

CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (“Agreement”) is made by and between plaintiffs Tamara Margolis and Aimee Tully (“Plaintiffs”) individually and on behalf of the putative Settlement Class (as defined below) and defendant Healthy Spot, LLC (“Healthy Spot” or “Defendant”). The Agreement refers to Plaintiffs and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

1.1 “Action” means the Plaintiffs’ lawsuit alleging violations of the Consumers Legal Remedies Act (Cal. Civ. Code § 1750 *et seq.*) (“CLRA”), the Unfair Competition Law (Cal. Bus. & Prof. Code § 17200 *et seq.*) (“UCL”), the False Advertising Law (Cal. Bus. & Prof. Code § 17500 *et seq.*) (“FAL”), Breach of Express Warranty and Negligent Misrepresentation against Defendant captioned *Tamara Margolis, et al. v. Healthy Spot, LLC*, Case No. 21STCV25347 initiated on July 12, 2021 and pending in Superior Court of the State of California, County of Los Angeles.

1.2 “Administrator” means Postlethwaite & Netterville, APAC, (“P&N”) the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.3 “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.

1.4 “Class” means all Healthy Spot customers whose dogs were harmed and/or killed at any of the 20 Healthy Spot locations in California between July 2018 and July 2021, and on May 6, 2022, which includes the following subclasses; (1) death; (2) Severe Injuries; and (3) Minor Injuries.

1.5 “Class Counsel” means Gary A. Praglin and Theresa E. Vitale, and their respective firm, Cotchett, Pitre, & McCarthy LLP. Class Counsel represent both Class Representatives in the Action and the individual identified in Paragraph 3.2.5 below, and no other counsel for plaintiffs or Class Members have appeared in this case.

1.6 “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.

1.7 “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, dog’s name, injury to dog, last-known mailing address, last-known email address, last known phone number, and Class Member incident chart information.

1.8 “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member.

1.9 “Class Member Address Search” means the Administrator’s investigation and search for current Class Member addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.

1.10 “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English in the form, without material variation, attached as **Exhibit A** and incorporated by reference into this Agreement.

1.11 “Class Period” means the period from July 2018 and July 2021, and May 6, 2022.

1.12 “Class Representatives” means the named Plaintiffs in the operative complaint in the Action seeking Court approval to serve as Class Representatives.

1.13 “Class Representative Service Payments” means the payments to the Class Representatives for initiating the Action and providing services in support of the Action.

1.14 “Court” means the Superior Court of California, County of Los Angeles.

1.15 “Non-Profit Cy Pres Recipient” means an appropriate non-sectarian, non-profit charitable organization serving the public interest selected by Class Counsel and approved by the Court.

1.16 “Healthy Spot” means named Defendant Healthy Spot, LLC.

1.17 “Defense Counsel” means Edward S. Zusman and Kevin K. Eng and their representative firm, Markun Zusman & Compton LLP.

1.18 “Effective Date” means the date when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

1.19 “Final Approval” means the Court’s order granting final approval of the Settlement.

1.20 “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.

1.21 “Final Judgment” and “Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.

1.22 “Gross Settlement Amount” means Seven Hundred Twenty-Five Thousand Dollars and Zero Cents (\$725,000.00) which is the total amount Healthy Spot agrees to cause to be paid under the Settlement. The Gross Settlement Amount will be used to pay Individual Class Payments, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payments and the Administrator’s Expenses.

1.23 “Individual Class Payment” means the Participating Class Member’s share of the Net Settlement Amount calculated according to the category of injury suffered by Class Members’ dog during the Class Period.

1.24 “Minor Injuries” means those injuries that are classified by Healthy Spot as Category 1 Injuries, clearly occurred in Healthy Spot service or retail departments, and are not severe, including small cuts, nicks, scrapes, chemical eye burns, eye irritations, dog fights in daycare or on the retail floor, any dog injuries that occur in retail or at the store front, ear infections from grooming, etc., and for which the Vet bill amount for treatment may be under \$200.

1.25 “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

1.26 “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.

1.27 “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

1.28 “Plaintiffs” means Tamara Margolis and Aimee Tully, the named plaintiffs in the Action.

1.29 “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.

1.30 “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval.

1.31 “Released Class Claims” means the claims being released as described in Paragraph 5 below.

1.32 “Released Parties” means: Healthy Spot, including past, present and future direct and indirect parent entities, subsidiaries, related entities and affiliates, and for each and all of those entities, their respective past and present general partners, limited partners, principals, shareholders, investors (however denominated), joint ventures, members, officers, directors, managers, managing directors, supervisors, employees, contractors, consultants, auditors, accountants, financial advisors, professional advisors, investment bankers, representatives, insurers, trustees, trustors, agents, attorneys, professionals, predecessors, successors, assigns, heirs, executors, administrators, and any controlling person thereof.

1.33 “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.

1.34 “Response Deadline” means 60 days after the Administrator mails Notice to Class Members, which shall be the last date on which Class Members may: (a) email, submit online, or mail Requests for Exclusion from the Settlement, and/or (b) email, submit online or mail his or her Class Challenge, and/or (c) email, submit online, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline.

1.35 “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.

1.36 “Severe Injuries” means all injuries that are not Minor Injuries, that are classified by Healthy Spot as Category 2 Injuries, and are serious, including those injuries which it is not 100% clear occurred while under Healthy Spot’s care or at a Healthy Spot store, and for which the Vet bill amount for treatment is likely greater than \$200.

2. RECITALS.

2.1 On July 12, 2021, Plaintiffs, on behalf of themselves and others similarly situated, commenced this Action by filing a Complaint alleging causes of action against Healthy Spot for violations of the Consumers Legal Remedies Act (Cal. Civ. Code § 1750 et seq.) (“CLRA”), the Unfair Competition Law (Cal. Bus. & Prof. Code § 17200 et seq.) (“UCL”), the False Advertising Law (Cal. Bus. & Prof. Code § 17500 et seq.) (“FAL”), Breach of Express Warranty and Negligent Misrepresentation. On November 4, 2021, Plaintiffs filed a First Amended Complaint with the same five causes of action against Defendant. On February 24, 2022, Plaintiffs filed a Second Amended Complaint with the same five causes of action against Defendant. On March 25, 2022, Plaintiffs filed a Third Amended Complaint with the same five causes of action against Defendant. The Third Amended Complaint is the operative complaint in the Action (“Complaint” or “Operative Complaint”). Healthy Spot denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.

2.2 On May 1, 2023, the Parties participated in an all-day mediation presided over by Jeff Kichaven, Esq. Despite good faith efforts by all Parties, the case did not settle that day. After months of further settlement negotiations, including supplemental briefs and with the continued assistance of Mediator Kichaven, the Parties agreed in principle on this class-wide resolution.

2.3 Between June 2022 and November 2023, the Parties engaged in precertification discovery, including written discovery, document productions, and the deposition of Healthy Spot’s Person Most Knowledgeable. In addition to the incident spreadsheet which itemizes the information about injuries to dogs during grooming, Defendant produced policies and procedures and advertisements. Plaintiffs’ investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).

2.4 The Court has not granted class certification. Plaintiffs’ deadline to file their Motion for Class Certification as of the time of this Settlement is April 10, 2024. Plaintiffs maintain they would have been successful in certifying a class on all causes of action against Defendant. Defendant maintains that Plaintiffs would not have been able to certify a class.

2.5 The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY ITEMS.

3.1 Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Healthy Spot promises it shall cause to be paid \$725,000.00 (Seven Hundred Twenty-Five Thousand Dollars and Zero Cents) and no more as the Gross Settlement Amount. Healthy Spot has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Healthy Spot.

3.2 Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1 To Plaintiffs: Class Representative Service Payments to the Class Representatives of not more than \$10,000.00 (in addition to any Individual Class Payment the Class Representative is entitled to receive as a Participating Class Member). Healthy Spot will not oppose Plaintiffs' request for Class Representative Service Payments that do not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves Class Representative Service Payments for less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.2 To Class Counsel: A Class Counsel Fees Payment of not more than 25%, which is currently estimated to be \$181,250.00 and a Class Counsel Litigation Expenses Payment of not more than \$65,000.00. Healthy Spot will not oppose requests for these payments provided they do not exceed these amounts. Plaintiffs and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiffs' Counsel arising from any claim to any portion of the Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Healthy Spot harmless, and indemnifies Healthy Spot, from any dispute or controversy regarding any division or sharing of any of these Payments.

- 3.2.3 To the Administrator: An Administrator Expenses Payment not to exceed \$50,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$50,000.00, the Administrator will retain the remainder and add it to the Net Settlement Amount.
- 3.2.4 To Each Participating Class Member: An Individual Class Payment of approximately \$7,500.00 for each Class Member whose dog was killed (“Deaths”), approximately \$2,375.00 for each Class Member whose dog was severely injured (“Severe Injuries”), and approximately \$100.00 for each Class Member whose dog was minorly injured (“Minor Injuries”).
- 3.2.5 Death Claim for Kristian Capalik: Class Counsel also represents Kristian Capalik, whose dog Alex was killed at Healthy Spot shortly after the end of the Class Period, on May 6, 2022. Class Counsel and Defendant agree to include Mr. Capalik as a Participating Class Member in the Death subclass, rather than file a separate action. This decision is made in the interests of judicial economy and to avoid burdening Class Members, Defendant, Class and Defense Counsel and the Court by avoiding any delay of the Settlement. Class Counsel represents that Mr. Capalik is the only Participating Class Member, other than the Plaintiffs, who they represent who has a potential related claim against Defendant. Defendant is aware of Mr. Capalik and agrees with his inclusion in the Class.
- 3.2.6 Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1 Class Size. Based on a review of its records to date, Healthy Spot estimates there are 753 Class Members whose dogs were involved in an incident during grooming at Healthy Spot during the class period, including Kristian Capalik whose dog was killed on May 6, 2022.

4.2 Class Data. Not later than 14 days after the Court grants Preliminary Approval of the Settlement, Healthy Spot will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members’ privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Healthy Spot has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Healthy Spot must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3 Funding of Gross Settlement Amount. Healthy Spot shall fully fund the Gross Settlement Amount by depositing it into an interest-bearing escrow account no later than 14 days after execution of this agreement.

4.4 Payments from the Gross Settlement Amount. Settlement Class Members shall have the option to receive their Settlement Payment pursuant to the terms of this Settlement Agreement via digital methods (i.e. PayPal, Venmo, Zelle, ACH). In the event Settlement Class Members do not exercise this option, they will receive their Settlement Payment via a physical check sent by U.S. Mail. Within 30 days after the Effective Date, the Administrator will send digital payment and/or mail checks of all Individual Class Payments, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payments. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payments shall not precede disbursement of Individual Class Payments.

- 4.4.1 Each payment issued to a Settlement Class Member via a physical check will state on the face of the check that it will become null and void unless cashed within one-hundred and eighty (180) days after the date of issuance.
- 4.4.2 Where the Settlement Administrator is aware that an electronic deposit or digital payment to a Settlement Class Member is unable to be processed, the Settlement Administrator shall mail a physical check to the address on record for the Settlement Class Member within thirty (30) days of the failed payment being returned.
- 4.4.3 The Administrator must conduct a Class Member Address Search for all Class Members whose checks are returned undelivered without USPS forwarding address. Within 14 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, if requested by the Class Member prior to the void date.
- 4.4.4 Any Individual Class Payment that remains uncashed, cancelled, or unprocessed after the applicable void date shall be retained in the Net Settlement Amount.
- 4.4.5 Consistent with Code of Civil Procedure Section 384, subd. (b), after the expiration of all applicable void dates set forth above in paragraphs 4.4.1, 4.4.2, 4.4.3, and 4.4.4, the Administrator shall transmit the funds remaining in the Net Settlement Amount to The Nonhuman Rights Project (“Cy Pres Recipient”), an American nonprofit animal rights organization seeking to change the legal status of at least some

nonhuman animals from that of property to that of persons, with a goal of securing rights to bodily liberty and bodily integrity. The Parties, Class Counsel and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.

4.4.6 The payment of Individual Class Payments shall not obligate Healthy Spot to confer any additional benefits or make any additional payments to Class Members beyond those specified in this Agreement.

5. RELEASES OF CLAIMS. Plaintiffs, Class Members, and Class Counsel will release claims against all Released Parties on the Effective Date as follows:

5.1 Plaintiffs' Release. Plaintiffs and their respective representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint ("Plaintiff's Release"). Plaintiffs' Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiffs acknowledge that Plaintiffs may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now know or believe to be true but agree, nonetheless, that Plaintiffs' Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs' discovery of them.

5.1.2 Plaintiffs' Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiffs' Release, Plaintiffs expressly waive and relinquish the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or Released Party.

5.2 Release by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint. Participating Class Members do not release any other claims, including claims based on facts occurring outside the Class Period.

6. MOTION FOR PRELIMINARY APPROVAL. The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's current checklist for Preliminary Approvals.

6.1 Healthy Spot's Declaration in Support of Preliminary Approval. Within 14 days of the full execution of this Agreement, Healthy Spot will prepare and deliver to Class Counsel a signed Declaration from Healthy Spot and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator and Cy Pres Recipient. In their Declarations, Defense Counsel and Healthy Spot shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2 Plaintiffs' Responsibilities. Plaintiffs will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement; (ii) a draft proposed Order Granting Preliminary Approval; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members and the proposed Cy Pres; and the nature and extent of any financial relationship with Plaintiffs, Class Counsel or Defense Counsel; (v) signed declarations from Plaintiffs confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and the proposed Cy Pres; (v) a signed declaration from Class Counsel attesting to its competency to represent the Class Members; and all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator and the Cy Pres Recipient; and (vi) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; In their Declarations, Plaintiffs, Class Counsel and Defense Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.3 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 60 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

6.4 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

7.1 Selection of Administrator. The Parties have jointly selected EAG Gulf Coast, LLC, formerly known as Postlethwaite & Netterville, APAC, ("P&N") to serve as the Administrator and verified that, as a condition of appointment, P&N agrees to be bound by this Agreement and to

perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

7.2 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-1.

7.3 Notice to Class Members.

7.3.1 No later than three 3 business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and of the number of Class Members without a mailing or e-mail address.

7.3.2 Using best efforts to perform as soon as possible, and in no event later than 30 days after preliminary approval, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail and/or email, the Class Notice, in substantially in the form attached to this Agreement as **Exhibit A**. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment payable to the Class Member. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

7.3.3 As soon as practicable after the Administrator’s receipt of any Class Notice returned via email and/or by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS and/or re-try the email address provided. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

7.3.4 If the Administrator, Defense or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement.

7.4 Requests for Exclusion (Opt-Outs).

- 7.5.1 Class Members who wish to exclude themselves (opt-out) of the Class Settlement must send the Administrator, by email or mail, a signed written Request for Exclusion not later than 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed and/or re-emailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.
- 7.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.
- 7.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraph 5 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.
- 7.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement.

7.5 Challenges to Class Category.

- 7.5.1 Each Class Member shall have 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the Class Category identified in the Class Notice. The Class Member may challenge the Class Category by communicating with the Administrator via email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the

Category contained in the Class Notice is correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation based on Class Category shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly notify Defense Counsel and Class Counsel of all Class Category Challenges.

7.6 Objections to Settlement.

7.6.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payments.

7.6.2 Participating Class Members may send written objections to the Administrator, by email or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 60 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed and/or re-emailed).

7.6.3 Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

7.7 Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

7.6.1 Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payments, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls and emails.

7.6.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other

identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

7.6.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to subclass received and/or resolved, and checks mailed for Individual Class Payments (“Weekly Report”). The Weekly Reports must include the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

7.6.4 Administrator’s Declaration. Not later than 20 days before the date by which Plaintiffs are required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.

7.6.5 Final Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds from the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report of payments made under this Agreement. At least 14 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

- 8. DEFENDANT’S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 30% of the total of all Class Members, Healthy Spot may, but is not obligated to, elect to withdraw from the Settlement. The Parties agree that, if Healthy Spot withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Healthy Spot will remain responsible for paying all Settlement Administration Expenses incurred to that point. Healthy Spot must notify Class Counsel and the Court of its election to withdraw not later than 7 days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

9. MOTION FOR FINAL APPROVAL. Not later than 16 court days before the calendared Final Approval Hearing, Plaintiffs will file in Court, a motion for final approval of the Settlement that includes a Proposed Final Approval Order and a proposed Judgment (collectively “Motion for Final Approval”). Plaintiffs shall provide drafts of these documents to Defense Counsel not later than 7 days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

9.1 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

9.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court’s concerns by revising the Agreement as necessary to obtain Final Approval. The Court’s decision to award less than the amounts requested for the Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

9.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

9.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the provisions governing Class Representative Payments, Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment as set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of rights to appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties’ obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

9.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court’s concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court’s award of the Class Representative Service Payments or any payments to Class Counsel shall not constitute a

material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

10. AMENDED JUDGMENT. If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

11. ADDITIONAL PROVISIONS.

11.1 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Action, and Plaintiffs reserve the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement and the Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

11.2 Confidentiality Prior to Preliminary Approval. Plaintiffs, Class Counsel, Defendant and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) to the extent necessary to report income to appropriate taxing authorities; (3) in response to a court order or subpoena; or (4) in response to an inquiry or subpoena issued by a state or federal government agency or regulator. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiffs, Class Counsel, Defendant and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

11.3 No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

11.4 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

11.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

11.6 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

11.7 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

11.8 No Tax Advice. Neither Plaintiffs, Class Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

11.9 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

11.10 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

11.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

11.12 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

11.13 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

11.14 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiffs shall destroy, all paper and electronic versions of Class Data received from Defendant unless, prior to the Court's discharge of the Administrator's obligation, Defendant makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.

11.15 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

11.16 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

11.17 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

If to Plaintiffs or Class Counsel:

Cotchett, Pitre & McCarthy, LLP
Attention: Gary A. Praglin and Theresa E. Vitale
2716 Ocean Park Boulevard, Suite 3088
Santa Monica, CA 90405
gpraglin@cpmlegal.com
tvitale@cpmlegal.com

If to Defendant or Defendant's Counsel:

Markun Zusman & Compton LLP
Attention: Edward S. Zusman and Kevin K. Eng
465 California St., Suite 500
San Francisco, CA 94104
ezusman@mzclaw.com

keng@mzclaw.com

11.18 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

11.19 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to Code of Civil Procedure section 583.330 to extend the date to bring a case to trial under Code of Civil Procedure section 583.310 for the entire period of this settlement process.

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

CLASS COUNSEL, ON BEHALF OF THE SETTLEMENT CLASS:

Dated: June 17, 2024

COTCHETT, PITRE & McCARTHY, LLP

By: Gary A. Praeglin
Gary A. Praeglin

COUNSEL FOR DEFENDANT HEALTHY SPOT, LLC

Dated:

MARKUN ZUSMAN & COMPTON LLP

By: _____
Edward S. Zusman

PLAINTIFFS:

Dated: 6/17/2024

By: Tamara Margolis
DocuSigned by:
37BE50C3EC5544E...
Tamara Margolis

keng@mzclaw.com

11.18 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

11.19 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to Code of Civil Procedure section 583.330 to extend the date to bring a case to trial under Code of Civil Procedure section 583.310 for the entire period of this settlement process.

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

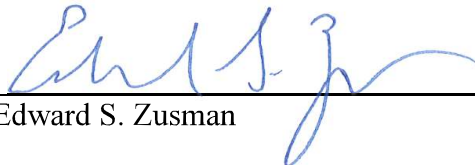
CLASS COUNSEL, ON BEHALF OF THE SETTLEMENT CLASS:

Dated: **COTCHETT, PITRE & McCARTHY, LLP**

By: _____
Gary A. Praglin

COUNSEL FOR DEFENDANT HEALTHY SPOT, LLC

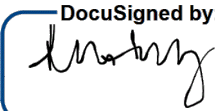
Dated: 6/17/24 **MARKUN ZUSMAN & COMPTON LLP**

By:  _____
Edward S. Zusman

PLAINTIFFS:

Dated: By: _____
Tamara Margolis

Dated: 6/17/2024

By: 
81763CE213DC4A7...
Aimee Tully

DEFENDANT:

Dated:

By: _____
Healthy Spot, LLC

Dated:

By:

Aimee Tully

DEFENDANT:

Dated: 6/17/2024

By:

DocuSigned by:



UB99E4FE71AB416...
Healthy Spot, LLC