

# Exhibit K

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO**

In re LUXOTTICA OF AMERICA INC.  
DATA SECURITY BREACH  
LITIGATION

CASE NO. 1:20-cv-00908-MRB

(Consolidated with Case Nos.  
1:20-cv-000983 & 1:20-cv-01011)

Judge Michael R. Barrett

**CLASS ACTION SETTLEMENT AGREEMENT**

This Settlement Agreement<sup>1</sup>, dated July 11, 2024, is made and entered into by and among Phillip Gervais, Michael Doyle, Jessie Crockett, John Gloss, Donna Rivera, and Larry Payne, on behalf of his minor child, M.P., individually and on behalf of the Settlement Class, by and through their counsel of record, and Luxottica of America Inc., by and through its counsel of record. The Settlement Agreement is subject to Court approval and is intended by the Settling Parties to fully, finally, and forever resolve, discharge, and settle the Released Claims upon and subject to the terms and conditions herein.

**I. THE LITIGATION**

This litigation arises from an unauthorized person gaining access to an eye appointment scheduling application – The Appointment Book or TAB – used by certain Luxottica eyecare brands (the “Litigation”). Plaintiffs allege that an unauthorized person may have accessed their PII and PHI. After discovering the issue with TAB, Luxottica engaged cybersecurity specialists to determine the scope of the incident and to develop a plan to prevent future unauthorized access. Luxottica then implemented measures to enhance security and prevent unauthorized access. Luxottica determined that the Data Incident may have affected as many as 829,454 individuals’ information. As such, Luxottica informed individuals whose PII and PHI may have been accessed.

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<sup>1</sup> All capitalized terms herein shall have the same meanings as those ascribed to them in Section IV.1 below or as defined elsewhere in the Agreement.

On November 10, 2020, Michael Doyle filed the first putative class action against Luxottica after receiving notice that his PII and PHI may have been impacted. Shortly thereafter, the other Plaintiffs filed suit against Luxottica, and, on January 27, 2021, Plaintiffs filed their CCAC against Luxottica alleging fourteen counts including Negligence, Negligence Per Se, Declaratory Judgment, Breach of Confidence, Unjust Enrichment, Breach of Fiduciary Duty, Fair Credit Reporting Act Violations, violations of California's Unfair Competition Law, violations of California's Customer Records Act, violations of California's Consumer Privacy Act, violations of Connecticut's Unfair Trade Practices Act, violations of Florida's Deceptive and Unfair Trade Practices Act, and violations of the Missouri Merchandising Practices Act.

On March 19, 2021, Luxottica filed a motion to dismiss all of Plaintiffs' claims. This motion to dismiss remains pending as of the date of this Settlement Agreement.

On September 28, 2023, the Settling Parties participated in a full-day virtual mediation before Bennett G. Picker of Stradley Ronon Stevens & Young, LLP. The Settling Parties were unable to come to mutually satisfactory settlement on all terms. Following this mediation, the Settling Parties engaged in informal mediation discussions through Mr. Picker and, on November 8, 2023, the Settling Parties reached a settlement in this Litigation, which is memorialized in this Settlement Agreement and attached exhibits.

## **II. CLASS REPRESENTATIVES' CLAIMS AND BENEFITS OF SETTLING**

Plaintiffs believe the claims asserted in the Litigation, as set forth in the CCAC, have merit. Plaintiffs and Plaintiffs' Counsel recognize and acknowledge, however, the expense and length of continued proceedings necessary to prosecute the Litigation against Luxottica through continued motion practice, trial, and potential appeals. They have also considered the uncertain outcome and risk of further litigation, as well as the difficulties and delays inherent in such litigation, especially in complex class actions. Plaintiffs' Counsel are experienced in class action litigation and

knowledgeable regarding the relevant claims, remedies, and defenses generally at issue in such litigation and in this Litigation. They have determined that the settlement set forth in this Settlement Agreement is fair, reasonable, and adequate, and in the best interests of the Settlement Class.

### **III. DENIAL OF WRONGDOING AND LIABILITY**

Luxottica denies each and all of the claims and contentions alleged against it in the Litigation. Luxottica denies all charges of wrongdoing or liability as alleged, or which could be alleged, in the Litigation. Nonetheless, Luxottica has concluded that further litigation would be protracted and expensive, and that it is desirable that the Litigation be fully and finally settled in the manner and upon the terms and conditions set forth in this Settlement Agreement. Luxottica has considered the uncertainty and risks inherent in any litigation. Luxottica has, therefore, determined that it is desirable and beneficial that the Litigation be settled in the manner and upon the terms and conditions set forth in this Settlement Agreement.

### **IV. SETTLEMENT TERMS AND DEFINITIONS**

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among Plaintiffs, individually and on behalf of the Settlement Class, Plaintiffs' Counsel, Luxottica, and Luxottica's Counsel that, subject to the approval of the Court, the Litigation, and the Released Claims shall be finally and fully compromised, settled, and released, and the Litigation shall be dismissed with prejudice as to the Settling Parties and the Settlement Class, except those members of the Settlement Class who timely opt-out of the Settlement, upon and subject to the terms and conditions of this Settlement Agreement, as follows:

#### **1. Definitions**

As used in this Settlement Agreement, the following terms have the meanings specified below:

1.1 “Action” or “Litigation” means the action titled, *In re Luxottica of America, Inc.*, CASE NO. 1:20-cv-00908-MRB, United States District Court for the Southern District of Ohio, which is the entire dispute between the Settling Parties.

1.2 “Agreement” or “Settlement Agreement” means this agreement, exhibits, and the settlement embodied herein.

1.3 “CAFA Notice” means the Class Action Fairness Act notice that Luxottica shall direct the Settlement Administrator to serve upon the appropriate state and federal officials, providing notice of the proposed Settlement pursuant to 28 U.S.C. § 1715.

1.4 “Category One Benefit(s)” means benefits made available under the terms of this Settlement Agreement to the approximately 1,684 Settlement Class Members who Luxottica notified of the Data Incident and who were notified that their Social Security numbers and/or financial card information may have been impacted in the Data Incident.

1.5 “Category Two Benefit(s)” means benefits made available under the terms of this Settlement Agreement to the approximately 827,770 Settlement Class members who Luxottica notified that their information may have been impacted in the Data Incident, and whose Social Security numbers and financial card data were not impacted in the Data Incident.

1.6 “CCAC” means the Consolidated Class Action Complaint filed by Plaintiffs in this Action on January 27, 2021.

1.7 “Claimant” means a Settlement Class member who makes a Claim for settlement benefits under this Settlement Agreement.

1.8 “Claim Form(s)” means the claim forms to be used by Settlement Class members to submit a Claim, either through the mail or online through the Settlement Website, substantially in the form as shown in Exhibit 1 (Category One Claim Form) and Exhibit 2 (Category Two Claim

Form)attached hereto.

1.9 “Claims Deadline” means the postmark and/or online submission deadline for Valid Claims submitted pursuant to Paragraph 2.

1.10 “Claim Supplementation” means a request by the Settlement Administrator to a Claimant in writing, including via email, for additional information the Settlement Administrator may reasonably require in order to evaluate the Claim, *e.g.*, documentation requested on the Claim Form, information regarding the claimed losses, available insurance and the status of any claims made for insurance benefits, and claims previously made for identity theft and the resolution thereof.

1.1 “Class Representative(s)” and “Plaintiffs” means Phillip Gervais, Michael Doyle, Jessie Crockett, John Gloss, Donna Rivera, and Larry Payne, on behalf of his minor child, M.P.

1.2 “Common Fund” means a non-reversionary common fund to be funded by Luxottica in the amount of \$250,000.00 within 30 days of Preliminary Approval Order.

1.3 “Court” means the United States District Court for the Southern District of Ohio.

1.4 “Data Incident” means the unauthorized access to Plaintiffs’ and Settlement Class members’ PII and PHI alleged by Plaintiffs in this Action.

1.5 “Dispute Resolution” means the process for resolving disputed Settlement Claims as set forth in this Settlement Agreement.

1.6 “Effective Date” means the first date by which all of the events and conditions specified in Paragraph 1.7 herein have occurred and been met.

1.7 “Final” means the occurrence of all the following events: (a) the settlement pursuant to this Settlement Agreement is approved by the Court; (b) the Court has entered a Judgment (as that term is defined below); and (c) the time to appeal or seek permission to appeal

from the Judgment has expired or, if appealed, the appeal has been dismissed in its entirety, or the Judgment has been affirmed in its entirety by the court of last resort to which such appeal may be taken, and such dismissal or affirmance has become no longer subject to further appeal or review. Notwithstanding the above, any order modifying or reversing any attorneys' fee award or service award in this case shall not affect whether the Judgment is "Final" as defined herein or any other aspect of the Judgment.

1.8 "Final Fairness Hearing" means the hearing held before the Court during which the Court will consider granting final approval of the settlement and the payment of attorneys' fees, costs, expenses, and/or service awards to Class Representatives.

1.9 "Interim Executive Committee" Melissa S. Weiner of Pearson Warshaw, LLP, Jonathan Streisfeld of Kopelowitz Ostrow Ferguson Weiselberg Gilbert PA, and Michael Greenwald of Greenwald Davidson Radbil PLLC, together with their respective firms.

1.10 "Interim Lead Counsel" means Dorothy P. Antullis of Robbins Geller Rudman & Dowd LLP, Bryan Bleichner of Chestnut Cambronne PA, and Hassan Zavareei of Tycko & Zavareei LLP, together with their respective firms.

1.11 "Interim Liaison Counsel" means Jeffrey S. Goldenberg of Goldenberg Schneider, LPA and Terence R. Coates of Markovits, Stock & DeMarco LLC, together with their respective firms.

1.12 "Judgment" means a judgment rendered by the Court pursuant to Federal Rule of Civil Procedure 54.

1.13 "Long Form Notice" means the long form notice of settlement posted on the Settlement Website, substantially in the form as shown in Exhibit 3 attached hereto.

1.14 "Luxottica" means Defendant, Luxottica of America Inc.

1.15 “Luxottica’s Counsel” means Baker & Hostetler LLP.

1.16 “Monetary Loss(es)” means documented, unreimbursed losses relating to fraud or identity theft; professional fees including attorneys’ fees, accountants’ fees, and fees for credit repair services; costs associated with freezing or unfreezing credit with any credit reporting agency; credit monitoring costs that were incurred on or after the Data Incident through the date of claim submission; and miscellaneous expenses such as notary, fax, postage, copying, mileage, and long-distance telephone charges. Documentation supporting Monetary Losses may include receipts or other documentation, not “self-prepared” by the Claimant, that documents the costs incurred. “Self-prepared” documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but can be considered to add clarity or support other submitted documentation.

1.17 “Non-Profit Residual Recipient” means the Electronic Privacy Information Center, subject to approval by the Court.

1.18 “Notice Date” means 30 days following entry of the Preliminary Approval Order (defined below). The Notice Date shall be used for purposes of calculating the Claims Deadline, Opt-Out Date and Objection Date deadlines, and all other deadlines that flow from the Notice Date.

1.19 “Notice and Settlement Administration Costs” means all costs incurred or charged by the Settlement Administrator in connection with providing Notice to Settlement Class members and costs of administering the benefits provided under this Settlement Agreement. It also includes the costs of the CAFA Notice.

1.20 “Objection Date” means the date by which the Settlement Class Members must mail to Interim Lead Counsel, or in the alternative, file with the Court their objection to the



Settlement Agreement for that objection to be effective. The postmark date shall constitute evidence of the date of mailing for these purposes.

1.21 “Opt-Out Date” means the date by which the Settlement Class members must mail their requests to be excluded from the Settlement Class for that request to be effective. The postmark date shall constitute evidence of the date of mailing for these purposes.

1.22 “Person” means an individual, corporation, partnership, limited partnership, limited liability company or partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision thereof, and any business or legal entity, and their respective spouses, heirs, predecessors, successors, representatives, agents and/or assignees.

1.23 “PHI” means personal health information.

1.24 “PII” means personal identifiable information.

1.25 “Plaintiffs’ Counsel” means Interim Lead Counsel, Interim Liaison Counsel, and the Interim Executive Committee.

1.26 “Preliminary Approval Order” means the order preliminarily approving the Settlement Agreement and directing that Notice be provided to the Settlement Class. The Settling Parties’ proposed form of Preliminary Approval Order is attached as Exhibit 4 hereto.

1.27 “Related Entities” means Luxottica’s past or present parents, subsidiaries, divisions, brands, and related or affiliated entities, and each of their respective predecessors, successors, directors, officers, employees, principals, agents, attorneys, insurers, and reinsurers, and includes, without limitation, any Person related to any such entity who is, was, or could have been named as a defendant in the Litigation, other than any Person who is found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding, or abetting the

Data Incident or who pleads *nolo contendere* to any such charge

1.28 “Released Claims” shall collectively mean any and all past, present, and future claims and causes of action arising from the conduct alleged in Plaintiffs’ Consolidated Class Action Complaint (ECF No. 31), including, but not limited to, any causes of action arising under or premised upon any statute, constitution, law, ordinance, treaty, regulation, or common law of any country, state, province, county, city, or municipality, including 15 U.S.C. §§ 45 *et seq.*, and all similar statutes in effect in any states in the United States as defined below; the Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.*; California’s Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, *et seq.*; California’s Customer Records Act, Cal. Civ. Code. § 1798.80, *et seq.*; Connecticut Trade Practices Act, Conn. Gen. Stat. § 42-110a, *et seq.*; Florida Deceptive and Unfair Trade Practices Act, Fla. Stat. § 501.201, *et seq.*; Missouri Merchandising Practices Act, Mo. Rev. Stat. § 407.010, *et seq.*; California Consumer Protection Act of 2018, Cal. Civ. Code § 1798, *et seq.*, as amended; California Confidentiality of Medical Information Act, Cal. Civ. Code § 56, *et seq.*; and all similar state privacy-protection statutes; negligence; negligence *per se*; breach of contract; breach of implied contract; breach of fiduciary duty; breach of confidence; invasion of privacy; fraud; misrepresentation (whether fraudulent, negligent or innocent); unjust enrichment; bailment; wantonness; failure to provide adequate notice pursuant to any breach notification statute or common law duty; and including, but not limited to, any and all claims for damages, injunctive relief, disgorgement, declaratory relief, equitable relief, attorneys’ fees and expenses, pre-judgment interest, credit monitoring services, the creation of a fund for future damages, statutory damages, punitive damages, special damages, exemplary damages, restitution, and/or the appointment of a receiver, whether known or unknown, liquidated or unliquidated, accrued or unaccrued, fixed or contingent, direct or derivative, and any other form of legal or equitable relief

that either has been asserted, was asserted, or could have been asserted, by any member of the Settlement Class against any of the Released Persons, based on, relating to, concerning or arising out of the Data Incident and alleged access or misuse of PHI or PII or the allegations, transactions, occurrences, facts, or circumstances alleged in, or otherwise described in, the Litigation. Released Claims shall not include the right of any Settlement Class member or any of the Released Persons to enforce the terms of the settlement contained in this Settlement Agreement and shall not include the claims of members of the Settlement Class who have timely excluded themselves from the Settlement Class.

1.29 “Released Persons” means Luxottica and its Related Entities and each of their past or present parents, subsidiaries, divisions, and related or affiliated entities, and each of their respective predecessors, successors, directors, officers, employees, principals, agents, attorneys, insurers, and reinsurers.

1.30 “Settlement Administrator” means Kroll Settlement Administration.

1.31 “Settlement Claim” means a claim for settlement benefits made under the terms of this Settlement Agreement.

1.32 “Settlement Class” means all Persons to whom Luxottica issued notice of the Data Incident. The Settlement Class specifically excludes: (a) Luxottica and its respective officers and directors; (b) all members of the Settlement Class who timely and validly request exclusion from the Settlement Class; (c) the Judge and Magistrate Judge assigned to evaluate the fairness of this settlement; and (d) any other Person found by a court of competent jurisdiction to be guilty under criminal law of initiating, causing, aiding, or abetting the Data Incident or who pleads *nolo contendere* to any such charge.

1.33 “Settlement Class member(s)” means any member of the Settlement Class who has

not opted-out of the settlement.

1.34 “Settlement Website” means a website, the URL for which to be mutually selected by the Settling Parties, that will inform Settlement Class members of the terms of this Settlement Agreement, their rights, dates and deadlines and related information, as well as provide the Settlement Class members with the ability to submit a Settlement Claim online.

1.35 “Settling Parties” means Phillip Gervais, Michael Doyle, Jessie Crockett, John Gloss, Donna Rivera, and Larry Payne, on behalf of his minor child, M.P., individually and on behalf of the Settlement Class, and Luxottica of America Inc.

1.36 “Short Form Notice” means the short form notice of the proposed class action settlement, substantially in the form as shown in Exhibit 5 (Category One Short Form Notice) and Exhibit 6 (Category Two Short Form Notice) attached hereto, subject to approval by the Court. The Short Form Notice will direct recipients to the Settlement Website and inform Class Members of, among other things, the Claims Deadline, the Opt-Out and Objection Deadlines, and the date of the Final Fairness Hearing.

1.37 “Unknown Claims” means any of the Released Claims that any Settlement Class Members, including Plaintiffs, do not know or suspect to exist in their favor at the time of the release that, if known by them, might have affected their settlement with, and release of, the Released Persons, or might have affected their decision not to object to and/or to participate in this Settlement Agreement. With respect to any and all Released Claims, the Settling Parties stipulate and agree that upon the Effective Date, Plaintiffs and the Released Parties intend to and expressly shall have, and each of the other members of the Settlement Class intend to and shall be deemed to have, and by operation of the Judgment shall have, waived the provisions, rights, and benefits conferred by California Civil Code § 1542, and also any and all provisions, rights, and benefits

conferred by any law of any state, province, or territory of the United States (including, without limitation, California Civil Code §§ 1798.80 *et seq.*; Montana Code Ann. § 28-1-1602; North Dakota Cent. Code § 9-13-02; and South Dakota Codified Laws § 20-7-11), which is similar, comparable, or equivalent to California Civil Code §1542, which provides:

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

The members of the Settlement Class, including Plaintiffs, may hereafter discover facts in addition to, or different from, those that they, and any of them, now know or believe to be true with respect to the subject matter of the Released Claims, but the Plaintiffs expressly shall have, and each other member of the Settlement Class shall be deemed to have, and by operation of the Judgment shall have, upon the Effective Date, fully, finally and forever settled and released any and all Released Claims. The Settling Parties acknowledge, and members of the Settlement Class shall be deemed by operation of the Judgment to have acknowledged, that the foregoing waiver is a material element of the Settlement Agreement of which this release is a part.

1.38 “United States” as used in this Settlement Agreement includes all fifty states, the District of Columbia and all territories.

1.39 “Valid Claims” means Settlement Claims in an amount approved by the Settlement Administrator or found to be valid through the Settlement Claim processing and/or Dispute Resolution process.

## **2. Settlement Benefits**

2.1 Payment Categories: Settlement Class members shall be eligible to submit a Settlement Claim for benefits under either Category One or Category Two, but not both.

Settlement Class members who Luxottica notified that their Social Security numbers and/or financial card information may have been impacted in the Data Incident are eligible to submit Settlement Claims under Category One. Settlement Class members who Luxottica notified that their information may have been impacted in the Data Incident, but whose Social Security numbers and/or financial payment information were not impacted in the Data Incident, are eligible to submit Settlement Claims under Category Two. In no event shall a Settlement Class member be eligible to submit a claim under both Category One and Category Two.

2.2 Cash Payments: Settlement Class members eligible under Category One may submit a Claim for a cash payment from the Common Fund. The Settlement Administrator will make *pro rata* settlement payments, which may increase or decrease the amount of the cash payment. Settlement Class members who are eligible for either Category One or Category Two and who attest in writing that, at the time of the Data Incident, they were a California resident and further provide a valid California residential address may be eligible for an additional cash payment of \$50 (“California Class Members”). The Settlement Administrator will make California settlement payments to claimants who are eligible for Category One from the Common Fund, and the Settlement Administrator will make California settlement payments to claimants who are eligible for Category Two outside of the Common Fund but subject to a \$300.00 total per Class Member Claims-Made cap.

2.3 Lost-Time Claims: Settlement Class members eligible under either Category One or Category Two may submit claims for up to four hours of time spent remedying issues related to the Data Incident at \$20.00 per hour. Settlement Class members must: (1) attest that any claimed lost time was spent related to and arising out of the Data Incident, and (2) select the applicable activity the time was spent on or provide a brief general description of how the claimed

lost time was spent. No documentation need be submitted in connection with Lost-Time Claims. The Settlement Administrator will make lost-time payments to claimants who are eligible for Category One from the Common Fund, and the Settlement Administrator will make lost-time payments to claimants who are eligible for Category Two outside of the Common Fund but subject to a \$300.00 total per Class Member Claims-Made cap.

2.4 Out-of-Pocket Loss Claims: Settlement Class members eligible under either Category One or Category Two may submit a Claim for reimbursement of documented out-of-pocket losses reasonably and fairly traceable to the Data Incident. Out-of-pocket loss Claims will include Monetary Losses related to the Data Incident combined with a written attestation by the Common-Fund Settlement Class member that such Monetary Losses were caused by the Data Incident. The Settlement Administrator will make out-of-pocket loss payments to claimants who are eligible for Category One from the Common Fund, and the Settlement Administrator will make out-of-pocket loss payments to claimants who are eligible for Category Two outside of the Common Fund but subject to a \$300.00 total per Class Member Claims-Made cap.

2.5 Credit Monitoring: Settlement Class members eligible under Category One may submit a Claim for two years of three-bureau credit monitoring, which will be offered as part of the settlement and paid for out of the Common Fund.

2.6 Category Two Cap: Claims for benefits under Category Two shall not exceed the Claims-Made cap of \$300.00 per Settlement Class member.

2.7 Dispute Resolution for Claims.

a) The Settlement Administrator, in its sole discretion to be reasonably exercised, will determine whether: (1) the Claimant is a Settlement Class Member; (2) the Claimant has provided all information needed to complete the Claim Form, including any documentation that may be

necessary to reasonably support the Out-of-Pocket Loss Claims, described in Paragraph 2.4, above; and (3) the information submitted could lead a reasonable person to conclude that more likely than not the Claimant has suffered the claimed losses as a result of the Data Incident. The Settlement Administrator may, at any time, request Claim Supplementation from the Claimant.

b) Upon receipt of an incomplete or unsigned Claim Form or a Claim Form that is not accompanied by sufficient documentation to determine whether the Claim is complete and plausible, the Settlement Administrator shall request Claim Supplementation and give the Claimant 30 days to cure the defect before rejecting the Claim. Requests for Claim Supplementation shall be made within 30 days of receipt of such Claim Form or 30 days from the Effective Date, whichever comes later. In the event of unusual circumstances interfering with compliance during the 30-day period, the Claimant may request and, for good cause shown (illness, military service, out of the country, mail failures, lack of cooperation of third parties in possession of required information, etc.), shall be given a reasonable extension of the 30-day deadline in which to comply; however, in no event shall the deadline be extended to later than one year from the Effective Date.

c) Following receipt of additional information requested as Claim Supplementation, the Settlement Administrator shall have 30 days to accept, in whole or lesser amount, or reject each claim. If, after review of the claim and all documentation submitted by the Claimant, the Settlement Administrator determines that such a claim is facially valid, either in whole or in part, then the claim shall be paid in accordance with Paragraphs 2.1 through 2.6. If the claim is not facially valid because the Claimant has not provided all information needed to complete the Claim Form and evaluate the Claim, then the Settlement Administrator may reject the Claim without any further action as beyond the Claims Deadline.



d) Settlement Class Members shall have 30 days from receipt of the offer to accept or reject any offer of partial payment received from the Settlement Administrator. If a Settlement Class Member rejects an offer from the Settlement Administrator, the Settlement Administrator shall have 15 days to reconsider its initial adjustment amount and make a final determination. If the Claimant approves the final determination, then the approved amount shall be the amount to be paid. If the Claimant does not approve the final determination within 30 days, then the dispute will be submitted to the Settling Parties within an additional ten days.

2.8 Notice Deadline. Settlement Class members seeking reimbursement under Paragraphs 2.1 through 2.6 must complete and submit a Claim Form to the Settlement Administrator, postmarked or submitted online on or before the 120th day after the Notice Date. The notice to the Settlement Class will specify this deadline and other relevant dates described herein. The Claim Form must be verified by the Settlement Class member with a statement that his or her claim is true and correct, to the best of his or her knowledge and belief and is being made under penalty of perjury. Notarization shall not be required.

2.9 CAFA Notice: Luxottica shall comply with and timely send CAFA Notice, but may delegate that responsibility to the Settlement Administrator.

2.10 Business Practices Changes. Plaintiffs have received assurances that Luxottica has implemented certain reasonable steps to adequately secure its systems and environments and will maintain those conditions for at least two years from the Effective Date.

2.11 Confirmatory Discovery. Luxottica has provided reasonable access to confidential confirmatory discovery regarding the number of Settlement Class members and states of residence, the facts and circumstances of the Data Incident and Luxottica's response thereto, and the changes and improvements that have been made or are being made to further protect Settlement Class

members' PII and PHI. Luxottica will consider any reasonably limited request for additional confirmatory discovery around the data allegedly exposed, in furtherance of Category One and Category Two claims processing.

2.12 Settlement Expenses. All Notice and Settlement Administration Costs shall be paid by Luxottica.

2.13 Settlement Class Certification. The Settling Parties agree, for purposes of this settlement only, to the certification of the Settlement Class. If the settlement set forth in this Settlement Agreement is not approved by the Court, or if the Settlement Agreement is terminated or cancelled pursuant to the terms of this Settlement Agreement, this Settlement Agreement, and the certification of the Settlement Class provided for herein, will be vacated and the Litigation shall proceed as though the Settlement Class had never been certified, without prejudice to any Person's or the Settling Parties' position on the issue of class certification or any other issue. The Settling Parties' agreement to the certification of the Settlement Class is also without prejudice to any position asserted by the Settling Parties in any other proceeding, case or action, as to which all of their rights are specifically preserved.

### **3. Order of Preliminary Approval and Publishing of Notice of Fairness Hearing**

3.1 As soon as practicable after the execution of the Settlement Agreement, Interim Lead Counsel and Luxottica's Counsel shall jointly submit this Settlement Agreement to the Court, and Interim Lead Counsel will file a motion for preliminary approval of the settlement with the Court requesting entry of a Preliminary Approval Order in the form to be agreed upon by the Settling Parties, or an order substantially similar to such form in both terms and cost, requesting, among other things:

- a) certification of the Settlement Class for settlement purposes only pursuant to Paragraph 2.13;

- b) preliminary approval of the Settlement Agreement as set forth herein;
- c) appointment of Interim Lead Counsel as Class Counsel;
- d) appointment of Plaintiffs as the Class Representatives;
- e) approval of a customary form of Short Form Notice to be emailed or mailed to Settlement Class members in a form substantially similar to the one attached as Exhibit 5-6;
- f) approval of the Long Form Notice to be posted on the Settlement Website in a form substantially similar to the one attached as Exhibit 3, which, together with the Short Form Notice, shall include a fair summary of the Settling Parties' respective litigation positions, the general terms of the settlement set forth in the Settlement Agreement, instructions for how to object to or opt-out of the settlement, the process and instructions for making claims to the extent contemplated herein, and the date, time and place of the Final Fairness Hearing; and
- g) appointment of Kroll Settlement Administration as the Settlement Administrator.

The Short Form Notice and Long Form Notice have been reviewed and approved by the Settlement Administrator but may be revised as agreed upon by the Settling Parties prior to submission to the Court for approval.

3.2 The Short Form Notice, Long Form Notice, and other applicable communications to the Settlement Class may be adjusted by the Settlement Administrator, respectively, in consultation and agreement with the Settling Parties, as may be reasonable and consistent with the Court's Preliminary Approval Order.

3.3 Interim Lead Counsel and Luxottica's Counsel shall request that after notice is completed, the Court hold a Final Fairness Hearing and grant final approval of the settlement set

forth herein.

#### **4. Opt-Out Procedures**

4.1 Each Person wishing to opt-out of the Settlement Class shall individually sign and timely submit written notice of such intent to the designated post office box established by the Settlement Administrator. The written notice must clearly manifest a Person's intent to opt-out of the Settlement Class. To be effective, written notice must be postmarked no later than 70 days after the Notice Date.

4.2 All Persons who submit valid and timely notices of their intent to opt-out of the Settlement Class, as set forth in Paragraph 4.1 above, shall not receive any benefits of and/or be bound by the terms of this Settlement Agreement. All Persons falling within the definition of the Settlement Class who do not opt-out of the Settlement Class in the manner set forth in Paragraph 4.1 above shall be bound by the terms of this Settlement Agreement and Judgment entered thereon.

4.3 In the event that within 15 days after the Opt-Out Date as approved by the Court, there have been more than 50 timely and valid opt-outs submitted, Luxottica may, by notifying Interim Lead Counsel and the Court in writing, void this Settlement Agreement. If Luxottica voids the Settlement Agreement pursuant to this paragraph, Luxottica shall be obligated to pay all settlement expenses already incurred, excluding any attorneys' fees, costs, and expenses of Plaintiffs' Counsel and service awards.

#### **5. Objection Procedures**

5.1 Each Settlement Class Member desiring to object to the Settlement Agreement shall submit a timely written notice of his or her objection by the Objection Date. Such notice shall state: (i) the objector's full name and address; (ii) the Action's case name and number; (iii) information identifying the objector as a Settlement Class Member, including proof that the objector is a member of the Settlement Class (*e.g.*, copy of the objector's settlement notice, copy

of original notice of the Data Incident, or a statement explaining why the objector believes he or she is a Settlement Class Member); (iv) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable; (v) the identity of any and all counsel (if any) representing the objector in connection with the objection; (vi) a statement whether the objector and/or his or her counsel will appear at the Final Fairness Hearing; (vii) a list of all class action settlements in which the objector and/or his counsel has submitted objections; and (viii) the objector's signature or the signature of the objector's duly authorized attorney or other duly authorized representative (if any) representing him or her in connection with the objection. To be timely, written notice of an objection in the appropriate form (as outlined in this Paragraph 5.1) must be mailed to Interim Lead Counsel, Dorothy P. Antullis, Robbins Geller Rudman & Dowd, LLP, 225 NE Mizner Blvd., Ste. 720, Boca Raton, Florida 33432, and counsel for Luxottica, Paul G. Karlsgodt, Baker & Hostetler, LLP, 1801 California Street, Suite 4400, Denver, Colorado 80202-2662 and received by no later than 60 days from the Notice Date. In the alternative to the foregoing mailing procedure, the objector or his or her counsel may also file objections (in the form outlined in this Paragraph 5.1) with the Settlement Administrator, by mailing a copy with a postmark date no later than 60 days from the Notice Date to the dedicated post office box established by the Settlement Administrator for receiving correspondence. For all objections received, Interim Lead Counsel will file them with the Court as an exhibit to the motion for final approval of the settlement.

5.2 Any Settlement Class Member who fails to comply with the requirements for objecting in Paragraph 5.1 shall waive and forfeit any and all rights he or she may have to appear separately and/or to object to the Settlement Agreement, and shall be bound by all the terms of the Settlement Agreement and by all proceedings, orders and judgments in the Litigation. The

exclusive means for any challenge to the Settlement Agreement shall be through the provisions of Paragraph 5.1. Without limiting the foregoing, any challenge to the Settlement Agreement, the final order approving this Settlement Agreement, or the Judgment to be entered upon final approval shall be pursuant to appeal under the Federal Rules of Appellate Procedure and not through a collateral attack.

**6. Releases**

6.1 Upon the Effective Date, each Settlement Class Member, including Plaintiffs, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims. Further, upon the Effective Date, and to the fullest extent permitted by law, each Settlement Class Member, including Plaintiffs, shall, either directly, indirectly, representatively, as a member of or on behalf of the general public or in any capacity, be permanently barred and enjoined from commencing, prosecuting, or participating in any recovery in any action in this or any other forum (other than participation in the settlement as provided herein) in which any of the Released Claims are asserted.

6.2 Upon the Effective Date, Luxottica shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged, Class Representative Plaintiffs, each and all of the Class Members, Plaintiffs' Counsel, of all claims, including Unknown Claims, based upon or arising out of the institution, prosecution, assertion, settlement, or resolution of the Litigation, except for enforcement of the Settlement Agreement. Any other claims or defenses Luxottica may have against such Persons including, without limitation, any claims based upon or arising out of any contractual, employment, or other business relationship with such Persons that are not based upon or do not arise out of the institution,

prosecution, assertion, settlement, or resolution of the Litigation are specifically preserved and shall not be affected by the preceding sentence.

6.2 Notwithstanding any term herein, neither Luxottica nor its Related Entities shall have, or shall be deemed to have, released, relinquished, or discharged any claim or defense against any Person other than Representative Plaintiffs, each and all of the Settlement Class Members, and Plaintiffs' Counsel.

**7. Plaintiffs' Attorneys' Fees, Costs, and Expenses; Service Awards to Class Representatives**

7.1 The Settling Parties did not discuss the payment of attorneys' fees, costs, expenses and/or service awards to Class Representatives, as provided for in Paragraphs 7.2 and 7.3, until after the substantive terms of the settlement had been agreed upon, other than that Luxottica would pay reasonable attorneys' fees, costs, expenses, and service awards to Class Representatives as may be agreed to by Luxottica and Plaintiffs' Counsel and/or as ordered by the Court, or in the event of no agreement, then as ordered by the Court. Luxottica's Counsel and Plaintiffs' Counsel then negotiated and agreed to the payment described in Paragraph 7.2.

7.2 Interim Lead Counsel will seek, and Luxottica has agreed not to oppose, an order from the Court awarding \$850,000.00 to Plaintiffs' Counsel for attorneys' fees, inclusive of any costs and expenses of the Litigation. Interim Lead Counsel, in their sole discretion, shall allocate and distribute the amount of attorneys' fees, costs, and expenses awarded by the Court among Plaintiffs' Counsel.

7.3 Interim Lead Counsel will seek an order from the Court awarding \$2,500.00 service awards to each Class Representative, for a total of \$15,000.00 in service awards. Interim Lead Counsel shall distribute the service awards to each of the Class Representatives.

7.4 If awarded by the Court, Luxottica shall pay the attorneys' fees, costs, expenses, and service awards to the Class Representatives, as set forth above in Paragraphs 7.2, 7.3, and this Paragraph 7.4, within 30 days after the Effective Date. Service awards to the Class Representatives and attorneys' fees, costs, and expenses will be paid to Interim Lead Counsel via ACH transfer. Interim Lead Counsel shall thereafter distribute the award of attorneys' fees, costs, and expenses among Plaintiffs' Counsel and the service awards to the Class Representatives consistent with Paragraphs 7.2 and 7.3.

7.5 The amount(s) of any award of attorneys' fees, costs, and expenses, and the service awards to the Class Representatives, are intended to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the settlement. These payments will not in any way reduce the consideration being made available to the Settlement Class as described herein. No order of the Court, or modification or reversal or appeal of any order of the Court, concerning the amount(s) of any attorneys' fees, costs, expenses, and/or service award ordered by the Court to Plaintiffs' Counsel or the Class Representatives shall affect whether the Judgment is final or constitute grounds for cancellation or termination of this Settlement Agreement.

## **8. Class Notice and Administration of Claims**

8.1 Notice shall be provided to Settlement Class members by the Settlement Administrator as follows:

a) Settlement Class member Information: No later than ten days after entry of the Preliminary Approval Order, Luxottica shall provide the Settlement Administrator with the name, email, and last-known physical address of each Settlement Class member that Luxottica possesses, which shall be used by the Settlement Administrator solely for the purpose of performing its obligations pursuant to this Agreement and shall not be used for any other purpose at any time.



Except to administer the settlement as provided in this Settlement Agreement or provide all data and information in its possession to the Settling Parties upon request, the Settlement Administrator shall not reproduce, copy, store, or distribute in any form, electronic or otherwise, the Settlement Class member information.

c) Settlement Website: Prior to the dissemination of the Notice, the Settlement Administrator shall establish the Settlement Website, which will inform Settlement Class members of the terms of this Settlement Agreement, their rights, dates and deadlines and related information. The Settlement Website shall include, in .pdf format and available for download, the following: (i) the Short Form Notice; (ii) the Long Form Notice; (iii) the Claim Forms; (iv) the Preliminary Approval Order; (v) this Settlement Agreement; and (vi) any other materials agreed upon by the Settling Parties and/or required by the Court. The Settlement Website shall provide Settlement Class members with the ability to complete and submit the Claim Form electronically.

d) Short Form Notice: Within 30 days after the entry of the Preliminary Approval Order (*i.e.* the Notice Date), and subject to the requirements of this Settlement Agreement and the Preliminary Approval Order, the Settlement Administrator will provide notice to the Settlement Class via emails in Luxottica's possession. These emails will include a clear and conspicuous link to access the Claim Form. If Luxottica does not possess the email for any Settlement Class member, the Settlement Administrator shall provide notice by fold-over postcard to the Settlement Class member's last-known address via United States Postal Service ("USPS"). Before any mailing under this paragraph occurs, the Settlement Administrator shall run the postal addresses of Settlement Class members through the USPS National Change of Address database to update any change of address on file with the USPS.

e) Return of Short Form Notice: In the event that a Short Form Notice is returned to the

Settlement Administrator by the USPS because the address of the recipient is no longer valid, and the envelope contains a forwarding address, the Settlement Administrator shall re-send the Short Form Notice to the forwarding address within a reasonable period of time after receiving the returned Short Form Notice.

f) Reminder Notice: At least 40 days after the Notice Date, and no more than 55 days after the Notice Date, the Settlement Administrator will provide Reminder Notice to any member of the Settlement Class who has not yet submitted a claim and for whom it has email address. Reminder Notice will be sent by email, through the process described in Section 8.1(d), and will be substantially similar to the Short Form Notice.

g) Publishing on Website: The Settlement Administrator shall, on or before the Notice Date, publish the Claim Forms, Long Form Notice, and this Settlement Agreement on the Settlement Website, as specified in the Preliminary Approval Order, and maintain and update the website to and through the Claims Deadline.

h) IVR Service: The Settlement Administrator shall set up a toll-free help line with an IVR system and a live call-back option shall be made available to provide Settlement Class members with additional information about the settlement. The IVR system and live call-back options will be available in both English and Spanish languages. The Settlement Administrator also will provide copies of the Long Form Notice and paper Claim Form, as well as this Settlement Agreement, upon request.

Contemporaneously with seeking Final Approval of the Settlement, Interim Lead Counsel shall cause to be filed with the Court an appropriate affidavit or declaration with respect to complying with these provisions of this Paragraph 8 regarding notice.

8.2 The Settlement Administrator shall administer and calculate the Claims submitted by Settlement Class members under Paragraph 2. Interim Lead Counsel and Luxottica's Counsel shall be given weekly reports as to both Claims and distribution, and have the right to review and obtain supporting documentation and challenge such reports if they believe them to be inaccurate or inadequate. The Settlement Administrator's determination of whether a Settlement Claim is a Valid Claim shall be binding, subject to the dispute resolution process set forth in Paragraph 2.3. All Settlement Claims agreed to be paid in full by Luxottica shall be deemed valid.

8.3 Payment for Valid Claims shall be made within 30 days of the Effective Date, or within 30 days of the date that the claim is approved, whichever is later. Settlement Class Members shall have the option of payment via check or e-payment.

8.4 All Settlement Class members who fail to timely submit a claim for any benefits hereunder within the time frames set forth herein, or such other period as may be ordered by the Court, or otherwise allowed, shall be forever barred from receiving any payments or benefits pursuant to the settlement set forth herein, but will in all other respects be subject to, and bound by, the provisions of the Settlement Agreement, the releases contained herein and the Judgment.

8.5 No Person shall have any claim against the Settlement Administrator, Luxottica, Plaintiffs' Counsel, Plaintiffs, and/or Luxottica's Counsel based on distributions of benefits to Settlement Class Members.

8.6 Establishment of Common Fund. Within 30 days of the Preliminary Approval Order, Luxottica shall deposit the sum of two-hundred and fifty thousand dollars (\$250,000.00) into an account established and administered by the Settlement Administrator.

8.7 Non-Reversionary. The Common Fund is non-reversionary. As of the Effective Date, all rights of Luxottica in or to the Common Fund shall be extinguished, except in the event

this Settlement Agreement is terminated as provided herein.

8.8 Qualified Settlement Fund. The Settling Parties agree that the Common Fund is intended to be maintained as an interest-bearing qualified settlement fund within the meaning of Treasury Regulation § 1.468 B-1, and that the Settlement Administrator shall invest the Common Fund exclusively in instruments or accounts backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof, including a U.S. Treasury Fund or a bank account that is either (a) fully insured by the Federal Deposit Insurance Corporation (“FDIC”) or (b) secured by instruments backed by the full faith and credit of the United States Government. Luxottica and Luxottica’s Counsel shall have no responsibility for, interest in, or liability whatsoever with respect to investment decisions executed by the Settlement Administrator. All risks related to the investment of the Common Fund shall be borne solely by the Common Fund and its escrow agent. Further, the Settlement Administrator, within the meaning of Treasury Regulation § 1.468 B-2(k)(3), shall be responsible for filing tax returns and any other tax reporting for or in respect of the Common Fund and paying from the Common Fund any taxes and tax-related expenses owed with respect to the Common Fund. The Settling Parties agree that the Common Fund shall be treated as a qualified settlement fund from the earliest date possible and agree to any relation-back election required to treat the Common Fund as a qualified settlement fund from the earliest date possible. The Settlement Administrator shall provide an accounting of any and all funds in the Common Fund, including any interest accrued thereon and payments made pursuant to this Agreement, upon request of any of the Settling Parties.

8.9 Custody of Common Fund. The Common Fund shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time as the entirety of the Common Fund is distributed pursuant to this Settlement Agreement or the balance returned

to those who paid the Common Fund in the event this Settlement Agreement is terminated as provided herein.

8.10 Use of the Common Fund and Order of Distribution. As further described in this Agreement, the Common Fund shall be used by the Settlement Administrator to pay for the following: (i) taxes and tax-related expenses, and (ii) Valid Claim(s) for Category One Benefits. The Common Fund shall be utilized and distributed as follows:

The Settlement Administrator shall first use the available funds in the Common Fund to cover taxes and tax-related expenses. Next, the Settlement Administrator shall make payment for all Valid Claims for Credit Monitoring. Next, the Settlement Administrator shall make payment of Valid Claims for Out-of-Pocket Loss Claims from the Common Fund. Next, the Settlement Administrator shall make payment on all Valid Claims for Lost-Time Claims. Next, the Settlement Administrator shall make \$50.00 cash payments to the California Class Members who submit a Valid Claim for Category One Benefits (“California Benefit Payment(s)”) from the Common Fund. Then, the Settlement Administrator shall pay all Valid Claims for Cash Payments on a *pro rata* basis from the Common Fund.

In the event that the aggregate amount of all Valid Claims for Category One Benefits exceed the total amount of the Common Fund, then the value of the Out-of-Pocket Loss Claims, Lost-Time Claims, and California Benefit Payments to be paid to each Class Member from the Common Fund shall be reduced on a pro rata basis, such that the aggregate value of all Valid Claims for Out-of-Pocket Loss Claims, Lost-Time Claims, and California Benefit Payments does not exceed the Common Fund value. In such an event, the value of any remaining Valid Claims for Cash Payments shall in turn be reduced, pro rata, to an amount not less than \$5.00.

Following payment of all of the above expenses, any amount remaining in the Common

Fund shall be considered for the economic feasibility of redistribution to those Category One Class Members who submitted a Valid Claim for Cash Payments. Redistribution must be agreed to by the Settling Parties. Any remaining funds in the Common Fund, following a decision by the Settling Parties on redistribution, shall be paid to the Non-Profit Residual Recipient. No amounts may be withdrawn from the Common Fund unless expressly authorized by this Agreement or approved by the Court.

8.11 Taxes and Representations. Taxes and tax-related expenses relating to the Common Fund shall be considered Notice and Settlement Administration Costs and shall be timely paid by the Settlement Administrator out of the Common Fund without prior order of the Court. Further, the Common Fund shall indemnify and hold harmless the Settling Parties, their counsel, and their insurers and reinsurers for taxes and tax-related expenses (including, without limitation, taxes payable by reason of any such indemnification payments). The Settling Parties and their respective counsel have made no representation or warranty with respect to the tax treatment by any Class Representative or any Settlement Class Member of any payment or transfer made pursuant to this Agreement or derived from or made pursuant to the Common Fund. Each Class Representative and Settlement Class Member shall be solely responsible for the federal, state, and local tax consequences to him, her, or it of the receipt of funds from the Common Fund pursuant to this Agreement.

**9. Conditions of Settlement, Effect of Disapproval, Cancellation, or Termination**

9.1 The Effective Date of the settlement shall be conditioned on the occurrence of all of the following events:

- a) the Court has entered the Order of Preliminary Approval and published notice of the Final Fairness Hearing, as required by Paragraph 3.1;

- b) Luxottica has not exercised its option to terminate the Settlement Agreement pursuant to Paragraph 4.3;
- c) the Court has entered the Judgment granting final approval to the settlement as set forth herein; and
- d) the Judgment has become Final, as defined in Paragraph 1.15.

9.2 If all conditions specified in Paragraph 9.1 hereof are not satisfied, the Settlement Agreement shall be canceled and terminated subject to Paragraph 9.4 unless Interim Lead Counsel and Luxottica's Counsel mutually agree in writing to proceed with the Settlement Agreement.

9.3 Within ten days after the Opt-Out Date, the Settlement Administrator shall furnish to Interim Lead Counsel and to Luxottica's Counsel a complete list of all timely and valid requests for exclusion.

9.4 In the event that the Settlement Agreement or the releases set forth in Paragraphs 6.1, 6.2, and 6.3 above are not approved by the Court or the settlement set forth in the Settlement Agreement is terminated in accordance with its terms, (a) the Settling Parties shall be restored to their respective positions in the Litigation and shall jointly request that all scheduled litigation deadlines be reasonably extended by the Court so as to avoid prejudice to any Settling Party or Settling Party's counsel, and (b) the terms and provisions of the Settlement Agreement shall have no further force and effect with respect to the Settling Parties and shall not be used in the Litigation or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of the Settlement Agreement shall be treated as vacated, *nunc pro tunc*. Notwithstanding any statement in this Settlement Agreement to the contrary, no order of the Court or modification or reversal on appeal of any order reducing the amount of attorneys' fees, costs, expenses, and/or service awards shall constitute grounds for cancellation or termination of the

Settlement Agreement. Further, notwithstanding any statement in this Settlement Agreement to the contrary, Luxottica shall be obligated to pay amounts already billed or incurred for costs of notice to the Settlement Class and Claims Administration and shall not, at any time, seek recovery of same from any other party to the Litigation or from counsel to any other party to the Litigation.

**10. Miscellaneous Provisions**

10.1 The Settling Parties (a) acknowledge that it is their intent to consummate this Settlement Agreement; (b) agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Settlement Agreement; and (c) to exercise their best efforts to accomplish the terms and conditions of this Settlement Agreement.

10.2 The Settling Parties intend this settlement to be a final and complete resolution of all disputes between them with respect to the Litigation. The settlement compromises claims that are contested and shall not be deemed an admission by any Settling Party as to the merits of any claim or defense. The Settling Parties each agree that the settlement was negotiated in good faith by the Settling Parties and reflects a settlement that was reached voluntarily after consultation with competent legal counsel. The Settling Parties reserve their right to rebut, in a manner that such party determines to be appropriate, any contention made in any public forum that the Litigation was brought or defended in bad faith or without a reasonable basis. It is agreed that no Settling Party shall have any liability to any other Settling Party as it relates to the Litigation, except as set forth herein. The final judgment shall contain a finding that, during the course of the Litigation, the parties and their respective counsel at all times complied with the requirements of Federal Rule of Civil Procedure 11.

10.3 Neither the Settlement Agreement, nor the settlement contained herein, nor any act performed or document executed pursuant to or in furtherance of the Settlement Agreement or the



settlement (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity or lack thereof of any Released Claim, or of any wrongdoing or liability of any of the Released Persons; or (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Released Persons in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. Any of the Released Persons may file the Settlement Agreement and/or the judgment in any action that may be brought against them or any of them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar, or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

10.4 The Settlement Agreement may be amended or modified only by a written instrument signed by or on behalf of all Settling Parties or their respective successors-in-interest.

10.5 This Agreement contains the entire understanding between the Settling Parties regarding the payment of the Litigation settlement and supersedes all previous negotiations, agreements, commitments, understandings, and writings between the Settling Parties in connection with the payment of the Litigation settlement. Except as otherwise provided herein, each Settling Party shall bear its own costs.

10.6 Interim Lead Counsel, on behalf of the Settlement Class, is expressly authorized by Plaintiffs to take all appropriate actions required or permitted to be taken by the Settlement Class pursuant to the Settlement Agreement to effectuate its terms, and also are expressly authorized to enter into any modifications or amendments to the Settlement Agreement, agreed to by Luxottica, on behalf of the Settlement Class which they deem appropriate in order to carry out the spirit of this Settlement Agreement and to ensure fairness to the Settlement Class.

10.7 Each counsel or other Person executing the Settlement Agreement on behalf of any party hereto hereby warrants that such Person has the full authority to do so.

10.8 The Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. A complete set of original executed counterparts shall be filed with the Court.

10.9 The Settlement Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Settling Parties.

10.10 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of the Settlement Agreement, and all Settling Parties submit to the jurisdiction of the Court for purposes of implementing and enforcing the settlement embodied in the Settlement Agreement.

10.11 As used herein, "he" means "he, she, or it;" "his" means "his, hers, or its," and "him" means "him, her, or it."

10.12 All dollar amounts are in United States dollars (USD).

10.13 All agreements made, and orders entered, during the course of the Litigation relating to the confidentiality of information shall survive this Settlement Agreement.

IN WITNESS WHEREOF, the Settling Parties have caused the Settlement Agreement to be executed, by their duly authorized attorneys.

Respectfully submitted,

/s/   
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