

IT IS HEREBY STIPULATED AND AGREED by and among Ashley Novak (“Plaintiff” or “Class Representative”), individually and on behalf of the proposed Settlement Class, and Pacific Bioscience Laboratories, Inc., and Pacific Bioscience Laboratories Products, Inc. (“Defendants” and, collectively with Plaintiff, the “Parties”), that *Novak v. Pacific Bioscience Laboratories, Inc., and Pacific Bioscience Laboratories Products, Inc.*, Los Angeles County Superior Court case number BC582188 (the “Action”), shall be settled, and compromised on the terms and conditions set forth in this Stipulation and Settlement Agreement and the attached exhibits (“Settlement Agreement”), subject to approval of the Superior Court of the State of California (the “Court”) pursuant to California Rules of Court Rule 3.769(a).

PREAMBLE

WHEREAS, on or about May 18, 2015, Plaintiff filed the Action;

WHEREAS, in the Complaint, Plaintiff asserts the existence of a potentially defective battery condition contained in certain of Defendants’ Clarisonic skin cleansing brushes;

WHEREAS, following extensive investigation and arm’s-length negotiations among the Parties, the Parties have determined to resolve and finally settle the claims asserted in the Action on the terms of this Settlement Agreement;

WHEREAS, Plaintiff and Class Counsel have thoroughly evaluated the claims and facts alleged in the Complaint, and after considering, among other things, the risks, uncertainties, and delay attendant to protracted litigation of the sharply disputed legal and factual issues involved in this Action, and the substantial benefits available to the Settlement Class under the terms of the Settlement Agreement, have concluded that settlement on the terms set forth in the Settlement Agreement is fair, reasonable, and in the best interests of Plaintiff and the Settlement Class;

WHEREAS, Defendants vigorously deny Plaintiff’s allegations of any wrongdoing or liability with respect to the claims asserted in this Action, but recognize the substantial costs,

burdens, and uncertainties attendant upon further litigation of the sharply disputed factual and legal issues involved in this Action and, therefore, have concluded that settlement on the terms set forth in the Settlement Agreement is in Defendants' best interests;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among the Parties, subject to entry of the Final Approval Order approving the Settlement Agreement pursuant to California Code of Civil Procedure section 382, the Parties agree that the Action shall be fully and finally settled under the following terms and conditions:

I.

DEFINITIONS

All terms defined above shall be so defined when used anywhere in the Settlement Agreement. Additionally, when capitalized in the Settlement Agreement, the following terms shall have the meanings set forth below:

1. "Action" means the action titled *Novak v. Pacific Bioscience Laboratories, Inc., and Pacific Bioscience Laboratories Products, Inc.*, Los Angeles County Superior Court case number BC582188;
2. "Class Counsel" or "Plaintiff's Counsel" means David E. Azar of Milberg Tadler Phillips Grossman LLP, Robert I. Lax of Lax LLP, and Joseph J. M. Lange of the Joseph J. M. Lange Law Corporation.
3. "Class Representative" or "Plaintiff" means Ashley Novak.
4. "Complaint" means the complaint filed in the Action on or about May 18, 2015.
5. "Court" means the Superior Court of the State of California for the County of Los Angeles.
6. "Defendants" mean Pacific Bioscience Laboratories, Inc., and Pacific Bioscience Laboratories Products, Inc.

7. “Defendants’ Counsel” means M. D. Scully and Justin D. Lewis of Gordon & Rees, Scully, Mansukhani, LLP.

8. “Effective Date,” or the term “Effective” when used in reference to the occurrence of the Effective Date, means the first business day after the occurrence of all of the following conditions: (i) the Court has granted preliminary approval to the Settlement Agreement and entered the Preliminary Approval Order, substantially in the form attached hereto as Exhibit A; (ii) the Court has granted final approval to the Settlement Agreement and entered the Final Approval Order, substantially in the form attached hereto as Exhibit B; and (iii) the time to appeal the Final Approval Order has expired without any such appeal having been timely filed or, if appealed, the Final Approval Order has been affirmed on appeal in all material respects, and in accordance with the Settlement Agreement, subject to no further right of review.

9. “Final Approval Hearing” means the hearing at which the Court shall, *inter alia*: (i) determine whether to grant final approval to the Settlement Agreement as fair, reasonable, and adequate and in the best interests of the Settlement Class; (ii) consider any timely objections to the Settlement Agreement and the Parties’ responses to such objections; and (iii) rule on Class Counsel’s application for an award of attorney fees and expenses and an incentive award.

10. “Final Approval Order” means the order in which the Court shall, *inter alia*, (i) fully and finally approve the Settlement Agreement as fair, reasonable, and adequate to the Settlement Class and (ii) adjudge that the Releasing Persons shall be deemed conclusively to have released the Released Persons from the Released Claims.

11. “Notice Plan” means the method of providing the Settlement Class with Notice of the Settlement, as approved by the Court.

12. “Parties” means Plaintiff and Defendants.

13. “Person” or “Persons” shall include entities and natural persons.

14. “Postcard/Email Notice” means the proposed form of written notice, substantially with the terms and form of the document attached as Exhibit 1 to the Preliminary Approval Order, to be approved by the Court and to be sent to those Settlement Class Members whose postal mailing or e-mail addresses are known to and readily identifiable by Defendants in accordance with Section III of this Settlement Agreement.

15. “Posted Notice” means the proposed notice, substantially with the terms and form of the document attached as Exhibit 2 to the Preliminary Approval Order, to be approved by the Court and to be posted online in accordance with Section III of this Settlement Agreement.

16. “Preliminary Approval” means the Court’s entry of the Preliminary Approval Order.

17. “Preliminary Approval Order” means the order entered by the Court, substantially in the form of Exhibit A attached hereto, *inter alia*: (i) certifying the Settlement Class for settlement purposes only; (ii) preliminarily approving the Settlement Agreement as fair, reasonable, and adequate to the Settlement Class; (iii) approving the Notice Plan; (iv) authorizing dissemination of notice to the Settlement Class pursuant to the Notice Plan; (v) scheduling the Final Approval Hearing; (vi) providing that, with the exception of such proceedings as are necessary to implement, effectuate, and grant final approval to the proposed Settlement Agreement, all proceedings in the Action are stayed until further order of the Court; and (vii) providing that, pending entry of the Final Approval Order, no Settlement Class Member (either directly, in a representative capacity, or in any other capacity) shall commence or prosecute any of the Released Claims against any of the Released Persons.

18. “Releases” mean the reciprocal releases of claims, as set forth in Section IV.

19. “Released Claims” means any and all actions, causes of action, claims, demands, liabilities, obligations, fees, costs, sanctions, proceedings, losses or damages of any kind, and/or rights of any nature and description whatsoever, including, without limitation, violations of any state or federal statutes, rules or regulations, or principles of common law, whether liquidated or unliquidated, known or unknown, in law or in equity, whether or not concealed or hidden, based upon, arising out of or related to, in whole or in part, the initiation, prosecution, or settlement of the Action, including but not limited to (1) any of the alleged inadequacies, misstatements, or issues associated with the Brushes (as defined at I.23 below), their performance, or the Battery Failure (as defined at II.B.I below); (2) any act, omission, or other conduct alleged or referred to in the Action; and (3) any act, omission, or other conduct that could have been alleged, referred to, or asserted in the Action by any Plaintiff or any Settlement Class Member “which arises out of the same transaction, occurrence, or series of transactions or occurrences as the cause of action which the plaintiff alleges in his complaint.” (California Code of Civil Procedure 426.10(c), definition of “Related cause of action”). Excluded from Released Claims are any claims for personal injuries or damage to property other than the Brushes.

20. “Released Defendants’ Claims” means any and all actions, causes of action, claims, demands, liabilities, obligations, fees, costs, sanctions, proceedings, losses or damages of any kind, and/or rights of any nature and description whatsoever, including, without limitation, violations of any state or federal statutes, rules or regulations, or principles of common law, whether liquidated or unliquidated, known or unknown, in law or in equity, whether or not concealed or hidden, based upon, arising out of or related to, in whole or in part, the initiation, prosecution, or settlement of the Action, including but not limited to (a) any act, omission, or other conduct that could have been alleged, referred to, or asserted in this the Action by any

Defendant as a cross-complaint “which arises out of the same transaction, occurrence, or series of transactions or occurrences as the cause of action which the plaintiff alleges in his complaint.” (California Code of Civil Procedure 426.10(c), definition of “Related cause of action”).

21. “Released Persons” means (i) Pacific Bioscience Laboratories, Inc., and Pacific Bioscience Laboratories Products, Inc.; (ii) present and former subsidiaries, parents, affiliates, successors, and predecessors of the foregoing entities, including, without limitation, Pacific Bioscience Laboratories, Inc., and Pacific Bioscience Laboratories Products, Inc.; (iii) all Persons on whose behalf any of the foregoing entities acted or purported to act; and (iv) for each of the foregoing Persons and entities, each of their present or former officers, directors, shareholders, employees, representatives, agents, principals, consultants, contractors, insurers, accountants, attorneys, partners, members, administrators, legatees, executors, heirs, estates, parents, subsidiaries, affiliates, predecessors-in-interest, joint venturers, trusts, trustors, trustees, beneficiaries, successors in interest, assigns, or any other Person with whom any of them is affiliated or for whom any of them is responsible at law, in equity, or otherwise.

22. “Releasing Persons” means each Settlement Class Member, including Plaintiff on her own behalf and on behalf of the Settlement Class, and including their respective present and former subsidiaries, parents, affiliates, successors, predecessors, officers, directors, shareholders, employees, representatives, agents, principals, contractors, insurers, accountants, partners, members, administrators, legatees, executors, heirs, estates, trustees, attorneys, assigns, trusts, trustors, beneficiaries, joint venturers, and any other Person who had, or may subsequently have, the right to assert Released Claims through them or on their behalf. Excluded from the definition of Releasing Persons are the United States government and any State government or instrumentality thereof.

23. “Settlement Class” means the class certified for settlement purposes only, consisting of all end-user Persons in the United States who purchased or received as a gift authentic Clarisonic sonic skin cleansing devices consisting of the Mia 1, Mia 2, Mia 3/Aria, Pro, and Plus models (the “Brushes”) purchased in the period of January 1, 2009, to December 31, 2016 (the “Class Period”). Excluded from the Settlement Class shall be (i) any person or entity who has released claims relating to or arising out of purchase, receipt, or use of the Brushes; (ii) any person or entity who has purchased or acquired Brushes for resale; (iii) Defendants and any parent, subsidiary, affiliate, officer, director, or current or former employee; and (iv) any judicial officer to whom the Action is assigned, as well as the judicial officer’s immediate family members.

24. “Settlement Class Member” means a Person who is a member of the Settlement Class and who has not submitted a timely and valid Request for Exclusion.

25. “Settlement Class Notice” means the Postcard/Email Notice and the link on Defendants’ website to the Posted Notice on the Settlement Website, to be provided in accordance with the Notice Plan, described in Section III.

26. “Settlement Website” means the website described in Paragraph III.B.

II.

SETTLEMENT BENEFITS & ADMINISTRATION

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

A. Certification of Settlement Class For Settlement Purposes Only. The Parties agree that the Settlement Class shall be certified for settlement purposes only. If the Effective Date does not occur, or if the Settlement Agreement is terminated for any reason, Defendants

shall retain all rights to object to the maintenance of the Action as a class action, and the parties shall be returned to their respective positions.

B. Benefits of the Settlement Granted to Settlement Class Members By Defendants.

The Parties further agree that Defendants shall self-administer the dissemination of benefits specified below, subject to reasonable, good faith auditing requests by Class Counsel. After the Effective Date and in accordance with the terms of this Settlement Agreement, Defendants will provide benefits to Settlement Class Members as follows:

1. Warranty Extension

Defendants will extend the manufacturer's warranty of the Brushes with regard to remediating Battery Failure. "Battery Failure" shall be defined as the inability of the Brush to achieve power due to the battery cells' depleted capacity to accept or hold an electrical charge. During the warranty extension period, Defendants will offer, at their option, the repair or replacement (with exchange) of qualifying Brushes, at no cost to the Settlement Class Member. For any Brush sold within the Class Period with an original manufacturer's warranty of 12 months, the warranty shall be extended as to Battery Failure for 12 months from the date on which the warranty did or will expire. For any Brush sold within the Class Period with an original manufacturer's warranty of 2 years, the warranty shall be extended as to Battery Failure for 9 months from the date on which the warranty did or will expire. For any Brush sold within the class period with an original manufacturer's warranty of 3 years, the warranty shall be extended as to Battery Failure for 6 months from the date on which the warranty did or will expire. However, no warranty extended under this Settlement Agreement as to Battery Failure shall expire sooner than the elapsing of six (6) months following the Effective Date.

2. Warranty Fulfillment

For the duration of the Warranty extension period, Defendants will maintain a toll-free number for Settlement Class Members to obtain a telephone diagnosis by Defendants for suspected Battery Failure as covered by this Settlement, and, if eligible as determined by Defendants, warranty repair or replacement of their Brush to remediate valid claims of Battery Failure experienced and submitted during the warranty extension period. Within a reasonable amount of time, Defendants will train a team of technical representatives to handle calls under the Warranty Extension, to diagnose any necessary repair or replacement thereunder, and to arrange for necessary shipping and warranty fulfillment. Defendants will require possession of an authentic Brush and either a receipt or a statement by the Settlement Class Member made under penalty of perjury stating the date that he or she purchased the Brush during the class period, which statement shall also specify the retailer, if known, from which he or she purchased the Brush.

C. Notice Administrator. Subject to the Court's approval, the Parties have selected Tilghman & Co. as Notice Administrator. The Parties shall cooperate to ensure that the Notice Administrator performs all duties required of it pursuant to the Settlement Agreement, the Preliminary Approval Order, and the Final Approval Order, including, but not limited to, disseminating Settlement Class Notice in accordance with the Notice Plan, determining which Persons within the Settlement Class have filed timely and valid Requests for Exclusion, and keeping the Parties and the Court apprised when required by this Settlement Agreement or other orders of the Court.

III.

NOTICE PLAN

Subject to Court approval, notice to the Settlement Class of the pendency of the Action, the proposed Settlement Agreement, and the Final Approval Hearing shall be provided as set forth in this subsection.

A. Written Notice. The Class Notice will provide Settlement Class Members at least 60 days from the issuance of notice itself to opt-out or object to the Settlement. As provided herein, Defendants will send or cause to be sent direct written notice by either email or U.S. Post, at Defendants' option, to all Settlement Class Members for whom Defendants has maintained contact information. This Postcard/Email Notice may be limited to a postcard or email message with an abridged notice and the URL of the notice website, to the extent the Notice Administrator, in its opinion, deems such to constitute adequate notice. The Notice Plan will be submitted for Court approval as part of the preliminary approval of the settlement, and the parties will consider agreement to modify any of the notice provisions in this Agreement as necessary to obtain Court approval – and submission of a joint filing to the Court by the undersigned counsel shall be deemed a proper written modification of this Agreement.

B. Posted Notice. The Posted Notice and other documents related to the Settlement will be posted online. Defendants will publish a website in a form which the Notice Administrator deems to constitute adequate notice of the Settlement and its benefits, and as approved by the Court, which shall be live for the duration of the Warranty Extension. The website shall be updated appropriately as warranty extensions expire as to particular models of Brushes. Defendants shall include a link from the Consumer Support homepage on the Clarisonic USA website. In addition, the Parties agree to provide supplemental notice to the Class in the form of an online media campaign demographically targeted to members of the Class, to include Internet banner, textual, or display advertisements implemented on third-party

websites relevant to consumers sharing demographic traits with members of the Class, as well as a similarly targeted Facebook advertising campaign designed to reach members of the Class via social media. The parties have selected The Notice Company to provide the supplemental notice.

C. Declaration of Compliance. At least fourteen (14) days before the Final Approval Hearing, the Notice Administrator shall serve on Class Counsel and file with the Court an affidavit or certification of compliance with the notice requirements set forth in this Section.

D. Best Notice Practicable. The Parties agree that the methods of identifying and providing notice to the Settlement Class set forth in this Section III (the “Notice Plan”) is the best notice practicable under the circumstances, taking into consideration (i) the interests of the Settlement Class; (ii) the type of relief requested; (iii) the stake of the individual Settlement Class Members; (iv) the cost of notifying the Settlement Class; (v) the resources of the Defendants; (vi) the possible prejudice to class members who do not receive notice; (vii) the parties’ best understanding of the digital or electronic communication practices of the Settlement Class; and (viii) the res judicata effect on Settlement Class Members. The Parties agree that the Notice Plan constitutes due and sufficient notice to the Settlement Class of, *inter alia*: (i) the proposed Settlement Agreement, and procedures for Settlement Class Members to follow in filing written objections to it, and in arranging to appear at the Final Approval Hearing and state any objections to the proposed Settlement; (ii) the nature of the case and the contentions and denials of the Parties; (iii) the right of Settlement Class Members to exclude themselves from the Settlement Class before a specified date; (iv) the procedure for Settlement Class Members to follow in requesting to be excluded from the Settlement Class; (v) the binding effect of the settlement on Settlement Class Members; and (vi) the right of Settlement Class Members to enter

an appearance through counsel at the Final Approval Hearing. The Parties further agree that the Notice Plan satisfies the requirements of California law, including California Rules of Court Rules 3.766 and 3.769(f), and any other applicable law. The Parties, by written agreement of Counsel, may revise the Notices and other exhibits to the Settlement Agreement in ways that are not material, or in ways that are appropriate to update those documents for purposes of accuracy.

E. Notice Costs. Defendants shall bear all reasonable costs of providing notice to the Settlement Class as provided herein, and printing, processing, mailing, and/or publishing the Settlement Class Notice. If the Effective Date does not occur, or if the Settlement Agreement is terminated for any reason, the costs of providing notice to the Settlement Class that are incurred by the Defendants shall be borne by Defendants, without waiver of Defendants' right to seek to recover such costs, in whole or in part, at the conclusion of the Action.

IV.

RELEASES

In order to effectuate the Parties' desire to fully, finally and forever settle, compromise, and discharge all disputes arising from or related to the Action, the Releasing Persons and the Released Persons enter into the following releases, waivers, and covenants:

A. Binding and Exclusive Nature of Settlement Agreement. On the Effective Date, the Parties and each and every Settlement Class Member and Released Person shall be bound by this Settlement Agreement and shall have recourse exclusively to the benefits, rights, and remedies provided hereunder. No other action, demand, suit, or other claim may be instituted, maintained, or pursued against the Released Parties with respect to the Released Claims or against the Releasing Persons with respect to the Released Defendants' Claims.

B. Release from Releasing Persons to Released Persons. On the Effective Date, the

Releasing Persons will be deemed to have, and by operation of the Final Approval Order shall have, fully, finally, and forever released and discharged all Released Persons from all Released Claims. In entering into this Release, the Releasing Persons acknowledge that they assume the risk of any mistake of fact or law. If they, or any of them, should later discover that any fact which they relied upon in entering into this Settlement Agreement is not true, or that their understanding of the facts or law was incorrect, they shall not be entitled to modify, reform, or set aside this Settlement Agreement, in whole or in part, by reason thereof.

C. Release from Released Persons to Releasing Persons. On the Effective Date, the Released Persons will be deemed to have, and by operation of the Final Approval Order shall have, fully, finally, and forever released and discharged all Releasing Persons from all Released Defendants' Claims. In entering into this Release, the Released Persons acknowledge that they assume the risk of any mistake of fact or law. If they, or any of them, should later discover that any fact which they relied upon in entering into this Settlement Agreement is not true, or that their understanding of the facts or law was incorrect, they shall not be entitled to modify, reform, or set aside this Settlement.

D. Stay of the Action. The Parties agree to request that the Court, in connection with Preliminary Approval, stay all proceedings in the Action except for such proceedings as are necessary to implement, effectuate, and grant final approval to the proposed Settlement Agreement. The Parties further agree that in connection with the Final Approval Hearing, they will request that the Court enter a Final Approval Order substantially in the form of Exhibit B hereto.

E. Binding Effect and Injunction. Upon the Effective Date, the Class Representative and each and every Settlement Class Member shall be bound by this Settlement Agreement, and

each of them shall be permanently barred and enjoined from commencing or prosecuting any action in any court or tribunal asserting any of the Released Claims, either directly, representatively, derivatively or in any other capacity, against any of the Released Persons.

Upon the Effective Date, the Defendants and each and every Released Person shall be bound by this Settlement Agreement, and each of them shall be permanently barred and enjoined from commencing or prosecuting any action in any court or tribunal asserting any of the Released Defendants' Claims, either directly, representatively, derivatively, or in any other capacity, against any of the Releasing Persons.

F. Full and Complete Defense. This Settlement Agreement may be raised as, and shall be, a full and complete defense to any action or proceeding encompassed by the Releases.

G. Miscellaneous. The Parties, and each of them, covenant that this Settlement Agreement may be used as a basis for a temporary restraining order, preliminary injunction, and permanent injunction against any breach of this Settlement Agreement. The Parties judicially admit hereby for all purposes that time is of the essence as to all terms and conditions of the Settlement Agreement and that damages for a breach of this Settlement Agreement would be inadequate.

V.

ATTORNEYS' FEES, COSTS, EXPENSES AND INCENTIVE AWARD

A. Attorneys' Fees, Costs and Expenses. Class Counsel shall make an application to be heard at the Final Approval Hearing for an award of attorney fees, costs and expenses in an amount not to exceed \$750,000.00. Defendants shall not oppose such application or solicit others to do so. In no event shall Defendants be obligated to pay any attorneys' fees, costs, or expenses in connection with or related in any manner to this Action that are, collectively, in

excess of the above-stated \$750,000.00.

B. Incentive Award. Defendants agree to pay an incentive award to the Class Representative in amount approved by the Court not to exceed \$1,000.00. Class Counsel shall make an application to be heard at the Final Approval Hearing for an incentive award to the Class Representative in the amount not to exceed \$1,000.00. Defendants shall not oppose such application or solicit others to do so.

C. Payment of Fees, Costs and Expenses and Incentive Award. Defendants shall pay reasonable attorney' fees, costs and expenses and the incentive award, as awarded by the Court, consistent with Paragraphs A and B of this section, within fourteen (14) days after the Effective Date. Payments of attorney fees, costs and expenses and any incentive award shall be made to the Client Trust Account of Lax LLP for distribution to Plaintiff and Class Counsel. Defendants will require a completed Form W9 and an original letter hand-executed by an officer of the account holder's bank confirming account ownership prior to completing payment via the agreed method of ACH wire transfer. Plaintiff and Class Counsel agree that Defendants shall have no responsibility or liability for allocation of these payments between Plaintiff and Class Counsel, and that they will indemnify, defend, and hold harmless Defendants for any claims, demands, costs, expenses, and/or attorney's fees incurred by Defendants related to such allocation. If the Effective Date does not occur, or if this Settlement Agreement is terminated or otherwise becomes null and void for any reason, Defendants shall have no obligation to pay any award of attorney fees, costs and expenses or the incentive award.

D. Effect of Rulings Regarding Fees, Costs and Expenses and Incentive Award. The Parties agree that the rulings of the Court regarding the amount of attorney fees, costs and expenses and payment of the incentive award, and any claim or dispute relating thereto, shall be

considered by the Court separately from the remaining matters to be considered at the Final Approval Hearing. Any order or proceedings relating to the amount of attorney fees, costs and expenses or the incentive award, including any appeals from or modifications or reversals of any order related thereto, shall not prevent the occurrence of the Effective Date or give rise to any right to terminate this Settlement Agreement.

VI.

COURT APPROVAL AND EXCLUSIONS

A. Preliminary Approval. As soon as practicable after the execution of this Settlement Agreement, Class Counsel and Defendants' Counsel shall jointly apply to the Court for preliminary approval of the Settlement Agreement and for entry of the Preliminary Approval Order, substantially in the form of Exhibit A attached hereto, *inter alia*: (i) certifying the Settlement Class for settlement purposes only; (ii) preliminarily approving the Settlement Agreement as fair, reasonable, and adequate to the Settlement Class; (iii) approving the Notice Plan; (iv) authorizing dissemination of notice to the Settlement Class pursuant to the Notice Plan; (v) scheduling the Final Approval Hearing; (vi) providing that, with the exception of such proceedings as are necessary to implement, effectuate, and grant final approval to the proposed Settlement Agreement, all proceedings in the Action are stayed until further order of the Court; and (vii) providing that, pending entry of the Final Approval Order, no Settlement Class Member (either directly, in a representative capacity, or in any other capacity) shall commence or prosecute any of the Released Claims against any of the Released Persons.

B. Exclusion From Settlement Class. Any Person within the Settlement Class who wishes to be excluded from the Settlement Class must submit a timely and valid Request for Exclusion to the Notice Administrator, pursuant to the instructions set forth in the Settlement

Class Notice, postmarked no later than the date set by the Court in the Preliminary Approval Order. To be valid, a Request for Exclusion must satisfy the following requirements: (1) it must contain the name, address and telephone number of the Person submitting the Request for Exclusion and serial number of his, her, or its Brush; (2) it must be signed either (i) personally, if the Person within the Settlement Class is an individual, or (ii) by an owner or authorized officer, if the Person within the Settlement Class is a business entity, and (3) it must state that the Person wishes to be excluded from the Action.

C. Effect of Requests for Exclusion. Any Person within the Settlement Class who submits a timely and valid Request for Exclusion shall not be bound by the Settlement Agreement, shall not be entitled to object to the Settlement, shall not be entitled to share in the benefits of the Settlement Agreement, and shall not be bound by the Final Approval Order. Any Person within the Settlement Class who does not submit a timely and valid Request for Exclusion shall be deemed a Settlement Class Member and, upon the Effective Date, shall be bound by the terms of the Settlement Agreement and the Final Approval Order.

D. Processing Requests for Exclusion. The Notice Administrator shall provide copies of all Requests for Exclusion to Class Counsel and Defendants' Counsel as soon as practicable after receipt of each Request for Exclusion, but in no event later than five (5) days after receipt. At least fourteen (14) days before the date set by the Court for the Final Approval Hearing, the Notice Administrator shall file with the Court, and serve on Class Counsel and Defendants' Counsel, a report identifying the names, addresses, and telephone numbers of all Persons who filed timely and valid Requests for Exclusion from the Settlement Class.

E. Objections By Settlement Class Members. Any Settlement Class Member who wishes to object to the proposed Settlement Agreement and/or the application for attorney fees,

costs and expenses and/or payment of the incentive award should file with the Court, and serve upon Class Counsel and Defendants' Counsel, a written objection no later than the date set by the Court in the Preliminary Approval Order. All such objections should be in writing and include (i) the name, address and telephone number of the objecting Settlement Class Member and serial number of his or her Brush; (ii) a detailed statement of objections to be made, including all factual and legal support for such objection; (iii) any evidence supporting the objection that is intended to be introduced in support of the objection (including evidence of the objector's membership in the Settlement Class); (iv) copies of all supporting briefs and papers; (v) the caption and case number appearing on the Settlement Class Notice; and (vi) whether the objecting Settlement Class Member or objecting Settlement Class Member's attorney intends to appear at the Final Approval Hearing.

F. Appearance at the Final Approval Hearing. Any Settlement Class Member who wishes to appear and be heard at the Final Approval Hearing, either personally or through an attorney retained at the Settlement Class Member's own expense, should provide written notice of his, her, or its intention to appear as part of the objection filed and served pursuant to Paragraph VI.E. Settlement Class Members who do not timely file and serve a written notice of intention to appear in accordance with this paragraph may not be permitted to appear at the Final Approval Hearing, except as permitted by the Court.

G. Final Approval. Following final approval by the Court of the Settlement Agreement, the Parties shall jointly seek entry of the Final Approval Order, substantially in the form of Exhibit B attached hereto, which shall, *inter alia*: (i) fully and finally approve the Settlement Agreement as fair, reasonable and adequate to the Settlement Class and (ii) adjudge that the Releasing Persons shall be deemed conclusively to have released the Releasing Persons

from the Released Claims. Plaintiff will file with the Court a motion in support of final settlement approval and in response to any objections at least seven (7) days before the date of the Final Approval Hearing. Class Counsel may file a separate application for an award of attorneys' fees and an incentive award, consistent with the terms of Section V of this Agreement, at least thirty-five (35) days before the date of the Final Approval Hearing.

VII.

TERMINATION

A. Termination for Unexpected Incidence of Exclusion. Defendants shall have the right to terminate this Settlement Agreement if 100 or more Settlement Class Members file timely and valid Requests for Exclusion. To be effective, Defendants must exercise their option to terminate the Settlement Agreement, as provided in this paragraph, by giving written notice to Class Counsel within three (3) business days after the Notice Administrator, pursuant to Paragraph VI.D, serves the report identifying the number of Persons who filed timely and valid Requests for Exclusion from the Settlement Class.

B. Termination For Modification, Reversal, or Failure to Obtain Approval. The Parties, and each of them, shall have the right to terminate this Settlement Agreement if: (i) the Court, or any appellate court(s), does not approve any material provision of this Settlement Agreement, other than an award of attorney fees and expenses or an incentive award, including, without limitation, the definition of the Settlement Class, the terms of Settlement Class relief, the Notice Plan, or the Release; (ii) the Court, or any appellate court(s), does not enter or affirm without material modification any provision of the Preliminary Approval Order or the Final Approval Order; and/or (iii) the Effective Date does not occur. To be effective, the terminating Party must exercise its option to terminate the Settlement Agreement, as provided in this

paragraph, by giving written notice to counsel for the other Party within fourteen (14) days of the occurrence of the event permitting termination.

C. Effect of Termination or Non-Occurrence of Effective Date. If the Effective Date does not occur, or if this Settlement Agreement is terminated for any reason, then:

1. The Settlement Agreement shall become null and void and shall have no further force or effect.

2. The certification of the Settlement Class shall become null and void, and no Party shall be affected in any way by such prior certification.

3. All orders of the Court entered after execution of this Settlement Agreement will be deemed to be, and by operation of the Final Approval Order shall be, null and void and vacated, *nunc pro tunc* and *ab initio*, and the Action shall proceed as if the Settlement Agreement had neither been entered into nor filed with the Court.

4. The Settlement Agreement, the Parties' acceptance of its terms, and all related negotiations, statements, documents, and court proceedings shall be without prejudice to the rights of the Parties, which shall be restored to their status immediately prior to the execution of the Settlement Agreement. The Parties expressly reserve all arguments, defenses, and motions as to all claims that have been asserted or may be asserted in the future, including, without limitation, arguments opposing maintenance of this Action as a class action.

VIII.

LIMITATIONS ON USE

A. No Admission. Neither the Settlement Agreement, Defendants' acceptance of its terms, nor any of the negotiations, statements, documents, or court proceedings related thereto shall be construed as or deemed to be evidence of any presumption, concession, or admission by

Defendants or any of the Released Persons with respect to the truth of any fact alleged in the Action, the validity of any claim that has been or could have been asserted in the Action, the deficiency of any defense that has been or could have been asserted in the Action, or of any liability or wrongdoing of Defendants or any of the Released Persons. The limitations set forth in this paragraph apply regardless of whether or not the Effective Date occurs, or whether or not the Settlement Agreement is terminated or otherwise becomes null and void.

B. No Evidentiary Use. Neither the Settlement Agreement, Defendants' acceptance of its terms, nor any of the negotiations, statements, documents, or court proceedings related thereto shall be offered or received into evidence or used for any purpose whatsoever, in this or any other action or proceedings, other than to obtain approval of the Settlement Agreement, or to construe, enforce, or implement the terms of the Settlement Agreement. The limitations set forth in this paragraph apply regardless of whether or not the Effective Date occurs, or whether or not the Settlement Agreement is terminated or otherwise becomes null and void.

C. Confidentiality of Information Related to Settlement Implementation. The Parties, Class Counsel, and Defendants' Counsel agree that information provided pursuant to, or in connection with, implementation of the Settlement Agreement, including, but not limited to, information contained in Requests for Exclusion, shall be kept confidential and used solely for the purpose of implementing the Settlement Agreement as set forth herein and shall not be used or disclosed for any other purpose without the consent of the providing party or pursuant to an order of the Court.

IX.

MISCELLANEOUS PROVISIONS

A. Forbearance of Removal under Class Action Fairness Act of 2005. Defendants

will not remove this action to federal court under the diversity provisions of the Class Action Fairness Act of 2005, or 28 U.S.C. Sec. 1441, but this provision shall be null and void if the Settlement is terminated or the Effective Date does not occur.

B. No Assignment. Each Party represents, covenants, and warrants that he, she, or it has not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, cause of action, or rights that he, she, or it herein releases.

C. Binding on Assigns. This Agreement shall be binding upon and inure to the benefit of the respective heirs, trustees, executors, successors, and assigns of the Parties.

D. Paragraph Titles and Captions. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement Agreement or any provision hereof. Each term of this Settlement Agreement is contractual and not merely a recital.

E. Settlement Class Member Signatures. It is agreed that, because the Settlement Class Members are so numerous, it is impossible or impractical to have each Settlement Class Member execute this Agreement. The Settlement Class Notice will advise all Settlement Class Members of the pendency of the Action and proposed Settlement Agreement, including the binding nature of the Release and, in the absence of a valid and timely Request for Exclusion, such Settlement Class Notice shall have the same force and effect as if each Settlement Class Member executed this Agreement.

F. Construction. The Parties agree that the terms and conditions of this Settlement Agreement are the result of lengthy and intensive arm's-length negotiations between the Parties and that this Settlement Agreement shall not be construed in favor or against any Party by reason

of the extent to which any Party, or his, her or its counsel, participated in the drafting of this Settlement Agreement.

G. Counterparts. This Settlement Agreement, and any amendments hereto, may be executed in counterparts, each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute one and the same instrument. A facsimile signature shall be deemed an original signature for purposes of this Settlement Agreement.

H. Duty to Cooperate. Class Counsel and Defendants' Counsel agree to cooperate to the extent necessary to effectuate all terms and conditions of this Settlement Agreement.

I. Exhibits. All of the exhibits to the Settlement Agreement are material and integral parts hereof and are fully incorporated herein by this reference.

J. Extensions of Time. The Parties may agree, subject to approval of the Court where required, to reasonable extensions of time to carry out the provisions of this Settlement Agreement.

K. Governing Law. Construction and interpretation of the Settlement Agreement shall be determined in accordance with the laws of the State of California.

L. Integration Clause. This Settlement Agreement, including the exhibits attached and referred to herein, contains the entire understanding of the Parties with respect to the subject matter contained herein. There are no promises, representations, warranties, covenants, or undertakings governing the subject matter of this Agreement other than those expressly set forth in this Agreement. This Agreement supersedes all prior agreements and understandings among the Parties with respect to the settlement of the Action. This Agreement may not be changed, altered, or modified, except in a writing signed by the Parties and, when required, approved by

the Court.

M. Jurisdiction. The Parties, as well as any of their successors and assigns, explicitly and irrevocably agree to the jurisdiction of the California Superior Court, County of Los Angeles, for any matter related to this Action, the Settlement, or any obligation arising thereunder, without regard to the place of residence of any class member or any other factor. The Court shall retain continuing jurisdiction over the Parties, including Settlement Class Members and Released Parties, for the purpose of enforcing, implementing, and interpreting this Settlement Agreement, and over the administration and enforcement of the Settlement Agreement. The Parties designate their attorneys in this matter as their agents for the service of process of any papers in connection with this jurisdiction.

N. Continuing Obligations of Class Counsel. Class Counsel specifically undertake to continue to represent the interests of the Class in connection with the enforcement of the obligations undertaken by Defendants in connection with the Settlement. In connection with this continuing obligation, Class Counsel, and each of the firms comprising Class Counsel, shall make themselves available to Class Member inquiries regarding the performance of the obligations of the Settlement as well as Defendants' satisfaction of those obligations. If and whenever necessary, Class Counsel shall undertake to advocate for the enforcement of the obligations of the Settlement, work in good faith to resolve any potential disputes relating to the Settlement with Defendants through their Counsel, and seek the intervention of the Court to enforce the obligations of the Settlement if such disputes cannot be resolved. Class Counsel shall not seek or accept any consideration for these services beyond the award of Attorneys' Fees and Expenses in connection with the Settlement.

O. No Collateral Attack. This Settlement Agreement shall not be subject to

collateral attack by any Settlement Class Member at any time on or after the Effective Date. Such prohibited collateral attacks shall include claims that a Settlement Class Member's claim was improperly denied, that the claim was improperly handled, and/or that a Settlement Class Member failed to receive timely notice of the Settlement Agreement.

P. Authority to Enter into Agreement. The signatories hereto hereby represent that they are fully authorized to enter into this Settlement Agreement and bind the Parties to the terms and conditions hereof.

Q. Receipt of Advice of Counsel. The Parties acknowledge, agree, and specifically warrant to each other that they have read this Settlement Agreement, have received legal advice with respect to the advisability of entering into this Settlement Agreement, and fully understand its legal effect.

R. Waiver Of Compliance. Any failure of any Party to comply with any obligation, covenant, agreement, or condition herein may be expressly waived in writing, to the extent permitted under applicable law, by the Party or Parties entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or failure to insist upon strict compliance with any representation, warranty, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

PLAINTIFF Ashley Novak

11/30/2018
04:45 AM GMT

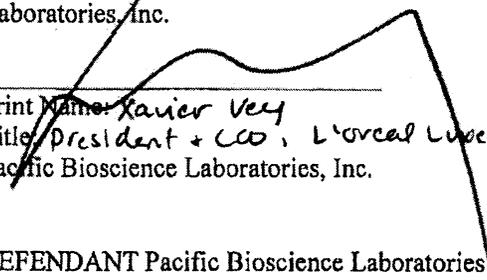
Dated: _____

Ashley Novak 

Ashley Novak
Plaintiff, and on behalf of the Proposed
Settlement Class

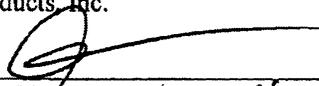
Dated: 11-27-2018

DEFENDANT Pacific Bioscience
Laboratories, Inc.


Print Name: Xavier Vey
Title: President + COO, L'oreal Luxe USA
Pacific Bioscience Laboratories, Inc.

Dated: 11-27-2018

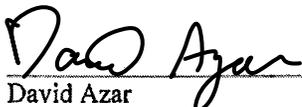
DEFENDANT Pacific Bioscience Laboratories
Products, Inc.


Print Name: Erin Schafner
Title: SVP Finance, L'oreal Luxe USA
Pacific Bioscience Laboratories Products, Inc.

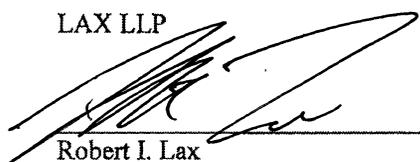
**APPROVED AS TO FORM AND
CONTENT:**

Dated: 11/29/18

Tadler Phillips Grossman
MILBERG LLP


David Azar
Attorney for Plaintiff

Dated: 11/29/2018

LAX LLP

Robert I. Lax
Attorney for Plaintiff

Dated: 11-29-2018

JOSEPH J.M. LANGE LAW CORP.

Joseph J.M. Lange
Attorney for Plaintiff

GORDON REES SCULLY MANSUKHANI
LLP

Dated: 11/29/18



M.D. Scully
Justin D. Lewis
Attorneys for Defendants
Pacific Bioscience Laboratories, Inc.

EXHIBIT 1

Members for their consideration and for a hearing in accordance with Rule 3.769 of the California Rules of Court.

3. For settlement purposes only, the Court certifies the Settlement Class, which is defined as follows: all end-user Persons in the United States who purchased or received as a gift authentic Clarisonic sonic skin cleansing devices consisting of the Mia 1, Mia 2, Mia 3/Aria, Pro, and Plus models (the “Brushes”) purchased in the period of January 1, 2009, to December 31, 2016 (the “Class Period”). Excluded from the Settlement Class shall be (i) any person or entity who has released claims relating to or arising out of purchase, receipt, or use of the Brushes; (ii) any person or entity who has purchased or acquired Brushes for resale; (iii) Defendants and any parent, subsidiary, affiliate, officer, director, or current or former employee; and (iv) any judicial officer to whom the Action is assigned, as well as the judicial officer’s immediate family members.

4. For settlement purposes only, the Court finds that the requirements of California law, including Section 382 of the California Code of Civil Procedure, are satisfied for the Class Representative and the Settlement Class: (1) there is an ascertainable Settlement Class; (2) there is a well-defined community of interest in the questions of law or fact affecting the parties to be represented in the Settlement Class, including because there are predominant common questions of law and fact; (3) the Class Representative’s claims or defenses are typical of the Settlement Class; and (4) the Class Representative can adequately represent the class. (*See Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal. 4th 319, 326; *Linder v. Thrifty Oil Co.* (2000) 23 Cal. 4th 429, 434-35; *Daar v. Yellow Cab* (1967) 67 Cal. 2d 695, 704.)

5. For purposes of settlement only, Ashley Novak is appointed as Class Representative of the Settlement Class. For purposes of settlement only, Robert I. Lax of Lax, LLP, and David Azar of Milberg Tadler Phillips Grossman LLP, and Joseph J.M. Lange of Joseph J.M. Lange Law Corporation are appointed as Class Counsel for the Settlement Class.

6. Tilghman & Co. is appointed as the Notice Administrator. The Notice Administrator shall administer the Notice Plan in accordance with the terms set forth in the Settlement Agreement and perform the functions set forth therein. In addition, The Notice Company is appointed to execute the supplemental online notice spelled out in the Settlement Agreement.

7. The Court finds that the Notice Plan, as set forth in Section III of the Settlement Agreement, including the form and content of the notices attached as Exhibits A and B to the Settlement Agreement, is the best notice practicable under the circumstances, taking into consideration (i) the interests of the class; (ii) the type of relief requested; (iii) the stake of the individual class members; (iv) the cost of notifying class members; (v) the resources of the parties; (vi) the possible prejudice to class members who do not receive notice; and (vii) the res judicata effect on class members. The Court further finds that the Notice Plan constitutes due and sufficient notice to all Persons within the Settlement Class of, *inter alia*: (i) the proposed Settlement Agreement, and procedures for Settlement Class Members to follow in filing written objections to it, and in arranging to appear at the Final Approval Hearing and state any objections to the proposed Settlement; (ii) the nature of the case and the basic contentions and denials of the Parties; (iii) the right of Persons within the Settlement Class to exclude themselves from the Settlement Class before a specified date; (iv) the procedure for Persons within the Settlement Class to follow in requesting to be excluded from the Settlement Class; (v) the binding effect of any judgment, whether favorable or not, on Persons within the Settlement Class who do not request to be excluded; and (vi) the right of Persons within the Settlement Class who do not request exclusion to enter an appearance through counsel at the Final Approval Hearing, and satisfies the requirements of California law, including California Rules of Court Rules 3.766(e) and 3.769(f), and any other applicable law. The Parties, by written agreement of counsel, may

revise the Notices, claims materials, and other exhibits and documents appurtenant to the Settlement Agreement in ways that are not material, or in ways that are appropriate to update those documents for purposes of accuracy.

8. Pursuant to the Notice Plan:

(a) Within fourteen (14) days of entry of the Preliminary Approval Order, Defendants shall compile a list of mailing addresses and/or email addresses for Settlement Class Members (“Customer List”) and provide it to the Settlement Administrator and Class Counsel. Class Counsel may supplement the Customer List with the mailing addresses and/or email addresses of Settlement Class Members known to Class Counsel or to Plaintiff by providing the Settlement Administrator with any such mailing addresses prior to the issuance of the Postcard/Email Notice.

(b) Starting no later than twenty-one (21) days after the entry of the Preliminary Approval Order, the Settlement Administrator shall send Postcard/Email Notice by email to all Persons identified on the Customer List for whom Defendants have a valid email address. For any emailed Postcard/Email Notice for which a bounce code is received indicating that the message is undeliverable, the Settlement Administrator will make an additional attempt to deliver the Postcard/Email Notice via email.

(c) Starting no later than twenty-one (21) days of the entry of the Preliminary Approval Order, for all Settlement Class Members for whom only an associated physical mailing address is known, the Settlement Administrator shall mail the Postcard/Email Notice by first-class United States mail, postage prepaid, to all Persons identified on the Customer List for whom Defendants have only a mailing address and, if returned, shall re-mail such returned Postcard/Email Notice once to any forwarding address on the returned notice. There shall be no further obligation to re-mail the Postcard/Email Notice.

(d) The Settlement Administrator will build and host a website to provide information on the settlement, including the Class Notice attached hereto as Exhibit B. The Settlement Website shall be online no later than twenty-one (21) days after the entry of the

Preliminary Approval Order and shall remain live for the duration of the Warranty Extension. The Settlement Website URL will be: www.skinbrushbatterysettlement.com. Defendants will post a link to the Settlement Website URL from Defendants' consumer support website during the duration of the warranty extension period identified in the Settlement Agreement. The Settlement Website URL will be included in the Postcard/Email Notice issued directly to Settlement Class Members.

(e) The Settlement Administrator shall complete the provision of Postcard/Email Notice no later than forty-five (45) days after the Preliminary Approval order is issued. The Notice Plan shall be deemed complete on the later of (i) the last mailing date of the Postcard/Email Notice; or (ii) the last emailing date of the Postcard/Email Notice. Within fourteen (14) days of the Settlement Class Notice completion date, the Settlement Administrator shall serve on Class Counsel and file with the Court an affidavit or certification of compliance with the mailing, emailing, and website requirements set forth in this Section.

9. Any Person within the Settlement Class who wishes to be excluded from the Settlement Class must submit a timely and valid Request for Exclusion to the Settlement Administrator, pursuant to the instructions set forth in the Settlement Agreement, postmarked no later than March 1, 2019. To be valid, a Request for Exclusion must satisfy the following requirements: (1) it must contain the name, address and telephone number of the Person submitting the Request for Exclusion; (2) it must state that the Person wishes to be excluded from the Action.

10. Any Person within the Settlement Class who submits a timely and valid Request for Exclusion shall not be bound by the Settlement Agreement, shall not be entitled to share in the benefits of the Settlement Agreement, and shall not be bound by the Final Order and Judgment. Any Person within the Settlement Class who does not submit a timely and valid Request for Exclusion shall be deemed a Settlement Class Member and, upon the Effective Date, shall be bound by the terms of the Settlement Agreement and the Final Order and Judgment, whether or not such Settlement Class Member submits a claim under the warranty extended by the Settlement.

11. Any Settlement Class Member who wishes to object to the proposed Settlement Agreement and/or the application for attorneys' fees, costs and expenses and/or payment of the incentive award should file with the Court, and serve upon Class Counsel and Defendants' Counsel, a written objection no later than March 1, 2019. All such objections should be in writing and include (i) the name, address and telephone number of the objecting Settlement Class Member; (ii) a detailed statement of objections to be made, including all factual and legal support for such objection; (iii) any evidence supporting the objection that is intended to be introduced in support of the objection (including evidence of the objector's membership in the Settlement Class); (iv) copies of all supporting briefs and papers; (v) the caption and case number appearing on the Settlement Class Notice; and (vi) whether the objecting Settlement Class Member or objecting Settlement Class Member's attorney intends to appear at the Final Approval Hearing. Objections not filed and served in accordance with this paragraph may not be received or considered by the Court. Any Settlement Class Member who fails to timely file and serve a written objection in accordance with this paragraph may be deemed to have waived, and shall be foreclosed from raising, any objection to the Settlement Agreement, and may not appeal the Final Approval Order.

12. Any Settlement Class Member who wishes to appear and be heard at the Final Approval Hearing, either personally or through an attorney retained at the Settlement Class Member's own expense, should provide written notice of his, her, or its intention to appear as part of the objection filed and served pursuant to Paragraph 11. The Court will hear from all Class Members who appear at the final approval hearing and ask to speak, regardless of whether they have filed a written objection or notice of intention to appear.

13. Service of all papers on counsel for the Parties shall be made as follows: for Class Counsel, to: Joseph J.M. Lange, Joseph J.M. Lange Law Corporation, 222 North Pacific Coast Highway, Suite 2000, El Segundo, CA 90245, and for Defendants' Counsel, to: Justin D. Lewis, Gordon & Rees LLP, 101 W. Broadway, Suite 2000, San Diego, CA 92101.

14. A Final Approval Hearing shall be held on _____, 2019 at _____, in Department 11 at the Los Angeles County Superior Court, 312 North Spring Street, Los

Angeles, CA 90012, to, *inter alia*: (i) determine whether to grant final approval to the Settlement Agreement as fair, reasonable, and adequate and in the best interests of the Settlement Class; (ii) consider any timely objections to this Settlement Agreement and the Parties' responses to such objections; and (iii) rule on Class Counsel's application for an award of attorneys' fees and expenses and an incentive award. At the Final Approval Hearing, the Parties shall ask the Court to give final approval to this Settlement Agreement. If the Court grants final approval to this Settlement Agreement, the Parties shall seek entry of the Final Order and Judgment, which shall, *inter alia*, (i) fully and finally approve the Settlement Agreement as fair, reasonable, and adequate to the Settlement Class; (ii) dismiss the Action with prejudice; and (iii) adjudge that the Releasing Persons shall be deemed conclusively to have released the Releasing Persons from the Released Claims.

15. The Parties will file with the Court a motion in support of final settlement approval and in response to any objections at least seven (7) days before the date of the Final Approval Hearing. Class Counsel may file a separate application for an award of attorneys' fees and an incentive award at least fourteen (14) days before the date of the Final Approval Hearing.

16. With the exception of such proceedings as are necessary to implement, effectuate, and grant final approval to the proposed Settlement, all proceedings are stayed in this Action and all Settlement Class Members are enjoined from commencing or continuing any action or proceeding in any court or tribunal asserting any claims released under the Settlement Agreement, unless the Settlement Class Member timely files a valid Request for Exclusion as defined in the Settlement Agreement.

17. If the Effective Date does not occur, or if the Settlement Agreement is terminated for any reason, then:

(i) the Settlement Agreement shall become null and void and shall have no further force or effect;

(ii) the certification of the Settlement Class shall become null and void, and no Party shall be affected in any way by such prior certification;

(iii) all orders of the Court entered after execution of this Settlement Agreement will be deemed to be, and by operation of the Final Order and Judgment shall be, null and void and vacated, *nunc pro tunc* and *ab initio*, and the Action shall proceed as if the Settlement Agreement had neither been entered into nor filed with the Court;

(iv) the Settlement Agreement, the Parties' acceptance of its terms, and all related negotiations, statements, documents, and court proceedings shall be without prejudice to the rights of the Parties, which shall be restored to their status immediately prior to the execution of the Settlement Agreement, and the Parties expressly reserve all arguments, defenses and motions as to all claims that have been asserted or may be asserted in the future, including, without limitation, arguments opposing maintenance of this Action as a Class Action.

18. The Court may, for good cause shown, extend any of the deadlines set forth in this Order without further notice to the Settlement Class. The Final Approval Hearing may, from time to time and without further notice to the Settlement Class Members, be continued by order of the Court.

IT IS SO ORDERED.

Dated: _____

Hon. Ann I. Jones
Judge of the Superior Court

EXHIBIT A
To Preliminary Approval Order

LEGAL NOTICE

If you bought or received a Mia 1, Mia 2, Mia 3/Aria, Pro, or Plus model Clarisonic® brand skin brush between January 1, 2009, and December 31, 2016, you could benefit from a class action settlement.

A Settlement has been proposed in a class action lawsuit (*Novak v. Pacific Bioscience Laboratories, Inc., and Pacific Bioscience Laboratories Products, Inc., Los Angeles County Superior Court case number BC582188*) about alleged defects in certain Clarisonic® brand skin brushes (the “Brushes”). The Superior Court of California authorized this notice and will decide whether to approve the Settlement.

What is the case about? Plaintiffs allege that the Brushes possess a defect which causes battery failure. The Defendants deny these allegations.

Who is included? The Settlement Class includes all persons in the United States who, from January 1, 2009, to December 31, 2016, purchased a Mia 1, Mia 2, Mia 3/Aria, Pro, or Plus model Clarisonic® skin brush.

What does the Settlement provide? If approved, the proposed Settlement will extend the manufacturer’s warranty against Battery Failure on the Brushes. The proposed Settlement also includes enhanced servicing of this extended warranty by Defendants.

How do you get benefits? You do not need to do anything in order to qualify for the warranty extension. The extension of the manufacturer’s warranty for Battery Failure will automatically apply.

What are your options? The Court will hold a Fairness Hearing at the Los Angeles County Superior Court, Department 11, 312 North Spring Street, Los Angeles, CA 90012 on [DATE] at [TIME] to determine whether the Settlement is fair, reasonable and adequate and to consider Class Counsel’s applications for attorneys’ fees and expenses of up to \$750,000.00 and for an award up to \$1,000.00 for the Plaintiff, to be paid by Defendants. If you wish, you or your lawyer may ask to appear and speak at the hearing at your own expense, but you do not have to.

If the Settlement is approved by the Court, and you do not exclude yourself, you will be bound by the judgment, and legal claims that you may have against Defendants related to the Brushes will be released. If you do not wish to be bound by the Settlement, you must mail a written request for exclusion to: Skin Brush Battery Settlement Exclusions, P.O. Box 427, Birmingham, AL 35201-0427, postmarked by March 1, 2019. Or, you may file a formal written objection to the Settlement by March 1, 2019.

This notice is only a summary. For more information, visit www.skinbrushbatterysettlement.com. Do not contact the Court or Defendants.

EXHIBIT B
To Preliminary Approval Order

EXHIBIT B

LONG FORM NOTICE

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT
AUTHORIZED BY THE LOS ANGELES COUNTY SUPERIOR COURT**

YOU ARE NOT BEING SUED. THIS IS NOT A LAWSUIT AGAINST YOU.

YOU MAY BE ENTITLED TO RECEIVE THE BENEFITS OF A CLASS ACTION SETTLEMENT IF YOU PURCHASED A MIA 1, MIA 2, MIA 3/ARIA, PRO, OR PLUS MODEL OF CLARISONIC SKIN BRUSH (THE “BRUSHES”) BETWEEN JANUARY 1, 2009, AND DECEMBER 31, 2016.

This notice has been approved by the Court and is not a solicitation from a lawyer. Please read this notice carefully, as your legal rights will be affected whether or not you act.

BASIC INFORMATION

1. Why was this Notice issued?

A Court authorized this notice because you may have a right to know about a proposed Settlement¹ of this class action lawsuit and about all of your options before the Court decides whether to give final approval to the Settlement. You have this right if you are a member of the Settlement Class, defined in Question 5, below. This Notice explains the lawsuit, the Settlement, and your legal rights. The Settlement would extend the original manufacturer’s warranty coverage for Battery Failure. The Court in charge of this case still has to decide whether to approve the Settlement. The Warranty Extension will only be provided to Settlement Class Members if the Court gives final approval to the Settlement and after any appeals are resolved.

If you are a Settlement Class Member, your legal rights and options are as follows:

LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING	Receive an extension of the manufacturer’s warranty covering Battery Failure if the Settlement is approved by the Court. You will be included in the Settlement and give up your right to file a separate lawsuit.
EXCLUDE YOURSELF (OPT OUT) BY [EXCLUSION DEADLINE]	Write to the Settlement Administrator to get out (opt out) of the proposed Settlement. You will not be entitled to receive any benefits from the Settlement, but this is the only option that allows you to bring your own lawsuit about the issues being settled in this case.

¹ Capitalized terms used herein have the same meaning ascribed to them in the Settlement Agreement, which can be viewed on this website.

COMMENT ON THE SETTLEMENT BY [OBJECTION DEADLINE]	Write to the Court explaining why you support or oppose the proposed Settlement.
GO TO THE HEARING ON [DATE]	Provide written notice to the Court that you would like to attend the Hearing about the fairness of the Settlement, or you would like to have your own lawyer appear and speak at the hearing on your behalf. You or your lawyer may then speak in Court about your opinion of the Settlement.

2. What is a class action?

In a class action, one or more people called class representatives sue on behalf of a group or a “class” of people who have similar claims. The Class Representative or Plaintiff in this lawsuit is Ashley Novak. In a class action, the court resolves the issues for all class members, except for those who exclude themselves from the class.

3. What is this lawsuit about?

Plaintiff’s Position: This lawsuit alleges that certain Clarisonic skin Brushes, specifically the Mia 1, Mia 2, Mia 3/Aria Pro and Plus models, possess a defect which leads to failure of the battery. The lawsuit claims that the Defendants breached their express and implied warranties with members of the Class, violated California consumer protection laws, and violated the Magnuson-Moss Warranty Act.

Defendants’ Position: Defendants vigorously dispute these allegations, and deny that there is any defect in the Brushes, deny that they have breached their warranties with any customer or violated any law, and deny that a class of purchasers could bring common claims that would entitle them to pursue or receive relief as a class.

The Court has not decided whether Plaintiff or Defendants should win this case.

4. Why is there a settlement?

Plaintiff and Defendants recognize that continued litigation is expensive, risky, and time-consuming. Plaintiff recognizes that any relief that could come to Class Members from this lawsuit could take many years to be awarded, if it is ever awarded. And Defendants recognize that a costly lawsuit would divert resources from running their businesses and maintaining the companies’ commitment to customer service. Therefore, Plaintiff and her attorneys have concluded that settlement is in the best interests of the Class because it provides a recovery now while avoiding the risk, expense, uncertainty, and delay of pursuing the case through a lengthy trial and any appeals. Defendants have decided to settle the case to avoid the further risk, cost, and other burdens of protracted litigation and appeals.

ARE YOU A SETTLEMENT CLASS MEMBER?

5. Who is included in the Settlement?

You are included in this Settlement if you are an end-user in the United States who purchased or received as a gift an authentic Clarisonic sonic skin cleansing device consisting of a Clarisonic Mia 1, Mia 2, Mia 3/Aria, Pro, or Plus model skin brush (the “Brushes”) purchased in the period of January 1, 2009, to December 31, 2016 (the “Class Period”). Excluded from the proposed Settlement Class are (i) any person or entity who has released claims relating to or arising out of purchase, receipt, or use of the Brushes; (ii) any person or entity who has purchased or acquired Brushes for resale; (iii) Defendants and any parent, subsidiary, affiliate, officer, director, or current or former employee; and (iv) any judicial officer to whom the Action is assigned, as well as the judicial officer’s immediate family members. Settlement Class Members include all persons who are members of the Settlement Class, as defined above, who do not opt-out of the Settlement in a timely and correct manner.

WHAT WILL YOU GET FROM THE SETTLEMENT?

6. What benefits does the Settlement Provide to Settlement Class Members?

If you are a Settlement Class Member and the Settlement is Approved:

- You will receive an extension of your original warranty to cover Battery Failure, which means the inability of the Brush to achieve power due to the battery cells’ depleted capacity to accept or hold an electrical charge. If your Brush was sold with an original warranty of 12 months, the warranty will be extended for Battery Failure by 12 months. If your Brush was sold with an original warranty of 2 years, the warranty will be extended for Battery Failure by 9 months. If your Brush was sold with an original warranty of 3 years, the warranty will be extended for Battery Failure by 6 months. If the applicable extension period will already be expired for your Brush, then the Warranty Extension will last for at least 6 months from the Effective Date of the Settlement (the date after the Court has finally approved the Settlement and all appeals have been resolved or the time to appeal has lapsed). All other terms of Defendants’ original manufacturer’s warranty will remain unchanged.
- For the duration of the Warranty Extension period, Defendants will maintain a toll-free telephone number for Settlement Class Members to seek a warranty remedy under the Settlement. All inquiries concerning the warranty extension will be administered by Defendants’ warranty/customer service representatives specially-trained and knowledgeable to answer such inquiries related to the Warranty Extension.
- Defendants will pay agreed litigation costs, including the costs of giving notice to the class, administering the Settlement, a Court-approved incentive award to the Class Representative up to \$1,000, and a Court-approved award of attorneys’ fees and expenses to Class Counsel up to \$750,000.

You do not need to do anything in order to qualify for the benefits described above. The Warranty Extension will automatically apply.

7. When will I receive this benefit?

The Court will hold a hearing on _____, 2019, to decide whether to approve the Settlement. There could be appeals, and if so, it is always uncertain how much time they can take to resolve. Please be patient.

8. How can I submit a Warranty Claim?

The Effective Date of this Settlement is defined as the first business day after the occurrence of all of the following conditions: (i) the Court has preliminarily approved the Settlement and entered the Preliminary Approval Order; (ii) the Court has granted final approval to the Settlement and entered the Final Order and Judgment; and (iii) the time to appeal the Final Order and Judgment has expired without any such appeal having been timely filed, or, if appealed, the Final Order and Judgment has been affirmed on appeal in all material respects, subject to no further right of review. **This website will display information about the Effective Date and will be updated to show the Effective Date.**

The Warranty Extension will not take effect until the Effective Date. The Warranty Extension will cover Battery Failure only. It will not cover Brush failures due to dropping/breakage, water intrusion, or other failure modes. Settlement Class Members whose Mia 1, Mia 2, Mia 3/Aria, Pro, or Plus models of Clarisonic Brushes exhibit Battery Failure during their devices' proposed Warranty Extension periods will begin the process of submitting a warranty claim by calling Defendants' warranty/customer service representatives at 1-800-_____. Following an initial telephonic screening, Settlement Class Members will be required to return the Brush to Defendants (with return shipping paid by Defendants), along with the original purchase receipt for the Brush or a statement sworn under penalty of perjury that he or she purchased the Brush during the Class Period, as well as a claim form that specifies the retailer from which he or she purchased the Brush (if known). Upon determining that an otherwise eligible Brush returned to Defendants in this proposed Settlement suffered Battery Failure, Defendants will repair or replace it, at their option. Brushes found not to suffer Battery Failure will not be returned. Defendants will not repair or replace any Brushes under this proposed Settlement unless and until the Settlement is approved and the Settlement Effective Date has passed. Please be patient.

WHO ARE MY ATTORNEYS?

9. Who are the attorneys representing the class and how will they be paid?

The Court has appointed the following attorneys and law firms to represent the Settlement Class as legal counsel:

David Azar

MILBERG TADLER PHILLIPS GROSSMAN LLP

One Penn Plaza, 19th Floor

New York, NY 10119

Telephone: (212) 594-5300

Robert I. Lax
LAX LLP
380 Lexington Avenue, 31st Floor
New York, NY 10168
Telephone: (212) 818-9150

Joseph J.M. Lange
JOSEPH J.M. LANGE LAW CORPORATION
222 North Pacific Coast Highway, Suite 2000
El Segundo, CA 90245
Telephone: (310) 414-1880

When the attorneys representing the Settlement Class (called “Class Counsel”) ask the Court to approve the Settlement, they will also apply to the Court for an award of attorneys’ fees and reimbursement of expenses in the aggregate amount of \$750,000. Since beginning work on this litigation in August 2014, Class Counsel have pursued the case on behalf of class members purely on a contingent basis and received no compensation for their services or reimbursement of their expenses. Class Counsel are requesting the attorneys’ fee award to compensate them for time and expenses incurred. Class Counsel will also ask the Court to approve an incentive award to the Class Representative, Ashley Novak, in the amount of \$1,000, for her initiative and efforts pursuing this case on behalf of the Settlement Class, which included consulting with attorneys since the inception of the case. Any awards for attorneys’ fees, reimbursement of expenses, or an incentive award approved by the Court will not reduce the benefits available to Settlement Class.

WHAT ARE MY OTHER OPTIONS?

10. What am I giving up if I stay in the class?

You must stay in the Settlement Class to receive the Warranty Extension’s coverage for Battery Failure. If the Court approves the Settlement, you will be bound by the Court’s orders in this case, including the final judgment, which will dismiss all claims asserted on behalf of the Settlement Class and order the parties to implement the Settlement. By staying in the Settlement Class, will give up any right you may have to pursue, continue to pursue, or participate in any other lawsuit against Defendants or their affiliates for defects in the Brushes, or any misrepresentations made in connection with their sale. These include all “Released Claims” (as defined below) against the “Released Persons” (as defined below).

“Released Claims” means any and all actions, causes of action, claims, demands, liabilities, obligations, fees, costs, sanctions, proceedings, losses or damages of any kind, and/or rights of any nature and description whatsoever, including, without limitation, violations of any state or federal statutes, rules or regulations, or principles of common law, whether liquidated or unliquidated, known or unknown, in law or in equity, whether or not concealed or hidden, based upon, arising out of or related to, in whole or in part, the initiation, prosecution, or settlement of this lawsuit, including but not limited to (1) any of the alleged inadequacies, misstatements, or issues associated with the Brushes, their performance, or the Battery Failure; (2) any act,

omission, or other conduct alleged or referred to in the lawsuit; and (3) any act, omission, or other conduct that could have been alleged, referred to, or asserted in the lawsuit by any Plaintiff or any Settlement Class Member “which arises out of the same transaction, occurrence, or series of transactions or occurrences as the cause of action which the plaintiff alleges in his complaint.” (California Code of Civil Procedure 426.10(c), definition of “Related cause of action”). Excluded from Released Claims are any claims for personal injuries or damage to property other than the Brushes.

“Released Persons” means (i) Pacific Bioscience Laboratories, Inc., and Pacific Bioscience Laboratories Products, Inc.; (ii) present and former subsidiaries, parents, affiliates, successors, and predecessors of the foregoing entities, including, without limitation, Pacific Bioscience Laboratories, Inc., and Pacific Bioscience Laboratories Products, Inc.; (iii) all Persons on whose behalf any of the foregoing entities acted or purported to act; and (iv) for each of the foregoing Persons and entities, each of their present or former officers, directors, shareholders, employees, representatives, agents, principals, consultants, contractors, insurers, accountants, attorneys, partners, members, administrators, legatees, executors, heirs, estates, parents, subsidiaries, affiliates, predecessors-in-interest, joint venturers, trusts, trustors, trustees, beneficiaries, successors in interest, assigns, or any other Person with whom any of them is affiliated or for whom any of them is responsible at law, in equity, or otherwise.

If you wish to keep your right to sue or continue a lawsuit concerning defects in the Brushes or misrepresentations relating to their sale, you must exclude yourself from the Settlement Class.

11. How can I exclude myself from the class and Settlement?

If you wish to exclude yourself from the class and Settlement, you must submit a written exclusion request. If you exclude yourself, you will not receive a warranty extension and cannot obtain a repair or replacement of your Skin Brush under the Settlement, you will not be bound by the final judgment, and you will retain the right to pursue your own lawsuit concerning the Skin Brushes.

To request exclusion, you must write a letter or postcard that lists your name, address, telephone number, and states that you wish to be excluded from the class and Settlement in *Novak v. Pacific Bioscience Laboratories*, case number BC582188. You must sign the letter or postcard and mail it to: Skin Brush Battery Settlement Exclusions, P.O. Box 427, Birmingham, AL 35201-0427, postmarked by March 1, 2019, or, if delivered by a delivery service other than U.S. Mail, so that it is received no later than March 1, 2019.

12. How can I tell the Court what I think about the Settlement?

Unless you exclude yourself, you can comment in support of or in opposition to the Settlement, Class Counsel’s application for attorneys’ fees and expenses, or the request for an incentive award for the Class Representative. You should submit any objections or comments in writing.

You should send the original of your objections or comments to the Clerk of the Court and send copies to Class Counsel and Defendants' Counsel at the following addresses, so that your objections or comments are received no later than March 1, 2019]:

Clerk of the Court
Los Angeles County Superior Court of the State of California
600 Commonwealth Avenue
Los Angeles, CA 90005

For Class Counsel:

Joseph J.M. Lange
JOSEPH J.M. LANGE LAW CORP.
222 North Pacific Coast Highway, Suite 2000
El Segundo, CA 90245

Counsel for Defendants:

Justin D. Lewis
GORDON & REES
101 W. Broadway
Suite 2000
San Diego, CA 92101

Your objections or comments should (a) include a reference at the beginning to *Novak v. Pacific Bioscience Laboratories*, case number BC582188; (b) list your name, address, and telephone number; (c) be signed by you; and (d) state your position and the reasons for your position. You must include copies of any documents you wish the Court to consider. If you do not present your views in writing in compliance with the foregoing procedure and deadline, your views may not be considered, and you may waive any objections you have.

As described below, the Court will hold a hearing to decide whether to approve the Settlement. If you submit written objections or comments and wish to appear and speak at the hearing, your objections or comments should include a statement that you intend to appear and speak at the fairness hearing, set forth the position you intend to present at the hearing, and include copies of any documents you wish the Court to consider. If you want your own lawyer to appear and speak at the hearing on your behalf, you should also state in your written objections or comments that you intend to have your lawyer appear and speak for you, and list the name, address, and telephone number of your lawyer.

13. When and where will the Court hold a hearing on the fairness of the Settlement?

This lawsuit is pending before the Honorable Judge Ann I. Jones of the Los Angeles County Superior Court of the State of California. On _____, 2019, at ____ [a.m./p.m.], Judge Jones will hold a Hearing on the fairness of the Settlement and whether it should be approved. The hearing will be held in Department 11 of the Los Angeles County Superior Court of the State of California, 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, Judge Jones will also consider Class Counsel's application for attorneys' fees and expenses and the request for an incentive award for the Class Representative.

14. Do I have to come to the Hearing? May I speak at the Hearing?

You are not required to attend the hearing to have the Court consider your written comments or objections. You or your lawyer may attend the Hearing if you wish, at your own expense. If you wish to speak at the hearing, you should submit written comments or objections, including a statement that you intend to appear and speak at the Hearing, in compliance with the procedures and deadline. The Court will hear from all Class Members who appear at the hearing and ask to speak, regardless of whether they have filed a written objection or notice of intention to appear.

15. What happens if I do nothing at all?

If you are a Settlement Class Member and do nothing at all, if the Settlement is approved you will receive the Warranty Extension as described above. You will still be a part of the class, and your legal claims will be released as described above, and you will not be able to file your own lawsuit.

16. How do I get more information?

For more information, you may wish to review the Settlement Agreement and other documents available for viewing on this website. All pleadings and papers filed in the lawsuit are available for inspection and copying through the office of the Clerk of the Court.

If you would like more information, you may also contact Class Counsel by contacting them at the addresses and telephone numbers listed above.

THE BENEFITS OF DESCRIBED ABOVE WILL BE MADE AVAILABLE ONLY IF THE COURT APPROVES THE SETTLEMENT AND THE SETTLEMENT BECOMES FINAL ACCORDING TO ITS TERMS. FOR CURRENT INFORMATION ON WHEN THE SETTLEMENT WILL BE FINAL ACCORDING TO ITS TERMS, CONSULT THIS WEBSITE OR CONTACT CLASS COUNSEL AT THE ADDRESSES LISTED ABOVE.

ANY QUESTIONS YOU MAY HAVE REGARDING THIS NOTICE, THIS LAWSUIT, OR THE SETTLEMENT SHOULD BE DIRECTED IN WRITING TO CLASS COUNSEL AT THE ADDRESSES LISTED ABOVE.

PLEASE DO NOT CONTACT THE COURT WITH QUESTIONS ABOUT THE SETTLEMENT.

EXHIBIT 2

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

Ashley Novak,

Plaintiff,

vs.

Pacific Bioscience Laboratories, Inc. and
Pacific Bioscience Laboratories, Products,
Inc.,

Defendants.

Case No. BC582188

**[PROPOSED] FINAL APPROVAL
ORDER AND JUDGMENT**

Judge: Ann I. Jones

Dept.: 11

Action Filed: May 18, 2015

WHEREAS, plaintiff Ashley Novak, individually and in her representative capacity (“Plaintiff” or “Class Representative”), and defendants Pacific Bioscience Laboratories, Inc., and Pacific Bioscience Laboratories Products, Inc. (“Defendants” and collectively with the Plaintiff, the “Parties”), have reached a proposed class action settlement of the above-captioned Action (the “Settlement”);

WHEREAS, Plaintiff previously filed a notice of motion and motion for preliminary approval of the proposed Settlement on the terms and conditions set forth in the Stipulation and Settlement Agreement and the attached exhibits (“Settlement Agreement”);

WHEREAS, on [DATE], the Hon. Ann I. Jones signed an Order on [DATE], granting Preliminary Approval of the Proposed Settlement (“Preliminary Approval Order”), *inter alia*: (i) certifying the Settlement Class for settlement purposes only; (ii) preliminarily approving the Settlement Agreement as fair, reasonable and adequate to the Settlement Class; (iii) approving the Notice Plan; (iv) authorizing dissemination of notice to the Settlement Class pursuant to the Notice Plan; (v) scheduling the Final Approval Hearing; (vi) providing that, with the exception of such proceedings as are necessary to implement, effectuate, and grant final approval to the proposed Settlement Agreement, all proceedings in the Action are stayed until further order of the Court; and (vii) providing that, pending entry of the Final Order and Judgment, no Settlement

Class Member (either directly, in a representative capacity, or in any other capacity) shall commence or prosecute any of the Released Claims against any of the Released Persons.

WHEREAS, on [DATE], the Notice Administrator filed a declaration with this Court confirming that notice of the Settlement was provided to the Settlement Class in accordance with the Notice Plan set forth in the Settlement Agreement;

WHEREAS, a Final Approval Hearing was held on [DATE], to, *inter alia*: (i) determine whether to grant final approval to the Settlement Agreement as fair, reasonable, and adequate and in the best interests of the Settlement Class; (ii) consider any timely objections to this Settlement and the Parties' responses to such objections; and (iii) rule on Class Counsel's application for an award of attorneys' fees and expenses and an incentive award.

NOW, THEREFORE, the Court, having considered the proposed Settlement and all submissions filed in connection therewith, having considered the presentations of the Parties, any objections filed or presented to the Court, the Parties' responses to such objections, and having considered Class Counsel's application for an award of attorneys' fees, costs, and expenses and Class Counsel's request for approval of an incentive award for the Class Representative, and materials in support thereof, it is hereby ORDERED, ADJUDGED and DECREED THAT:

1. The Settlement Agreement, including all exhibits thereto, is hereby incorporated by reference into this Final Order and Judgment as if explicitly set forth herein and shall have the full force of an Order of this Court. The capitalized terms used in this Final Order and Judgment shall have the same meaning as defined in the Settlement Agreement.

2. The Court has jurisdiction over the subject matter of this Action, the Parties, all Persons within the Settlement Class, and all Releasing Persons and Released Persons.

A. The Court has reviewed the declarations filed by the Notice Administrator regarding notice that was given in this case and finds that the notice provided to the Settlement Class pursuant to the Notice Plan as set forth in the Settlement Agreement is the best notice practicable under the circumstances, taking into consideration (i) the interests of the class; (ii) the type of relief requested; (iii) the stake of the individual class members; (iv) the cost of notifying class members; (v) the resources of the parties; (vi) the possible prejudice to class members who

do not receive notice; and (vii) the res judicata effect on class members. The Court further finds that the Notice Plan constitutes due and sufficient notice to all Persons within the Settlement Class of, *inter alia*: (i) the proposed Settlement Agreement, and procedures for Settlement Class Members to follow in filing written objections to it, and in arranging to appear at the Final Approval Hearing and state any objections to the proposed Settlement; (ii) the nature of the case and the basic contentions and denials of the Parties; (iii) the right of Persons within the Settlement Class to exclude themselves from the Settlement Class before a specified date; (iv) the procedure for Persons within the Settlement Class to follow in requesting to be excluded from the Settlement Class; (v) the binding effect of any judgment, whether favorable or not, on Persons within the Settlement Class who do not request to be excluded; and (vi) the right of Persons within the Settlement Class who do not request exclusion to enter an appearance through counsel at the Final Approval Hearing, and satisfies the requirements of California law, including California Rules of Court Rules 3.766(e) and 3.769(f), and any other applicable law.

3. The Final Approval Motion is hereby granted. The Settlement and final certification of the Settlement Class is approved and found to be, in all respects, fair, reasonable, adequate, and in the best interests of the Settlement Class, and complies with applicable California law, including Rule 3.769 of the California Rules of Court. Specifically, the Court finds that final approval of the Settlement is warranted in light of the following factors:

- (i) The strength of Plaintiff's case;
- (ii) The risk, expense, complexity, and likely duration of further litigation;
- (iii) The risk of maintaining class action status throughout trial;
- (iv) The amount offered in settlement;
- (v) The extent of discovery completed and the stage of the proceedings;
- (vi) The experience and views of counsel; and
- (vii) The reaction of the class members to the proposed Settlement.

(*See Nordstrom Comm'n Cases* (2010) 186 Cal. App. 4th 576, 581.) The Court further finds that the Settlement is the product of good faith negotiations at arm's length, including via mediation before a respected neutral, after thorough investigation, and is not the product of fraud or

collusion. (*Dunk v. Ford Motor Co.* (1996) 48 Cal. App. 4th 1794, 1800-01.) The Parties are directed to consummate the Settlement Agreement in accordance with its terms.

4. The Court finds and determines that the payment to Class Counsel in the amount of \$_____ in attorneys' fees and litigation costs and expenses, is fair and reasonable and orders that payment of that amount be made to Class Counsel in accordance with the terms of the Settlement Agreement.

5. The Court finds that Plaintiff, Ashley Novak, has fairly and adequately represented the interests of the Settlement Class. The Court finds that an incentive award of \$_____ to Ashley Novak, for her services as the Class Representative, is fair and reasonable and orders that payment of such amount be made to Ashley Novak in accordance with the terms of the Settlement Agreement.

6. Due and adequate notice having been given to Persons within the Settlement Class, it is hereby determined that the Class Representative and each and every Person within the Settlement Class, except those who filed timely and valid Requests for Exclusion as set forth in Appendix 1 hereto, and identified in the reports filed with this Court by the Notice Administrator, are bound by the Settlement Agreement and this Final Order and Judgment and are hereby permanently barred and enjoined from commencing or prosecuting any action or proceeding in any court or tribunal asserting any of the Released Claims, either directly, representatively, derivatively or in any other capacity, against any of the Released Persons. Annexed hereto as Appendix 1 is a schedule of all Persons who have been excluded from the Settlement Class.

7. The Notice Administrator and the Parties shall take all steps required to implement the Settlement in accordance with the Settlement Agreement. Evaluation and fulfillment of valid claims shall take place in accordance with the terms of the Settlement Agreement. It shall be the continuing responsibility of Class Counsel to respond to all inquiries from Settlement Class Members with respect to the Settlement.

8. Without further order of the Court, the Parties may agree to reasonable extensions of time to carry out any of the provisions of the Settlement Agreement.

9. On the Effective Date, the Releasing Persons will be deemed to have, and by operation of the Final Order and Judgment shall have, fully, finally, and forever released and discharged all Released Persons from all Released Claims, whether or not such Releasing Party has made a claim. In entering into this Release, the Releasing Persons acknowledge that they assume the risk of any mistake of fact or law. If they, or any of them, should later discover that any fact which they relied upon in entering into this Settlement Agreement is not true, or that their understanding of the facts or law was incorrect, they shall not be entitled to modify, reform, or set aside the Settlement Agreement, in whole or in part, by reason thereof.

10. If the Effective Date does not occur, or if the Settlement Agreement is terminated for any reason, then:

(i) the Settlement Agreement shall become null and void and shall have no further force or effect;

(ii) the certification of the Settlement Class shall become null and void, and no Party shall be affected in any way by such prior certification;

(iii) all orders of the Court entered after execution of this Settlement Agreement will be deemed to be, and by operation of the Final Order and Judgment shall be, null and void and vacated, *nunc pro tunc* and *ab initio*, and the Action shall proceed as if the Settlement Agreement had neither been entered into nor filed with the Court; and

(iv) the Settlement Agreement, the Parties' acceptance of its terms, and all related negotiations, statements, documents and court proceedings shall be without prejudice to the rights of the Parties, which shall be restored to their status immediately prior to the execution of the Settlement Agreement, and the Parties expressly reserve all arguments, defenses and motions as to all claims that have been asserted or may be asserted in the future, including, without limitation, arguments opposing maintenance of this Action as a class action.

11. Neither this Final Order and Judgment, the Settlement Agreement, Defendants' acceptance of its terms, nor any of the negotiations, statements, documents, or court proceedings related thereto shall be construed as or deemed to be evidence of any presumption, concession, or admission by Defendants or any of the Released Persons with respect to the truth of any fact

alleged in this Action, the validity of any claim that had been or could have been asserted in the Action, the deficiency of any defense that had been or could have been asserted in the Action, or of any liability or wrongdoing of Defendants or any of the Released Persons with respect to the Action. Neither this Final Order and Judgment, the Settlement Agreement, nor any of the negotiations, statements, documents, or court proceedings related thereto shall be offered or received into evidence or used for any purpose whatsoever, in this or any other action or proceedings, other than to obtain approval of the Settlement, or to construe, enforce or implement the terms of the Settlement Agreement.

12. Without affecting the finality of this Final Order and Judgment, this Court retains exclusive and continuing jurisdiction as to all matters relating to the implementation, administration, consummation, enforcement and interpretation of the Settlement and/or the Settlement Agreement, including the Releases contained therein, and any other matters related or ancillary to the foregoing; and over all Parties hereto, including Settlement Class Members and Released Persons, for the purpose of enforcing and administering the Settlement Agreement and the Action until each and every act agreed to be performed by the Parties has been performed pursuant to the Settlement Agreement.

IT IS SO ORDERED.

Dated: _____

Hon. Ann I. Jones
Judge of the Superior Court