) to be funded by Defendant and from which Eligible Claims, Notice and Claim Administration Expenses, any and all Service Awards, any and all Attorneys' Fees and Expenses, and any and all escrow charges and taxes related to the Settlement Fund are to be paid. The Settlement Fund is non-reversionary.

38. "Settlement Website" means the Internet website to be established for this Settlement by the Settlement Administrator, whose domain name shall be mutually agreed upon by the Parties, to provide information to the public and the Settlement Class about this Agreement and to permit Settlement Class Members to submit Claims online. The Settlement Website shall be activated no later than ten (10) Days after the entry of the Preliminary Approval Order and shall remain active until the Effective Date or such later date as may be agreed to by Class Counsel and Defendant's Counsel.

39. "J&JCC's Counsel" or "Defendant's Counsel" means Harold Weinberger of Kramer Levin Naftalis & Frankel LLP.

B. Other capitalized terms in this Agreement, but not specifically defined in Section II(A), shall have the meanings ascribed to them elsewhere in this Agreement.

III. CONDITIONAL CERTIFICATION OF THE SETTLEMENT CLASS FOR SETTLEMENT PURPOSES AND DISMISSAL OF ACTIONS

A. The Parties stipulate and agree to (a) certification of the Action as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of the Settlement Class solely for purposes of the Settlement and for no other purposes; (b) appointment of Plaintiffs as Class Representatives of the Settlement Class solely for purposes of the Settlement and for no other purposes; and (c) appointment of Class Counsel of the Settlement Class solely for purposes of the Settlement and for no other purposes pursuant to Rule 23(g) of the Federal Rules of Civil Procedure.

Any certification of a conditional, preliminary, or final Settlement Class pursuant to the terms of this Settlement shall not constitute, and shall not be construed as, an admission on the part of Defendant that the Settlement Class is appropriate for class treatment, in whole or part, pursuant to the Federal Rules of Civil Procedure. This Settlement is without prejudice to the rights of Defendant to oppose preliminary, conditional, or final certification of the Settlement Class should this Settlement not be preliminarily or finally approved or if it is terminated pursuant to the terms of this Agreement, and without prejudice to the rights of Defendant as it relates to the certified classes.

B. Upon final approval of the Settlement by the Court, the Final Judgment and Order Approving Settlement substantially in the form agreed by the Parties, providing for the dismissal of the Action with prejudice, will be entered by the Court.

IV. SETTLEMENT RELIEF

A. Settlement Fund and Cash Payments

1. J&JCC shall establish the Settlement Fund in the amount of Six Million Seven Hundred Fifty Thousand Dollars (\$6,750,000.00) by depositing with the Escrow Agent

this amount as follows: Within ten (10) Days of Preliminary Approval, Defendant must fund costs associated with carrying out the Notice and Claims Administration Expenses. Class Counsel must approve any payment of any such costs or expenses. Within 10 Days after the entry of Final Approval, Defendant shall fund the Settlement Fund with the entire Settlement Amount, less any amount previously funded. This deadline may be extended by mutual consent of the Parties.

2. Under no circumstances shall Defendant's contribution to the Settlement Fund exceed \$6,750,000. The Parties agree that the Settlement Fund encompasses the full extent of Defendant's monetary payment due under this Agreement. This payment, pursuant to the terms and conditions of this Agreement, and any other non-monetary obligations of and considerations due from Defendant set forth in this Agreement, will be in full satisfaction of all individual and class claims asserted in or that could have been asserted in this Action.

3. Upon the establishment of the Escrow Account, the Settlement Fund may be invested in interest-bearing, short-term instruments—to be agreed upon by Class Counsel and Defendant—that are backed by the full faith and credit of the United States Government or that are fully insured by the United States Government or an agency thereof (the "Instruments"). The interest proceeds and the principal may thereafter be reinvested as they mature in similar Instruments, bearing in mind the liquidity requirements of the Escrow Account to ensure that it contains sufficient cash available to pay all invoices, taxes, fees, costs, expenses, and other required disbursements, in a timely manner. Any interest proceeds will be added to the Settlement Fund. Except as otherwise specified herein, the Instruments at all times will remain in the Escrow Account.

4. The Settlement Fund at all times will be deemed a "qualified settlement

fund” within the meaning of United States Treasury Reg. § 1.468B-1. All taxes (including any estimated taxes, and any interest or penalties relating to them) arising with respect to the income earned by the Settlement Fund or otherwise, including any taxes or tax detriments that may be imposed upon Defendant or its counsel with respect to income earned by the Settlement Fund for any period during which the Settlement Fund does not qualify as a “qualified settlement fund” for the purpose of federal or state income taxes or otherwise (collectively “Taxes”), will be paid out of the Settlement Fund. The Escrow Agent shall timely make such elections as necessary or advisable to fulfill the requirements of such Treasury Regulation, including the “relation-back election” under U.S. Treasury Regulation §1.468B-1(j)(2) to the earliest permitted date. Such election shall be made in compliance with the procedures and requirements contained in the Treasury Regulations. Defendant, its counsel, Plaintiffs, or Class Counsel, will have no liability or responsibility for any of the Taxes. The Settlement Fund will indemnify and hold Defendant and its counsel, and Plaintiffs and Class Counsel, harmless for all Taxes (including, without limitation, Taxes payable by reason of any such indemnification).

5. A Settlement Class Member is eligible to obtain Two Dollars and Fifty Cents (\$2.50) for each purchase of a Covered Product for up to twenty (20) Covered Products purchased during the Class Period defined in the Agreement, without the need to present Proof of Purchase. Settlement Class Members must provide valid Proof of Purchase for all Covered Products claimed that exceed twenty (20) Covered Products. There is no maximum number of Covered Products for which any Settlement Class Member may claim with Proof of Purchase. To receive a payment Award, each claimant must submit a valid and timely Claim Form either by mail or electronically. The actual amount paid to individual claimants will depend upon the number of valid claims made, as described in Section IV (C), *infra*. For each Claim made, the

claimant must include in the Claim the number of Covered Products purchased and a representation that the purchase(s) occurred in the United States, the District of Columbia, or a U.S. territory during the Class Period.

6. If the Effective Date does not occur, all amounts paid into the settlement fund and any interest proceeds, less amounts incurred for Notice and Claims Administration Expenses, shall be promptly returned to Defendant.

B. Injunctive Relief

As part of the consideration for this Agreement, J&JCC agrees to remove the term “Active Naturals” from the front label of all in-market Covered Products, where applicable, and if the term “Active Naturals” remains on the back or side of the label and if the product is not comprised entirely of naturally-derived ingredients, J&JCC agrees to include language on the back or side of the label that the Covered Products contain both naturally derived and non-naturally derived ingredients. Given the logistics of designing and implementing label changes for the large number of Covered Products, they will be updated and shipped on a rolling basis from July 1, 2018 to February 28, 2019. Nothing in this Agreement shall preclude J&JCC from making further changes to any of its product labels or marketing: (1) that J&JCC reasonably believes are necessary to comply with the National Advertising Division’s rules, guidelines, or decisions, or any other statute, regulation, or other law of any kind; (2) that are permitted by product changes or additional testing or development work and/or to ensure J&JCC provides accurate product descriptions; or (3) that are more detailed than those required by this Agreement.

C. Disbursements from the Settlement Fund

1. In accordance with the payment schedule set forth in this Agreement, money from the Settlement Fund shall be applied as follows:

a. First, to pay any Escrow charges and Taxes incurred by the Settlement Fund;

b. Next, to pay the Notice and Claims Administration Expenses, Service Awards, and the Attorneys' Fees and Expenses, all as approved by the Court; and

c. Next, to pay Eligible Claims.

2. The money remaining in the Settlement Fund after deduction of Escrow charges, taxes, the Notice and Claims Administration Expenses, Service Awards, and the Attorneys' Fees and Expenses is the "Net Settlement Fund."

3. If the total amount of the timely, valid, and approved Eligible Claims submitted by Settlement Class Members exceeds the available relief, considering any fees, payments, and costs set forth in this Agreement that must also be paid from the Settlement Fund, each eligible Settlement Class Member's Initial Claim Amount shall be proportionately reduced on a *pro rata* basis, such that the aggregate value of the cash payments does not exceed the Settlement Fund balance. If the total amount of the timely, valid, and approved Eligible Claims submitted by Settlement Class Members results in there being any remaining value in the Settlement Fund, it shall be used to increase eligible Settlement Class Members' relief on a *pro rata* basis such that Settlement Class Members shall receive an additional increased payment of up to one hundred percent (100%) of the Eligible Class Members' Initial Claim Amount. For example, if the Settlement Class Member submitted an Initial Claim of \$50.00 and sufficient funds are remaining, the Settlement Class Member could receive up to a \$100.00 payment from the Settlement Fund. The Settlement Administrator shall determine each authorized Settlement Class Member's *pro rata* share based upon each Settlement Class Member's Claim Form and the total number of valid Claims. Accordingly, the actual amount recovered by each Settlement

Class Member will not be determined until the Claims Deadline has lapsed and all Claims have been calculated.

4. Any checks issued under this Settlement shall be negotiable for at least one hundred and twenty (120) calendar days. Individual checks that have not been negotiated within one hundred and twenty (120) calendar days after issuance, if any, shall be void, and the underlying funds shall become part of the Residual Settlement Amount.

5. If, after the payment of all valid Claims, including any *pro rata* increase, Notice and Administration Expenses, Attorneys' Fees and Expenses, Service Awards, and any other claim, cost, or fee specified by this Agreement, value remains in the Settlement Fund, it shall be called the Residual Settlement Amount. The Residual Settlement Amount shall be distributed to the Rose Foundation for Communities and the Environment (<https://rosefdn.org>) as a cy pres recipient.

V. CLAIM FORM SUBMISSION AND REVIEW

A. Settlement Class Members may submit a Claim for Settlement relief and the Settlement Administrator shall review and process the Claim pursuant to the guidelines set forth below. Each Settlement Class Member shall sign and submit a Claim Form that states, to the best of his or her knowledge, the total number and type of purchased Covered Products and the location and approximate date of his or her purchases. The Claim Form shall be signed under an affirmation stating the following or substantially similar language: "I declare, under penalty of perjury, that the information in this Claim Form is true and correct to the best of my knowledge, and that I purchased the Covered Products claimed above during the Class Period for personal or household use and not for resale. I understand that my Claim Form may be subject to audit, verification, and review."

B. Claim Forms will be distributed as part of the Notice Program as described below,

will be available for on-line submission from the Settlement Website and available for download from the Settlement Website. Upon request, Claim Forms will be mailed or emailed to Settlement Class Members by the Settlement Administrator. The Claim Form will also be available for download from Class Counsel's website and may be submitted to the Settlement Administrator by U.S. mail or other regularly maintained mail delivery service.

C. The Settlement Administrator shall not begin to pay Eligible Claims until the later in time of (i) thirty (30) Days after the Claims Deadline or (ii) fourteen (14) Days after the Effective Date.

D. Claim Form Protocol

The Settlement Administrator shall gather and review the Claim Forms received pursuant to the Agreement, and fulfill valid claims.

1. Settlement Class Members who submit a timely and valid Claim Form shall be designated as Authorized Claimants. The Settlement Administrator shall examine the Claim Form before designating the Settlement Class Member as an Authorized Claimant to determine that the information on the Claim Form is reasonably complete and contains sufficient information to enable the mailing of the Settlement payment to the Settlement Class Member.

2. No Settlement Class Member may submit more than one Claim Form. The Settlement Administrator shall identify any Claim Forms that appear to seek relief on behalf of the same Settlement Class Member ("Duplicate Claims"). The Settlement Administrator shall determine whether there is any duplication of claims, if necessary by contacting the claimant(s) or their counsel. The Settlement Administrator shall designate any such Duplicative Claims as invalid Claims to the extent they allege the same

damages or allege damages on behalf of the same Settlement Class Member.

3. The Settlement Administrator shall exercise, in its discretion, all usual and customary steps to prevent fraud and abuse and take any reasonable steps to prevent fraud and abuse in the Claim process. The Settlement Administrator may, in its discretion, deny in whole or in part, any Claim to prevent actual or possible fraud or abuse. In the event a Settlement Class Member disagrees with the determination of the Settlement Administrator, the Settlement Class Member may send a letter to the Settlement Administrator requesting reconsideration of the rejection and the Settlement Administrator shall reconsider such determination, which shall include consultation with Class Counsel and Defendant's Counsel. The Parties shall meet and confer regarding resolution of those Claims and, if unable to agree, the Settlement Administrator shall make the final determination.

4. By agreement of the Parties, the Parties can instruct the Settlement Administrator to take whatever steps they deem appropriate to preserve the Settlement Fund to further the purposes of the Agreement if the Settlement Administrator identifies actual or possible fraud or abuse relating to the submission of Claims, including, but not limited to, denying in whole or in part, any Claim to prevent actual or possible fraud or abuse.

5. The Settlement Administrator shall provide monthly reports to Class Counsel and J&JCC's Counsel, or in more frequent intervals at either Parties' request, regarding the implementation of the Agreement and this protocol, which shall include the number of Claims submitted, average number of claims, and such other information as required for Class Counsel or J&JCC to exercise their rights under this Agreement. Claim

Forms and supporting documentation will be kept confidential by the Settlement Administrator and will be provided only to the Court upon request. The Settlement Administrator shall also provide such reports and such other information as the Court may require. The Settlement Administrator shall maintain records of all Claims submitted until at least three hundred sixty-five (365) Days after the last of the Claims payment checks to Settlement Class Members is issued and such records will be made available upon request to Class Counsel and Defendant's Counsel.

6. If a Claim Form cannot be processed without additional information, the Settlement Administrator shall promptly e-mail or mail a letter that advises the claimant of the additional information and/or documentation needed to validate the Claim. The claimant shall have thirty (30) Days from the postmark date of the letter sent by the Settlement Administrator to respond to the request from the Settlement Administrator and the claimant shall be so advised.

(a) In the event the claimant timely provides the requested information, the Claim shall be deemed validated and shall be processed for payment.

(b) In the event the claimant does not timely provide the information, the Claim may be denied or reduced to the Claim amount reasonably supported by the information or documentation without further communication with the claimant.

7. If a Claim is reduced or denied because the Settlement Administrator determined that the additional information and/or documentation was not sufficient to support or prove the Claim, the Settlement Administrator shall provide a report to Class Counsel and Defendant's counsel.

VI. RETENTION OF THE SETTLEMENT ADMINISTRATOR

A. The Parties have retained Angeion Group as the Settlement Administrator to help

implement the terms of the Agreement. As provided herein, all Notice and Claims Administration Expenses shall be paid out of the Settlement Fund.

1. The Settlement Administrator shall assist with various administrative tasks, including, without limitation: (1) mailing or arranging for the mailing, emailing, or other distribution of the Long-form Notice and Claim Forms to Settlement Class Members who so request; (2) arranging for publication of the Short-form Notice, including on the Settlement Website; (3) handling returned mail and email not delivered to Settlement Class Members; (4) attempting to obtain updated address information for Settlement Class Members whose correspondence is returned without a forwarding address or an expired forwarding address; (5) making any additional mailings required under the terms of this Agreement; (6) answering oral and written inquiries from Settlement Class Members and/or forwarding such inquiries to Class Counsel or their designee; (7) receiving and maintaining, on behalf of the Court and the Parties, any Settlement Class Member correspondence regarding Requests for Exclusion to the Settlement; (8) establishing the Settlement Website that posts notices, Claim Forms and other related documents; (9) establishing a toll-free telephone number, mutually agreed to amongst the Parties, that will provide Settlement-related information to Settlement Class Members; (10) receiving and processing Claims and distributing payments to Settlement Class Members, and (11) otherwise assisting with administration of the Agreement.

B. The contract with the Settlement Administrator shall obligate the Settlement Administrator to abide by the following performance standards:

1. The Settlement Administrator shall accurately and objectively describe, and shall train and instruct its employees and agents to accurately and objectively describe, the provisions of this Agreement in communications with Settlement Class Members.

2. The Settlement Administrator shall provide prompt, accurate, and objective responses to inquiries from Class Counsel or their designee, J&JCC, and/or J&JCC's Counsel.

3. The Settlement Administrator shall keep a clear and careful record of all communications with Settlement Class Members, all Claims decisions, all expenses, and all tasks performed in administering the notice and Claims review processes.

VII. NOTICE TO THE SETTLEMENT CLASS

A. Notice

1. No later than forty five (45) Days after the entry by the Court of a Preliminary Approval Order (the Notice Date), the Settlement Administrator shall cause the Class Notice to be disseminated to potential Settlement Class Members pursuant to the Notice Program set forth in Exhibit 6. The Parties agree that internet notice, directed website notice, and national publication notice, as defined in the Notice Program set forth in Exhibit 6, are the best means under the circumstances of this case to effect notice to the Settlement Class and that the Notice Program outlined in Exhibit 6 comports with the requirements of due process.

2. At or prior to the Final Approval Hearing, the Settlement Administrator shall provide the Court with an affidavit attesting that Notice was disseminated pursuant to the Notice Program.

B. Long-form Notice

The Long-form Notice shall be in substantially the form of Exhibit 3, attached hereto, agreed to by the Parties and to be approved by the Court, and shall be posted on the Settlement Website. At a minimum, the Long-form Notice shall: (a) include a short, plain statement of the background of the Action and the Agreement; (b) describe the proposed Settlement relief as set forth in this Agreement; (c) inform Settlement Class Members that, if they do not exclude

themselves from the Settlement Class, they may be eligible to receive relief; (d) describe the procedures for participating in the Settlement, including all applicable deadlines, and advise Settlement Class Members of their rights, including their right to submit a Claim to receive an Award under the Agreement by submitting the Claim Form; (e) explain the scope of the Release; (f) state that any Award to Settlement Class Members under the Agreement is contingent on the Court's final approval of the Agreement; (g) state the identity of Class Counsel and the amount sought in Attorneys' Fees and Expenses; (h) explain the procedures for opting out of the Settlement Class, including the applicable deadline for opting out; (i) explain the procedures for objecting to the Agreement, including the applicable deadline; and (j) explain that any judgment or orders entered in the Action, whether favorable or unfavorable to the Settlement Class, shall include and be binding on all Settlement Class Members who have not been excluded; and (k) provide any other information judicially required for Settlement Class Members to exercise or choose not to exercise their due process rights.

C. Short-form Notice

The Short-form Notice shall be in substantially the form attached hereto as Exhibit 4. At a minimum, the Short-form Notice shall: (a) include the web address of the Settlement Website and a telephone number for the Settlement Administrator; (2) include the class definition; (3) include a brief description of relief available to the Settlement Class Members; and (4) inform of the right to object and/or opt-out of the Settlement Class and the deadlines to exercise these rights.

D. Notice Program and Dissemination of the Class Notice

1. Publication Notice: The Short-form Notice (Exhibit 4) shall be published in accordance with the Notice Program set forth in Exhibit 6 no later than forty five (45) Days from entry of a Preliminary Approval Order. As set forth in Exhibit 6, publication will include

internet notice, directed website notice, and national publication notice. The Short-form Notice shall also be posted on the Settlement Website until the Effective Date, or such later date as may be agreed to by Class Counsel and Defendant's Counsel.

2. Posting of the Long-form Notice: No later than ten (10) Days from the Preliminary Approval Order, the Settlement Administrator will post the Long-form Notice (Exhibit 3) and Claim Form (Exhibit 5) on the Settlement Website. The Long-form Notice and Claim Form shall remain available by these means until the Effective Date. The Long-form Notice and/or the Short-form Notice and the Claim Form may also be posted on the website(s) of Class Counsel, at its option.

3. Upon Request: The Long-form Notice and the Claim Form shall also be sent via electronic mail or U.S. mail to Settlement Class Members who so request.

VIII. OBJECTIONS, REQUESTS FOR EXCLUSION, AND MEDIA COMMUNICATIONS

A. Objections

1. Any Settlement Class Member who intends to object to the fairness of the Agreement must do so in writing no later than the Objection Date. The written objection must be filed with the Court and served on Class Counsel identified in the Notice and J&JCC's Counsel no later than the Objection Date. The written objection must include: (a) a heading which refers to the Action; (b) the objector's name, address, telephone number, and if represented by counsel, of his/her counsel; (c) a statement that the objector purchased Covered Products during the period of time described in the Settlement Class definition; (d) a statement whether the objector intends to appear at the Final Approval Hearing, either in person or through counsel; (e) a statement of the objection and the grounds supporting the objection; (f) copies of any papers, briefs, or other documents upon which the objection is based; (g) the name and case number of

all objections to class action settlements made by the objector or his/her counsel in the past five (5) years; and (h) the objector's signature.

2. Any Settlement Class Member who files and serves a written objection, as described in the preceding Section, may appear at the Final Approval Hearing, either in person or through counsel hired at the Settlement Class Member's expense, to object to any aspect of the fairness, reasonableness, or adequacy of this Agreement, including Attorneys' Fees and Expenses. Settlement Class Members or their attorneys who intend to make an appearance at the Final Approval Hearing must serve a notice of intention to appear on the Class Counsel identified in the Class Notice, and to J&JCC's Counsel, and file the notice of appearance with the Court, no later than twenty (20) Days before the Final Approval Hearing, or as the Court may otherwise direct.

3. Any Settlement Class Member who fails to comply with the provisions of Section VIII(A)(1) or (2) above shall waive and forfeit any and all rights he or she may have to appear separately and/or to object, and shall be bound by all the terms of this Agreement and by all proceedings, orders, and judgments, including, but not limited to, the Release, in the Action.

B. Requests for Exclusion

1. Any member of the Settlement Class may request to be excluded from the Settlement Class. A Settlement Class Member who wishes to opt out of the Settlement Class must do so by sending to the Settlement Administrator a written Request for Exclusion that is postmarked no later than the Opt-Out Date. The Request for Exclusion must be personally signed by the Settlement Class Member requesting exclusion, include their email and mailing address, and contain a statement that indicates a desire to be excluded from the Settlement Class. No Settlement Class Member shall be deemed opted-out of the Settlement Class through any purported "mass" or "class" opt-outs, or via any class actions, mass actions, or collective or

representative actions.

2. Any Settlement Class Member who does not file a timely written Request for Exclusion shall be bound by all subsequent proceedings, orders and the Final Judgment and Order Approving Settlement in the Action, even if he or she has pending, or subsequently initiates, litigation, arbitration, or any other proceeding against Defendant relating to the Released Claims.

3. Any Settlement Class Member who properly requests to be excluded from the Settlement Class shall not: (a) be bound by any orders or judgments entered in the Action; (b) be entitled to an Award from the Settlement Fund, or be affected by the Agreement; (c) gain any rights by virtue of the Agreement; or (d) be entitled to object to any aspect of the Agreement.

4. The Settlement Administrator shall provide Class Counsel and J&JCC's Counsel with a final list of all timely Requests for Exclusion within seven (7) Days after the Opt-Out Date. Plaintiffs shall file the final list of all timely Requests for Exclusion prior to or at the Final Approval Hearing.

C. Media Communications

1. Following the issuance of a Preliminary Approval Order providing for dissemination of the Class Notice, the Parties agree that they may issue a joint press release. Defendant and Class Counsel may post the joint press release on Defendant's website and Class Counsel's website, if they so choose. Any such joint press release shall only include information relating to the Action or this Agreement available in the public record. No other statements may be made or reported directly or indirectly to any media or news reporting services, including but not limited to Class Counsel's website absent consent of all Parties. Notwithstanding these obligations, J&JCC may make such disclosures regarding the Action and the terms of the Agreement as it deems necessary in its filings with any regulatory body, to its auditors, or as

otherwise required by state or federal law.

2. Nothing herein shall prevent Class Counsel from responding to class member inquiries regarding the Settlement in a manner consistent with the terms and conditions of this Agreement.

IX. RELEASES

A. The Agreement shall be the sole and exclusive remedy for any and all Released Claims of all Releasing Parties against all Released Parties. No Released Party shall be subject to liability of any kind to any Releasing Party with respect to any Released Claim. Upon the Effective Date, and subject to fulfillment of all of the terms of this Agreement, each and every Releasing Party shall be permanently barred and enjoined from initiating, asserting, and/or prosecuting any Released Claim against any Released Party in any court or any forum.

B. The following terms have the meanings set forth herein:

1. “Released Claims” means any and all actions, claims, demands, rights, suits, and causes of action of whatever kind or nature that could reasonably have been, or in the future might reasonably be asserted by, Plaintiffs or Settlement Class Members or the Releasing Parties, either in the Action or in any action or proceeding in this Court or in any other court or forum, against the Released Parties, including damages, costs, expenses, penalties, and attorneys’ fees, known or unknown, suspected or unsuspected, in law or equity arising out of or relating to legal claims made by the Plaintiffs or Members of the Settlement Class or the Releasing Parties arising out of or relating to the allegations in the Action or J&JCC’s labeling, marketing, advertising, packaging, promotion, manufacture, sale, and distribution of all Covered Products as alleged in the Action. For avoidance of doubt, this includes, *inter alia*, all such claims that related in any way to “natural” or “Active Naturals” statements that were or are contained on the Covered Products or otherwise relate to the labeling, marketing, advertising, packaging,

promotion, manufacture, sale, and distribution of the Covered Products as “natural” or “Active Naturals” in connection with the Released Parties’ labeling, advertising, marketing, packaging, promotion, manufacture, sale, and distribution of all Covered Products (as well as future identical statements about Covered Products), which have been asserted or which could reasonably have been asserted by the Releasing Parties in the Action, including but not limited to claims alleging any type of fraud, misrepresentation, breach of warranty, unjust enrichment, or unfair trade practice under any state or federal law (including all claims for injunctive or equitable relief), but not including claims for personal injury.

2. “Released Parties” means J&JCC, including all of its respective predecessors, successors, assigns, parents, subsidiaries, divisions, departments, and affiliates, and any and all of their past, present, and future officers, directors, employees, stockholders, partners, agents, servants, successors, attorneys, insurers, representatives, licensees, licensors, subrogees, and assigns. It is expressly understood that, to the extent a Released Party is not a Party to the Agreement, all such Released Parties are intended third-party beneficiaries of the Agreement.

3. “Releasing Parties” means Plaintiffs and each and every Settlement Class Member, including each of their respective spouses, executors, representatives, heirs, successors, bankruptcy trustees, guardians, wards, agents, and assigns, and all those who claim through them or who assert duplicative claims for relief on their behalf.

C. On the Effective Date, each Releasing Party shall be deemed to have released and forever discharged each of the Released Parties of and from any and all liability for any and all Released Claims.

D. With respect to any and all Released Claims, and upon the Effective Date without further action, for good and valuable consideration, Plaintiffs, on behalf of themselves and the

Settlement Class and as the representatives of the Settlement Class, shall fully, finally, and forever expressly waive and relinquish with respect to the Released Claims, any and all provisions, rights, and benefits of Section 1542 of the California Civil Code and any and all similar provisions, rights, and benefits conferred by any law of any state or territory of the United States or principle of common law that is similar, comparable, or equivalent to Section 1542 of the California Civil Code, which provides:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.”

E. On the Effective Date, each of the Released Parties shall be deemed to have released and forever discharged each of the Releasing Parties and their respective counsel, for all Released Claims, except to enforce terms and conditions contained in this Agreement.

F. The Parties agree that the Court shall retain exclusive and continuing jurisdiction over the Parties and the Settlement Class Members to interpret and enforce the terms, conditions, and obligations under the Agreement.

X. ATTORNEYS' FEES AND EXPENSES AND PLAINTIFFS' SERVICE AWARDS

A. The award of Attorneys' Fees and Expenses will be paid from the Settlement Fund and as set forth in Section IV(C) above. Class Counsel shall make an application for an award of Attorneys' Fees and Expenses, on which J&JCC will take no position, not to exceed thirty-three percent of the Settlement Fund. The application for an award of Attorneys' Fees and Expenses will be made by Class Counsel. Class Counsel shall be responsible for allocating and distributing the Attorneys' Fees and Expenses award.

B. The Attorneys' Fees and Expenses awarded by the Court shall be paid to Class Counsel within ten (10) Days after the Effective Date.

C. Class Counsel shall make an application for Plaintiffs' Service Awards in the amount of Ten Thousand Dollars (\$10,000.00) to each of the Plaintiffs, on which J&JCC will take no position. The Service Awards to these Plaintiffs will be in addition to the other consideration to the Settlement Class Members, as set forth in Section IV above. The Service Awards will come out of the Settlement Fund and will be paid within ten (10) Days of the Effective Date.

XI. FINAL JUDGMENT AND ORDER APPROVING SETTLEMENT

This Agreement is subject to and conditioned upon the issuance by the Court of the Final Judgment and Order Approving Settlement that finally certifies the Settlement Class for the purposes of this Settlement, grants final approval of the Agreement, and provides the relief specified herein, which relief shall be subject to the terms and conditions of the Agreement and the Parties' performance of their continuing rights and obligations hereunder.

XII. REPRESENTATIONS AND WARRANTIES

A. J&JCC represents and warrants: (1) that it has the requisite corporate power and authority to execute, deliver, and perform the Agreement and to consummate the transactions contemplated hereby; (2) that the execution, delivery, and performance of the Agreement and the consummation by it of the actions contemplated herein have been duly authorized by necessary corporate action on the part of J&JCC; and (3) that the Agreement has been duly and validly executed and delivered by J&JCC and constitutes its legal, valid, and binding obligation.

B. Plaintiffs represent and warrant that they are entering into the Agreement on behalf of themselves individually and as proposed representatives of the Settlement Class Members, of their own free will and without the receipt of any consideration other than what is provided in the Agreement or disclosed to, and authorized by, the Court. Plaintiffs represent and warrant that they have reviewed the terms of the Agreement in consultation with Class Counsel

and believe them to be fair and reasonable. Class Counsel represent and warrant that they are fully authorized to execute the Agreement on behalf of Plaintiffs.

C. The Parties warrant and represent that no promise, inducement, or consideration for the Agreement has been made, except those set forth herein. No consideration, amount, or sum paid, accredited, offered, or expended by J&JCC in its performance of this Agreement constitutes a fine, penalty, punitive damage, or other form of assessment for any claim against it.

XIII. NO ADMISSIONS, NO USE

The Agreement and every stipulation and term contained in it is conditioned upon final approval of the Court and is made for settlement purposes only, pursuant to Federal Rule of Evidence 408. Whether or not consummated, this Agreement shall not be: (a) construed as, offered in evidence as, received in evidence as, and/or deemed to be, evidence of a presumption, concession, or an admission by Plaintiffs, J&JCC, any Settlement Class Member or Releasing or Released Party, of the truth of any fact alleged or the validity of any claim or defense that has been, could have been, or in the future might be asserted in any litigation or the deficiency of any claim or defense that has been, could have been, or in the future might be asserted in any litigation, or of any liability, fault, wrongdoing, or otherwise of such Party; or (b) construed as, offered in evidence as, received in evidence as, and/or deemed to be, evidence of a presumption, concession, or an admission of any liability, fault, or wrongdoing, or in any way referred to for any other reason, by Plaintiffs, J&JCC, any Releasing Party or Released Party in the Action or in any other civil, criminal, or administrative action or proceeding other than such proceedings as may be necessary to effectuate the provisions of the Agreement.

XIV. TERMINATION OF THIS AGREEMENT

A. Either Party may terminate this Agreement by providing written notice to the other Party within ten (10) Days of the occurrence of any of the following:

1. The Court does not enter a Preliminary Approval Order conforming in all material respects to Exhibit 2 hereto, and/or the Parties are required to make a change to the Settlement Agreement that either Party deems material, including but not limited to, a change to the definition of Settlement Class Members, the Settlement Relief described in Section IV, *supra*, the Releases provided in Section IX, *supra*, or the type of notice required per the Notice Program.

2. The Court does not conditionally and finally certify the Settlement Class as defined herein or the Court's order certifying the Settlement Class is reversed, vacated, or modified in any material respect by another court; or

3. The Court does not enter the Final Judgment and Order Approving Settlement in all material respects as defined herein and in the form agreed by the Parties, or, if entered, such Final Judgment and Order Approving Settlement is reversed, vacated, or modified in any material respect by another court before the Effective Date.

B. It is expressly agreed that neither the failure of the Court to enter the Attorneys' Fees and Expenses Award, the Service Awards, nor the amount of any attorneys' fees and costs or incentive awards that may be finally determined and awarded, shall provide a basis for termination of this Agreement.

C. J&JCC may unilaterally withdraw from and terminate this Agreement up to fifteen (15) Days before the Final Approval Hearing if more than two hundred and fifty (250) Settlement Class Members have submitted valid and timely Requests for Exclusion.

D. In the event of termination, the terminating Party shall cause the Settlement Administrator to post information regarding the termination on the Settlement Website and the terminating Party shall pay any notice costs.

E. In the event this Agreement terminates for any reason, all Parties shall be restored to their respective positions as of immediately prior to the date of execution of this Agreement. Upon termination, Section XIII herein shall survive and be binding on the Parties, but this Agreement shall otherwise be null and void.

XV. MISCELLANEOUS PROVISIONS

A. Entire Agreement: The Agreement, including all Exhibits hereto, shall constitute the entire Agreement among the Parties with regard to the Agreement and shall supersede any previous agreements, representations, communications, and understandings among the Parties with respect to the subject matter of the Agreement. The Agreement may not be changed, modified, or amended except in a writing signed by one of Class Counsel and one of J&JCC's Counsel and, if required, approved by the Court. The Parties contemplate that the Exhibits to the Agreement may be modified by subsequent agreement of J&JCC and Class Counsel, or by the Court. The Parties may make non-material changes to the Exhibits to the extent deemed necessary, as agreed to in writing by all Parties.

B. Governing Law: The Agreement shall be construed under and governed by the laws of the State of New York, in which the Court is located, applied without regard to laws applicable to choice of law.

C. Execution in Counterparts: The Agreement may be executed by the Parties in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Facsimile signatures or signatures scanned to PDF and sent by e-mail shall be treated as original signatures and shall be binding.

D. Notices: Whenever this Agreement requires or contemplates that one Party shall or may give notice to the other, notice shall be provided in writing by first class U.S. Mail and email to:

1. If to Plaintiffs or Class Counsel:

Todd S. Garber
FINKELSTEIN, BLANKINSHIP, FREI-PEARSON & GARBER, LLP
445 Hamilton Avenue, Suite 605
White Plains, NY 10601
(914) 298-3283
tgarber@fbfglaw.com

Kim E. Richman
RICHMAN LAW GROUP
81 Prospect Street
Brooklyn, NY 11201
(212) 687-8291
krichman@richmanlawgroup.com

2. If to J&JCC or J&JCC's Counsel:

Harold P. Weinberger
KRAMER LEVIN NAFTALIS & FRANKEL LLP
1177 Avenue of the Americas
New York, NY 10036
(212) 715-9216
hweinberger@kramerlevin.com

E. Stay of Proceedings: Upon the execution of this Agreement, all discovery and other proceedings in this Action shall be stayed until further order of the Court, except for proceedings that may be necessary to implement the Agreement or comply with or effectuate the terms of this Settlement Agreement.

F. Good Faith: The Parties agree that they will act in good faith and will not engage in any conduct that will or may frustrate the purpose of this Agreement. The Parties further agree, subject to Court approval as needed, to reasonable extensions of time to carry out any of the provisions of the Agreement.

G. Binding on Successors: The Agreement shall be binding upon, and inure to the benefit of, the heirs of the Released Parties.

H. Arm's-Length Negotiations: The determination of the terms and conditions

contained herein and the drafting of the provisions of this Agreement has been by mutual understanding after negotiation, with consideration by, and participation of, the Parties hereto and their counsel. This Agreement shall not be construed against any Party on the basis that the Party was the drafter or participated in the drafting. Any statute or rule of construction that ambiguities are to be resolved against the drafting party shall not be employed in the implementation of this Agreement and the Parties agree that the drafting of this Agreement has been a mutual undertaking.

I. Waiver: The waiver by one Party of any provision or breach of the Agreement shall not be deemed a waiver of any other provision or breach of the Agreement.

J. Variance: In the event of any variance between the terms of this Agreement and any of the Exhibits hereto, the terms of this Agreement shall control and supersede the Exhibit(s).

K. Exhibits: All Exhibits to this Agreement are material and integral parts hereof, and are incorporated by reference as if fully rewritten herein.

L. Taxes: No opinion concerning the tax consequences of the Agreement to any Settlement Class Member is given or will be given by J&JCC, J&JCC's Counsel, or Class Counsel; nor is any Party or their counsel providing any representation or guarantee respecting the tax consequences of the Agreement as to any Settlement Class Member. Each Settlement Class Member is responsible for his/her tax reporting and other obligations respecting the Agreement, if any.

M. Implementation Before Effective Date: The Parties may agree in writing to implement the Agreement, or any portion thereof, after the entry of the Final Judgment and Order Approving Settlement, but prior to the Effective Date.


N. Modification in Writing: This Agreement may be amended or modified only by written instrument signed by one of Class Counsel and J&JCC's Counsel. Amendments and modifications may be made without additional notice to the Settlement Class Members unless such notice is required by the Court.

O. Integration: This Agreement represents the entire understanding and agreement among the Parties and supersedes all prior proposals, negotiations, agreements, and understandings related to the subject matter of this Agreement. The Parties acknowledge, stipulate, and agree that no covenant, obligation, condition, representation, warranty, inducement, negotiation, or undertaking concerning any part or all of the subject matter of this Agreement has been made or relied upon except as set forth expressly herein.

P. Retain Jurisdiction: The Court shall retain jurisdiction with respect to the implementation and enforcement of the terms of this Agreement, and all Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the agreement embodied in this Agreement.

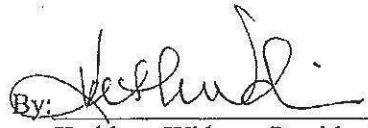
IN WITNESS WHEREOF, each of the Parties hereto has executed this Agreement and has caused it to be executed on its behalf by its duly authorized counsel of record, all as of the day set forth below.

Dated: 5/22/2017


By: 
Harold Weinberger
Kramer Levin Naftalis & Frankel LLP

*Attorneys for Johnson & Johnson
Consumer Companies, Inc.*

Dated: 5/22/2017


By: 
Kathleen Widmer, President
Johnson & Johnson Consumer, Inc.

Dated: 5/23/2017

By: 
Todd S. Garber
Finkestein, Blankinship, Frei-Pearson &
Garber, LLP

*Attorneys for Plaintiffs and for the
Settlement Class Members*

Dated: 5/23/2017

By: 
Kim E. Richman
Richman Law Group

*Attorneys for Plaintiffs and for the
Settlement Class Members*

Dated: 5/12/17

By: 
Plaintiff Michael Goldemberg

Dated: _____

By: _____
Plaintiff Annie Le

Dated: _____

By: _____
Plaintiff Howard Petlack

IN WITNESS WHEREOF, each of the Parties hereto has caused the Agreement to be executed on its behalf by its duly authorized counsel of record, all as of the day set forth below.

Dated: _____

By: _____

Harold Weinberger
Kramer Levin Naftalis & Frankel LLP

Attorneys for Johnson & Johnson Consumer Companies, Inc.

Dated: _____

By: _____

Kathleen Widmer, President
Johnson & Johnson Consumer, Inc.

Dated: _____

By: _____

Todd S. Garber
Finkestein, Blankinship, Frei-Pearson & Garber, LLP

Attorneys for Plaintiffs and for the Settlement Class Members

Dated: _____

By: _____

Kim E. Richman
Richman Law Group

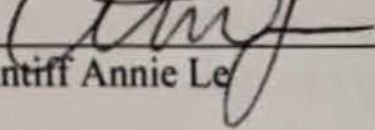
Attorneys for Plaintiffs and for the Settlement Class Members

Dated: _____

By: _____

Plaintiff Michael Goldemberg

Dated: 5/23/17

By: 
Plaintiff Annie Le

Dated: _____

By: _____
Plaintiff Howard Petlack

Plaintiff Michael Goldemberg

Dated: _____

By: _____
Plaintiff Annie Le

Dated: 5/22/17
By: Howard Petlack
Plaintiff Howard Petlack