

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Settlement Agreement”) is entered into by and between (i) Hanesbrands Inc. (“HBI” or “Defendant”), and (ii) Class Representatives¹ Veronica Roman and Nicole Toussaint (“Plaintiffs”), both individually and on behalf of the Settlement Class, in the case captioned, *Toussaint et al. v. HanesBrands, Inc.*, Case No. 1:22-cv-00879-LCB-LPA, pending in the United States District Court for the Middle District of North Carolina. HBI and Plaintiffs are collectively referred to herein as the “Parties.” The lawsuit is referred to herein as the “Litigation.” This Settlement Agreement is intended by the Parties to fully, finally, and forever resolve, discharge, and settle all of Plaintiffs’ Released Claims, upon and subject to the terms and conditions hereof, and subject to the Court’s approval.

I. FACTUAL BACKGROUND AND RECITALS

1. In May 2022, HBI discovered that it was the victim of a sophisticated ransomware attack (the “Data Incident”). The Data Incident implicated certain personal information (the “PII”) of certain individuals. Upon learning of the Data Incident, HBI took prompt action to contain the Data Incident and resecure the impacted data, including the above-mentioned PII.

2. On October 7, 2022, Plaintiff Ramon filed a class action against HBI. *See Roman v. HanesBrands, Inc.*, No. 2023-cv-00173 (M.D.N.C.). Plaintiff Toussaint subsequently filed a class action on October 13, 2022. *See Toussaint v. HanesBrands, Inc.*, No. 2022-cv-00879 (M.D.N.C.). On January 16, 2023, Plaintiff Roman also filed a second putative class action lawsuit against HBI in the Middle District of North Carolina, captioned, *Roman v. Hanesbrands, Inc.*, Case No. 1:23-cv-00044 (M.D.N.C. Jan. 16, 2023), but subsequently dismissed that suit without prejudice on January 20, 2022.

3. All three of the above-mentioned cases arose from the Data Incident, and alleged claims relating to PII implicated by the Data Incident.

4. In late 2022, the Parties agreed to attend a mediation with the Hon. Morton Denlow (Ret.) of JAMS.

5. Prior to mediation, the Parties exchanged discovery and fully briefed the relevant claims and defenses.

6. On January 30, 2023, the Parties attended an all-day virtual mediation with Hon. Morton Denlow (Ret.) of JAMS. The mediation resulted in an *impasse* between the Parties.

7. On March 6, 2023, the Court ordered consolidation of the two related matters.

¹ Except as otherwise specified, capitalized words and terms herein shall have the meanings ascribed in Section III herein entitled “Definitions.”

8. On April 27, 2023, Plaintiffs filed their Consolidated Amended Class Action Complaint, alleging claims of negligence, negligence *per se*, invasion of privacy, breach of implied contract, unjust enrichment, breach of the implied covenant of good faith and fair dealing, and unfair business practices.

9. On May 26, 2023, Defendant moved to dismiss Plaintiffs' Consolidated Amended Class Action Complaint for lack of standing and failure to state a claim. By August 4, 2023, the motion to dismiss was fully briefed by the parties and pending before the Court.

10. Thereafter, the Parties agreed to attend a second mediation, this time, with the Hon. Wayne Andersen (Ret.) of JAMS.

11. Prior to mediation, the Parties, again, fully briefed the relevant issues.

12. On November 14, 2023, the Parties attended an all-day virtual mediation with the Hon. Wayne Andersen (Ret.) of JAMS. After a full day of arms' length settlement negotiations, and with the assistance of a mediator's proposal, the parties reached an agreement on the central terms of a settlement.

13. In the month following mediation with the Hon. Wayne Anderson (Ret.), the Parties diligently negotiated and drafted the Settlement Agreement and accompanying exhibits.

14. Now, the Parties have negotiated a settlement by which they agree and hereby wish to resolve all claims, actions, proceedings, and matters pertaining to, arising from and/or associated with the Litigation, including all claims Plaintiffs and Settlement Class Members have or may have had against HBI and Related Entities arising out of the Data Incident, as set forth herein, but excluding the rights of Settlement Class Members who timely opt out from the Settlement Class pursuant to the terms and conditions herein.

II. PLAINTIFFS' CLAIMS AND BENEFITS OF THE SETTLEMENT

15. The Parties have agreed to settle the Litigation on the terms and conditions set forth herein in recognition that the outcome of the Litigation is uncertain and that achieving a final result through litigation would carry with it substantial additional risk, uncertainty, discovery efforts, time and expense for the Parties.

16. HBI denies all claims of wrongdoing or liability that Plaintiffs, Settlement Class Members, or anyone else have asserted in this Litigation or may assert in the future. Despite HBI's position that it is not liable for, and has good defenses to, the claims alleged in the Litigation, HBI desires to settle the Litigation, and thus avoid the time, expense, risk, inconvenience, uncertainty, and distraction of continued litigation of any action relating to the matters being fully settled and finally resolved and released in this Settlement Agreement. Neither this Settlement Agreement, nor any negotiation or act performed, or document created in relation to the Settlement Agreement, or negotiation or discussion thereof is, or may be deemed to be, or may be used as, an admission of, or evidence of, any wrongdoing or liability.

17. The Parties now enter into this Settlement Agreement. Plaintiffs and Class Counsel have conducted a thorough examination of the facts and the law regarding the matters at issue in the Litigation regarding Plaintiffs' claims and Defendant's potential defenses, including conducting independent investigation and discovery, conferring with defense counsel on discovery related matters, as well as an assessment of the merits of expected arguments in a motion for class certification. Based on such analyses, Plaintiffs and Class Counsel have concluded that a settlement according to the terms set forth below is fair, reasonable and adequate, and beneficial to and in the best interests of Plaintiffs and the Settlement Class, recognizing: (1) the existence of complex and contested issues of law and fact; (2) the risks and uncertainties associated with litigation and the defenses HBI may assert; (3) the likelihood that future proceedings (including trial and appeal(s)) will be unduly protracted and expensive if the proceeding is not settled by voluntary agreement; (4) the magnitude of the benefits derived from the contemplated settlement in light of both the maximum potential and likely range of recovery to be obtained through further litigation and the expense thereof, as well as the potential of no recovery whatsoever; and (5) Plaintiffs' determination that the Settlement is fair, reasonable, adequate, cost-effective, and will substantially benefit the Settlement Class Members.

18. Considering the risks and uncertainties of continued litigation and all factors bearing on the merits of settlement, Plaintiffs and Class Counsel are satisfied that the terms and conditions of this Settlement Agreement are fair, reasonable, adequate and in the best interests of the Settlement Class.

19. HBI has similarly concluded that this Settlement Agreement is desirable in order to avoid the time, risk, and expense of defending protracted litigation, and to resolve finally and completely the claims of Plaintiffs and the Settlement Class.

20. In consideration of the covenants, agreements, and releases set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed by and among the undersigned that the Litigation be settled and compromised, and that the Releasors release the Released Parties of the Released Claims, without costs as to Released Parties, Plaintiffs, Class Counsel, or the Settlement Class, except as explicitly provided for in this Settlement Agreement, subject to the approval of the Court, on the following terms and conditions.

III. DEFINITIONS

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

21. **"Additional Relief"** shall mean the relief alternatives outlined in ¶ 73(ii).

22. **"Agreement," "Settlement Agreement," and "Settlement"** shall mean this Class Action Settlement Agreement and Release (including all exhibits and attachments hereto).

23. **"Approved Claim"** shall mean a claim as evidenced by a Claim Form submitted by a Settlement Class Member that (a) is complete and timely, and submitted in accordance with the directions on the Claim Form and the terms of this Agreement; (b) is physically signed or

electronically verified by the Settlement Class Member; (c) satisfies the conditions of eligibility for a Settlement Benefit as set forth herein; and (d) has been approved by the Settlement Administrator.

24. **“Claimant”** means a Settlement Class Member who submits a Claim Form for Settlement Relief.

25. **“Claim Form”** shall mean the form that Settlement Class Members may submit to obtain compensation under this Settlement Agreement, which is attached as **Exhibit C**, as approved by the Court.

26. **“Claims Deadline”** shall mean the date by which all Claim Forms must be postmarked (if mailed) or submitted (if filed electronically) to be considered timely and shall be set as a date thirty (30) days after the Notice Date is entered. The Claims Deadline shall be clearly set forth in the Preliminary Approval Order, as well as in the Notice and the Claim Form.

27. **“Claims Period”** means the period of time during which Settlement Class Members may submit Claim Forms and shall commence on the Notice Date and shall end on the date thirty (30) days thereafter.

28. **“Class Member,”** or **“Settlement Class Member”** shall mean each member of the Settlement Class, defined below.

29. **“Class Counsel”** shall mean Gary E. Mason of Mason LLP and Scott Edward Cole of Cole & Van Note.

30. **“Counsel”** or **“Counsel for the Parties”** means both Class Counsel and Defendant’s Counsel, collectively.

31. **“Court”** shall mean the United States District Court for the Middle District of North Carolina, or any judge who is presiding over this Litigation.

32. **“Days”** means calendar days, except, when computing any period of time prescribed or allowed by this Settlement Agreement, does not include the day of the act, event, or default from which the designated period of time begins to run. Further, when computing any period of time prescribed or allowed by this Settlement Agreement, include the last day of the period, unless it is a Saturday, a Sunday, or a Federal legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or Federal legal holiday.

33. **“Defendant”** shall mean Hanesbrands Inc. or HBI.

34. **“Defendant’s Counsel”** shall mean Amy Lally and Geeta Malhotra of Sidley Austin LLP.

35. **“Effective Date”** means one business day following the latest of: (i) the date upon which the time expires for filing or noticing any appeal of the Judgment or one (1) business day

following notice of entry of an order granting final approval of the settlement if no parties have standing to appeal; (ii) if there is an appeal or appeals, the date of completion, in a manner that finally affirms and leaves in place the Judgment without any material modification, of all proceedings arising out of the appeal(s) (including, but not limited to, the expiration of all deadlines for motions for reconsideration or petitions for review and/or certiorari, all proceedings ordered on remand, and all proceedings arising out of any subsequent appeal(s) following decisions on remand); or (iii) the date of final dismissal of any appeal or the final dismissal of any proceeding on certiorari with respect to the Judgment. Further, the Effective Date shall be conditioned on the occurrence of all the following events:

- a) the Court has entered an Order of Preliminary Approval;
- b) HBI has not exercised its option to terminate the Settlement Agreement pursuant to ¶ 83;
- 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 ¶ 39.

36. **“Experian IdentityWorks”** shall mean the identity protection membership program provided through Experian, which includes three-bureau credit monitoring, a daily credit report, \$1 million in identity theft insurance, and identity restoration. Details are available at <https://www.experianidworks.com/>.

37. **“Fee and Expense Application”** shall mean the motion to be filed by Class Counsel 14-days prior to the deadline for Settlement Class Members to object to or opt-out from the Settlement, in which they seek approval of an award of attorneys’ fees, as well as a Service Award for the Class Representatives.

38. **“Fee Award and Expenses”** means the amount of attorneys’ fees and reimbursement of litigation expenses awarded by the Court to Class Counsel.

39. **“Final”** means the Final Approval Order has been entered on the docket, and (1) the time to appeal from such order has expired and no appeal has been timely filed; (2) if such an appeal has been filed, it has been finally resolved and has resulted in an affirmation of the Final Approval Order; or (3) the Court following the resolution of the appeal enters a further order or orders approving settlement on the material terms set forth herein, and either no further appeal is taken from such order(s) or any such appeal results in affirmation of such order(s).

40. **“Final Approval Hearing”** means the hearing before the Court to determine the fairness, reasonableness, and adequacy of the Settlement Agreement pursuant to Federal Rule of Civil Procedure 23 and whether to issue the Final Approval Order. The Parties shall request that the Court schedule the Fairness Hearing for a date that is in compliance with the provisions of 28

U.S.C. §1715(d). At the Final Approval Hearing, Plaintiffs may request a judgment to be entered by the Court approving the Settlement Agreement, approving the Fee Award, and approving a Service Award to the Class Representative.

41. “**Final Approval Order**” shall mean an order, the proposed form of which is attached as **Exhibit E**, entered by the Court without material changes after the Final Approval Hearing that:

- i. Certifies the Settlement Class pursuant to Federal Rule of Civil Procedure, Rule 23;
- ii. Finds that the Settlement Agreement is fair, reasonable, and adequate, was entered into in good faith and without collusion, and approves and directs consummation of this Settlement Agreement;
- iii. Dismisses Plaintiffs’ claims and the Litigation pending before it with prejudice and without costs, except as explicitly provided for in this Settlement Agreement;
- iv. Approves the Releases provided in Section X and orders that, as of the Effective Date, the Released Claims will be released as to Released Parties;
- v. Reserves jurisdiction over the Settlement and this Settlement Agreement; and
- vi. Finds that there is no just reason for delay of entry of Final Approval Order with respect to the foregoing.

42. “**Frequently Asked Questions**” or “**FAQs**” are questions and answers to those questions that are frequently posed by Class Members about class action settlements and specifically about this Settlement.

43. “**Hanes Site Credit**” shall mean a one-time use credit that may be used to purchase products for sale on the www.hanes.com website only. Credit shall be up to \$50 and is good only for one sales transaction within three years from its issuance; any remaining credit may not be used at a later date.

44. “**Litigation**” shall mean the action captioned *Toussaint et al. v. HanesBrand, Inc.*, Case No. 1:22-cv-00879-LCB-LPA in the United States District Court for the Middle District of North Carolina.

45. “**Long Form Notice**” is the content of the Notice substantially in the form as **Exhibit B** that will be posted on the Settlement Website and that will include robust details about the Settlement.

46. “**Notice**” means the direct notice of this proposed Settlement, which is to be provided substantially in the manner set forth in this Settlement Agreement and **Exhibits B and**

C, and a digital media notice campaign, which is consistent with the requirements of Due Process. The Notice Deadline in this case will be 30 days after the Court enters the Preliminary Approval Order.

47. **“Notice and Administrative Expenses”** means all of the expenses incurred by the Settlement Administrator in the administration of this Settlement, including, without limitation, all expenses or costs associated with providing Notice to the Settlement Class, locating Settlement Class Members through Skip Trace, processing claims, determining the eligibility of any person to be a Settlement Class Member, and administering, calculating and distributing the Additional Relief to Settlement Class Members with Approved Claims. Administrative Expenses also includes all reasonable third-party fees and expenses incurred by the Settlement Administrator in administering the terms of this Agreement.

48. **“Notice Deadline”** means the last day by which Notice must be issued to the Settlement Class Members, and will occur thirty (30) days after the Court enters the Preliminary Approval Order.

49. **“Objection Deadline”** means the date by which a written objection to this Settlement Agreement or application and motion for (i) the Fee Award and Expenses, and (ii) the Service Awards must be postmarked and/or filed with the Court and sent to the Settlement Administrator, which shall be designated as a date approximately thirty (30) days after the Notice Deadline, or such other date as ordered by the Court. This Deadline will also be known as the Objection Date.

50. **“Opt-Out Deadline”** is the last day on which a Settlement Class Member may file a request to be excluded from the Settlement Class, which will be thirty (30) days after the Notice Deadline and is also referred to as the Exclusion Deadline.

51. **“Out-of-Pocket Losses”** means monetary out-of-pocket costs or expenditures that a Settlement Class Member actually incurred and that are supported by Reasonable Documentation for attempting to remedy or remedying issues that are more likely than not traceable to the Data Incident and occurred no earlier than May 2022, are not otherwise recoverable through insurance, are materially different from services or products already offered by HBI in response to the Data Incident, and have not already been reimbursed by a third party.

52. **“Participating Settlement Class Member”** means a Settlement Class Member who does not submit a valid Request for Exclusion prior to the Opt-Out Deadline.

53. **“Parties”** shall mean Plaintiffs and Defendant, collectively.

54. **“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 or agency thereof, and any business or legal entity, and their respective spouses, heirs, predecessors, successors, representatives, or assignees.

55. “**Plaintiffs**” or “**Class Representatives**” shall mean the named plaintiffs and class representatives, Veronica Roman and Nicole Toussaint.

56. “**Preliminary Approval Order**” shall mean the Court’s Order preliminarily approving the Settlement Agreement, certifying the Settlement Class for settlement purposes, and directing notice of the Settlement to the Settlement Class substantially in the form of the Notice set forth in this Settlement Agreement. Attached as **Exhibit D**.

57. “**Private Information**” means contact information, date of birth, financial account information, government issued identification numbers such as drivers’ license numbers, passport information, and social security numbers, and other information related to benefits and employment including certain limited health information provided for employment related purposes.

58. “**Related Entities**” means HBI’s past or present parents, subsidiaries, divisions, and related or affiliated entities, and each of HBI’s 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 any of the actions 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 criminal activity occurrence of the Incident or who pleads *nolo contendere* to any such charge.

59. “**Released Claims**” shall have the meaning ascribed to it as set forth in Section X of this Settlement Agreement.

60. “**Released Persons**” shall have the meaning ascribed to it as set forth in Section X of this Settlement Agreement.

61. “**Releasors**” shall refer, jointly and severally, and individually and collectively, to Plaintiffs, the Settlement Class Members, and to each of their predecessors, successors, heirs, executors, administrators, and assigns of each of the foregoing, and anyone claiming by, through, or on behalf of them.

62. “**Reasonable Documentation**” means documentation supporting a claim for Documented Loss including, but not limited to, credit card statements, bank statements, invoices, telephone records, and receipts. Documented Loss costs cannot be documented solely by a personal certification, declaration, or affidavit from the Claimant; a Settlement Class Member must provide supporting documentation.

63. “**Service Award**” shall have the meaning ascribed to it as set forth in Section IX of this Settlement Agreement. The Service Awards requested in this matter will be \$1,600 to each Plaintiff, subject to court approval.

64. “**Settlement Administrator**” means Apex Class Actions LLC, a qualified third-party administrator and agent agreed to by the Parties, to administer the Settlement, including providing the Notice, as supervised by Class Counsel and Defendant, subject to the Court’s

approval.

65. “**Settlement Class**” means “all individuals whose PII was compromised in the ransomware attack against HBI, discovered by HBI on May 24, 2022.” Specifically excluded from the Settlement Class are: (1) the Judge presiding over this Litigation, and members of his direct family; (2) the Defendant, its subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendant or its parents have a controlling interest and their current or former officers and directors; and (3) Settlement Class Members who submit a valid Request for Exclusion prior to the Opt-Out Deadline. The Parties shall ask the Court in the Final Approval Order to deem the class definition in Plaintiffs’ Consolidated Amended Class Action Complaint amended to conform to this definition.

66. “**Settlement Class List**” means a list of each Settlement Class Member’s full name, current or last known address, and current or last known email address, to the extent available, which Defendant or Defendant’s agent shall provide to the Settlement Administrator within seven (7) days of the entry of the Preliminary Approval Order and the Settlement Administrator’s and Class Counsel’s execution of a confidentiality and non-disclosure agreement.

67. “**Settlement Class Member**” means an individual who falls within the definition of the Settlement Class.

68. “**Settlement Relief**” means the benefits outlined in ¶ 73 to be distributed by the Settlement Administrator and paid by Defendant.

69. “**Settlement Website**” means an Internet website established and administered by the Settlement Administrator, which shall contain information about the Settlement, including electronic copies of **Exhibits A-E** (or any forms of these notices that are approved by the Court), this Settlement Agreement, and all Court documents related to the Settlement. The Settlement Website will be publicly viewable and contain broad information about the Settlement, including but not limited to, copies of the Complaint filed in this matter, a copy of the Long Form Notice, Short Form Notice, FAQs, Claim Form that may be submitted online through the Settlement Website or mailed to the Settlement Administrator, and the deadlines for filing a Claim, Objection, Exclusion requests, and the date of the Final Fairness Hearing. The Settlement Website is viewed as an important piece of the Notice to Class Members. The Settlement Website will remain active until 90 days after the Effective Date.

70. “**Short Form Notice**” is the postcard notice that will be mailed to each available Settlement Class Member. Short Form Notice will include a copy of the Claim Form, in the same or substantially similar form as **Exhibit A** hereto.

71. “**Unknown Claims**” means any of the Released Claims that any Class Member, including any Plaintiff, does not know or suspect to exist in his/her favor at the time of the release of the Released Persons that, if known by him or her, might have affected his or her settlement with, and release of, the Released Persons, or might have affected his or her 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 expressly shall have, and each of the other Class Members shall be deemed to have, and by operation of the Judgment shall have, waived the provisions, rights, and benefits conferred by Cal. Civ. 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 which is similar, comparable, or equivalent to Cal. Civ. 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.

Class Members 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 Plaintiffs expressly shall have, and each other Class Member 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 Parties acknowledge, and Class Members shall be deemed by operation of the Final Approval Order to have acknowledged, that the foregoing waiver is a material element of the Settlement Agreement of which this release is a part.

IV. SETTLEMENT BENEFITS AND ADMINISTRATION

72. **Settlement Class:** 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 or the Effective Date does not occur, 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 Settling Party's 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.

73. **Settlement Relief:** The Settlement Administrator will agree to make the following benefits available to Settlement Class Members who submit valid and timely claim forms. Defendant shall pay for all Settlement Relief, Claims will be subject to review for completeness and plausibility by a Settlement Administrator, and Claimants will have the opportunity to seek review by the Parties' Counsel, if they dispute the Settlement Administrator's initial determination.

- i. **Compensation for Documented Out-of-Pocket Losses:** All Settlement Class Members who submit a valid claim using the Claim Form, including necessary supporting Reasonable Documentation, are eligible to receive reimbursement for documented Out-of-Pocket Losses. To be valid, and claimed loss must (i) be actual, documented, and unreimbursed; (ii) be more likely than not caused

by the Data Incident; (iii) have occurred no sooner than May 2022 but before the Claims Deadline; and (iv) not be for products or services that are materially similar to services or products already offered by HBI in response to the Data Incident. Reimbursements of Out-of-Pocket Losses will not be capped at an individual level, but are subject to an aggregate cap of \$100,000. Categories of Out-of-Pocket Losses related to the Data Incident include but are not limited to: (i) long distance phone charges; (ii) cell phone charges (only if charged by the minute); (iii) internet usage charges (if either charged by the minute or incurred solely as a result of the Data Incident); and (iv) costs of credit reports and documented costs associated with credit monitoring services and/or fraud resolution services.

To receive reimbursement for documented Out-of-Pocket Losses, Settlement Class Members must submit to the Claims Administrator a Valid Claim, including: (1) a valid Claim Form electing to receive the Out-of-Pocket Loss payment benefit; (ii) an attestation regarding any actual and unreimbursed Out-of-Pocket Loss; and (iii) Reasonable Documentation supporting their claim that demonstrates the Out-of-Pocket Loss to be reimbursed pursuant to the terms of the Settlement. Reasonable Documentation can include receipts or other documentation that demonstrates the costs incurred. Out-of-Pocket Loss costs cannot be documented solely by a personal certification, declaration, or affidavit from the Claimant; a Settlement Class Member must provide supporting documentation. "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. Any "self-prepared" documentation is subject to the Settlement Administrators review for plausibility.

Nothing in this Settlement Agreement shall be construed as requiring HBI to provide, and HBI shall not be required to provide, for a double payment for the same loss or injury that was reimbursed or compensated by any other source. No payment shall be made for emotional distress, personal/bodily injury, or punitive damages, as all such amounts are not recoverable pursuant to the terms of the Settlement Agreement.

- ii. **Choice of Additional Relief:** In addition to compensation for documented Out-of-Pocket Losses, all Settlement Class Members may claim one of the following three options:
 - a. ***Credit and Identity Monitoring Services:*** Settlement Class Members may claim a two-year membership to Experian's IdentityWorks. The IdentityWorks membership will provide the following services to participating Class Members: (i) up to \$1 million dollars of identity theft insurance coverage; (ii) three bureau credit monitoring (iii) alerts for activity including new inquiries, new accounts created, change of address requests

associated with credit accounts, changes to public records, postings of potentially negative information, and other leading indicators of identity theft; (iv) customer care and dedicated fraud resolution agent; (v) comprehensive educational resources; (vi) extended fraud resolution. In the event that a participating Settlement Class Member has already enrolled in HBI's prior offering of such membership, the two-years will serve as a supplemental membership that extends the member's current subscription.

- b. **Hanes Site Credit:** Settlement Class Members may claim a digital code for a one-time use Hanes Store Credit up to the amount of \$50.00 plus free shipping (est. value \$6.99), for a total value of \$56.99.
- c. **Alternative Cash Payment:** Settlement Class Members may claim an alternative cash payment of \$35.00.

The Additional Relief described in this section shall be provided to valid claimants and is not subject to any aggregate cap.

iii. Equitable Relief: Without admitting any liability or that it is required by law to do so, and within sixty (60) days after the entry of the Final Approval Order and Judgment, Defendant HBI agrees to implement, to the extent not already implemented, the following data security measures for a period of two (2) years after the Settlement receives final approval by the Court.

- a. Defendant HBI will undertake measures to secure, or securely destroy all information that was subject to and subsequently resecured in the Data Incident once it is no longer needed for legitimate business purposes.
- b. Defendant HBI will conduct a tabletop exercise.
- c. Defendant HBI will review and consider further enhancements to HBI's incident response process annually.
- d. Defendant HBI will continue to provide annual security awareness training for all HBI employees involved with consumer and employee data sharing and data transfer activities, to cover industry best practices for data security and privacy.
- e. Defendant HBI will continue to monitor the dark web for indications of fraudulent activity related to the Data Incident.

74. **Settlement Administration:**

- i. Submission of Claims:** To be considered valid, completed Claim Forms (the blank form is attached hereto as Exhibit C) must be submitted by the Claims Deadline either online through the Settlement Website or via U.S. Mail to a P.O. Box maintained by the Settlement Administrator.
- ii. Evaluation of Claims:** The Settlement Administrator, in its sole discretion to be reasonably exercised, will determine whether: (i) the claimant is a Settlement Class Member; (ii) the claimant has timely provided all information needed to complete the Claim Form, including any documentation that may be necessary to reasonably support the expenses described in ¶ 73(i); and (iii) the information submitted could lead a reasonable person to conclude that the claimant has suffered the claimed, actual Out-of-Pocket Losses more likely than not as a result of the Data Incident.
- iii. Claim Supplementation:** Where a claim is initially deemed, in whole or in part, incomplete or invalid, the Settlement Administrator shall request from the claimant, in writing, additional information as the Settlement Administrator may reasonably require in order to evaluate the claim, *e.g.*, documentation requested on the Claim Form, and required documentation regarding the claimed losses. Requests for Claim Supplementation shall be made within thirty (30) days of receipt of such Claim Form. Claimants shall have thirty (30) days to cure the defect before the Settlement Administrator rejects the claim. The Settlement Administrator's review will be limited to a determination of whether the claim is complete and plausible. If the Claimant fails to cure the deficiency, the claim shall stand as denied and the Class Member shall be so notified. No notification is required for late-posted claims.
- iv. Dispute Resolution:** For any claims that the Settlement Administrator determines to be implausible, the Settlement Administrator will submit those claims to the Settling Parties (one Plaintiff's lawyer shall be designated to fill this role for Plaintiff). If the Settling Parties do not agree with the Claimant's claim, after meeting and conferring, then the claim shall be referred to a claims referee for resolution. The Settling Parties propose that Hon. Wayne Anderson (Ret.) of JAMS serve as claims referee should one be necessary.

75. **Settlement Administration Fees:** All costs for notice to the Settlement Class as required under Section VII and Costs of Settlement Administration under Section VII shall be paid by HBI.

76. **Timing of Relief to Valid Claimants:** After the Court enters a Final Approval Order, and the Effective Date has passed, the Settlement Administrator shall provide the requested relief to all Settlement Class Members that made a valid claim, subject to the procedure set forth herein. Relief shall be distributed to Valid Claimants within thirty (30) days of the Effective Date or (30) days of the date all Claims are resolved, whichever is later.

77. **Liability of the Parties:** The Parties, Class Counsel, and Defendant's Counsel shall not have any liability whatsoever with respect to (i) any act, omission or determination of the Settlement Administrator, or any of its respective designees or agents, in connection with the administration of the Settlement or otherwise; (ii) the management, investment or distribution of settlement relief; (iii) the formulation, design or terms of the disbursement of the settlement relief; (iv) the determination, administration, calculation or compensation for any claims asserted; (v) any losses suffered by or fluctuations in the value of settlement relief; or (vi) the payment or withholding of any taxes and tax-related expenses.

V. SETTLEMENT CLASS NOTICE, OPT-OUTS, AND OBJECTIONS

78. **Notice.** Within seven (7) days after the date of the Preliminary Approval Order and the Settlement Administrator's and Class Counsel's execution of a confidentiality and non-disclosure agreement, Defendant shall provide the Settlement Class List to the Settlement Administrator. The Class List shall include the most current names, addresses, phone numbers, and email addresses of all Settlement Class Members, to the extent they are known to Defendant. Within thirty (30) days after the date of the Preliminary Approval Order, the Settlement Administrator shall disseminate Notice to the Settlement Class Members. The Short Form Notice as approved by the Court shall be disseminated via U.S. mail to all Settlement Class Members and also via e-mail to Settlement Class Members whose personal e-mail addresses are known to Defendant. The Settlement Administrator will also supplement Notice with a mix of media including programmatic digital banner advertising, social media, search/keyword targeting, press release, and placement of advertisements on streaming services. The Settlement Administrator shall also create and maintain a Settlement Website providing access to the Short Form Notice, Long Form Notice, relevant court filings, an FAQ section; a Toll-Free Help Line; a designated and monitored settlement email address; and a designated and monitored PO Box. The process to issue Notice as described in this paragraph shall constitute the "Notice Plan."

79. **Final Approval Hearing.** The Notice (Short Form attached hereto at Exhibit A; Long Form attached hereto at Exhibit B) must set forth the time and place of the Final Approval Hearing (subject to change) if known at the time of Notice and state that any Settlement Class Member who does not file a timely and adequate objection in accordance with ¶ 81 waives the right to object or to be heard at the Final Approval Hearing and shall be forever barred from making any objection to the Settlement.

80. **Opt-Outs.** The Notice shall explain the procedure for Settlement Class Members to exclude themselves or "opt-out" of the Settlement by submitting a Request for Exclusion to the Settlement Administrator no later than the Opt-Out Deadline. To be valid, the Request for Exclusion must be (i) submitted electronically on the settlement website, or (ii) postmarked or received by the Settlement Administrator on or before the end of the Opt-Out Period. The Request for Exclusion must include the name of the proceeding by case name, *Toussaint et al. v. HanesBrands, Inc.*, Case No. 1:22-cv-00879-LCB-LPA, the individual's full name, current address and telephone number, personal signature, and the words "Request for Exclusion" or a comparable statement to the effect of, "I/We hereby request to be excluded from the proposed Settlement Class in *Toussaint et al. v. HanesBrands, Inc.*, Case No. 1:22-cv-00879-LCB-LPA." The Notice must state that any Settlement Class Member who does not file a timely Request for

Exclusion in accordance with this Paragraph will lose the opportunity to exclude himself or herself from the Settlement and will be bound by the Settlement. Any Person who elects to request exclusion from the Settlement Class shall not (i) be bound by any orders or Judgment entered in the Action, (ii) be entitled to relief under this Agreement, (iii) gain any rights by virtue of this Agreement, or (iv) be entitled to object to any aspect of this Agreement. No Person may request to be excluded from the Settlement Class through “mass” or “class” opt-outs. If any Person requests to be excluded but also submits a timely Claim Form, the Request for Exclusion will be null and void and the Person will be deemed to have submitted only a Claim Form.

81. **Objections.** The Notice shall explain the procedure for Settlement Class Members to object to the Settlement or Fee Application by submitting written objections to the Court no later than the Objection Deadline. A written objection must include (i) the name of the proceeding; (ii) the Settlement Class Member’s full name, current mailing address, and telephone number; (iii) a statement of the specific grounds for the objection, as well as any documents supporting the objection that the Settlement Class Member desires the Court to consider; (iv) the identity of any attorneys representing the objector; (v) a statement regarding whether the Settlement Class Member (or his/her attorney) intends to appear at the Final Approval Hearing; (vi) a statement identifying all class action settlements objected to by the Settlement Class Member in the previous five (5) years; and (vii) the signature of the Settlement Class Member or the Settlement Class Member’s attorney. Any objector who fails to object in the manner prescribed herein shall be deemed to have waived his or her objections and forever be barred from making any such objections in the Litigation or in any other action or proceeding. If any Person requests to be excluded but also submits a timely objection, the Request for Exclusion will be null and void and the Person will be deemed to have submitted only an objection.

VII. DUTIES OF THE SETTLEMENT ADMINISTRATOR

82. **Duties of Settlement Administrator.** The Settlement Administrator shall perform the functions and duties necessary to effectuate the Settlement and as specified in this Agreement, including, but not limited to, the following:

- a. Under the supervision of the Court, administer the relief provided by this Agreement by processing Claim Forms in a rational, responsive, cost effective and timely manner, and calculate Settlement Relief in accordance with this Agreement.
- b. Obtaining the Settlement Class List solely for the purpose of disseminating Notice to Settlement Class Members;
- c. Performing National Change of Address searches and/or skip tracing on the Settlement Class List;
- d. Providing Notice to Settlement Class Members via U.S. mail, email and digital media;
- e. email reminder notice;

- f. Establishing and maintaining the Settlement Website;
- g. Establishing and maintaining a toll-free telephone line for Settlement Class Members to call with Settlement-related inquiries, and answering the questions of Settlement Class Members who call with or otherwise communicate such inquiries within (3) business days;
- h. Responding to any mailed or emailed Settlement Class Member inquiries within 5 business days;
- i. Reviewing, determining the validity of, and processing all claims submitted by Settlement Class Members;
- j. Receiving Requests for Exclusion and objections from Settlement Class Members and providing Class Counsel and Defendants' Counsel a copy thereof no later than seven (7) days following the deadline for submission of the same. If the Settlement Administrator receives any Requests for Exclusion, objections, or other requests from Settlement Class Members after the Opt-Out and Objection Deadlines, the Settlement Administrator shall promptly provide copies thereof to Class Counsel and Defendants' Counsel;
- k. Providing regular status updated to Class Counsel and Defendants' Counsel pertaining to notice rates, claims submissions, categorization and description of Claim Forms rejected, requests for exclusion, and objections;
- l. After the Effective Date, processing and transmitting Settlement Relief to Settlement Class Members;
- m. Providing periodic reports to Class Counsel and Defendants' Counsel that include information regarding the dissemination of Settlement Relief, undeliverable information, and any other requested information relating to Settlement Relief. The Settlement Administrator shall also, as requested by Class Counsel or Defendants' Counsel and from time to time, provide the amounts of Out-of-Pocket Losses and Additional Relief (as outlined in Paragraph 73(i)-(ii)) granted.;
- n. Upon request, providing Class Counsel and Defendant's Counsel with other such information concerning Notice, administration, and implementation of the Settlement;
- o. In advance of the Final Approval Hearing, preparing an affidavit to submit to the Court that: (i) attests to implementation of Notice in accordance with the Preliminary Approval Order; and (ii) identifies each Settlement Class Member who timely and properly submitted a Request for Exclusion;

- p. Performing any function related to settlement administration as provided for in this Agreement or at the agreed-upon instruction of Class Counsel or Defendants' Counsel, including, but not limited to, verifying that Settlement Relief has been distributed;
- q. Maintaining reasonably detailed records of its activities under this Agreement as well as all such records as required by applicable law in accordance with its business practices (such records will be made available to Class Counsel and Defendant's Counsel upon request);
- r. Providing reports and other information to the Court as the Court may require;
- s. Making available for inspection by Class Counsel and Defendant's Counsel the Claim Forms and any supporting documentation received by the Settlement Administrator at any time upon reasonable notice; and
- t. Cooperating with any audit by Class Counsel or Defendant's Counsel, who shall have the right but not the obligation to review, audit, and evaluate all Claim Forms for accuracy, veracity, completeness, and compliance with the terms and conditions of this Agreement.
- u. Under Defendant's Counsel's supervision, preparing and sending notification to the appropriate government officials of this Settlement Agreement pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1715.

83. **Requests for Additional Information.** In the exercise of its duties outlined in this Agreement, the Settlement Administrator shall have the right to reasonably request additional information from the Parties or any Participating Settlement Class Member.

84. **Timing of Settlement Benefits.** The Settlement Administrator shall comply with the terms and conditions of this Agreement herein and shall timely distribute all Settlement Relief contemplated in this Agreement within ninety (90) days after: (i) the Effective Date; or (ii) all Claim Forms have been processed subject to the terms and conditions of this Agreement, whichever date is later.

VIII. PRELIMINARY APPROVAL, FINAL APPROVAL, AND JURISDICTION

85. **Certification of the Settlement Class.** For purposes of this Settlement only, the Parties stipulate to the certification of the Settlement Class, which is contingent upon both the Court entering the Final Approval Order of this Settlement and the occurrence of the Effective Date. Should: (1) the Settlement not receive final approval from the Court, or (2) the Effective Date not occur, the certification of the Settlement Class shall be void. Defendant reserves the right to contest class certification for all other purposes.

86. **Preliminary Approval.** Following execution of this Agreement, Class Counsel shall file a motion for preliminary approval of the Settlement, in a form agreeable to the Parties, within thirty (30) days thereof or a date thereafter that is agreeable to the Parties and the Court.

87. **Final Approval.** Class Counsel shall move the Court for a Final Approval Order of this Settlement, to be issued following the Final Approval Hearing, within a reasonable time after the Notice Deadline, Objection Deadline, and Opt-Out Deadline; within twenty-eight (28) days before the Final Approval Hearing; and at least ninety (90) days after the Settlement Administrator notifies the appropriate government officials of this Settlement Agreement pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1715. The Parties will ask the Court in the Final Approval Order to deem the class definition in Plaintiffs' Consolidated Amended Class Action Complaint amended to conform to the definition of Settlement Class, as defined in ¶ 65.

88. **Jurisdiction.** The Court shall retain jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall retain jurisdiction with respect to the administration, consummation and enforcement of the Agreement and shall retain jurisdiction for the purpose of enforcing all terms of the Agreement. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice Plan and the Settlement Administrator. As part of its agreement to render services in connection with this Settlement, the Settlement Administrator shall consent to the jurisdiction of the Court for this purpose.

89. **Judgment.** This Settlement Agreement is subject to and conditioned upon the issuance by the Court of the Judgment, which will grant final approval of this Settlement Agreement and among other things shall:

- a. Deem the class definition in the Plaintiffs' Consolidated Amended Class Action Complaint amended to conform with the definition of Settlement Class as defined in ¶ 65;
- b. Dismiss the Litigation with prejudice and without costs, except as contemplated by this Agreement;
- c. Decree that neither the Judgment nor this Settlement Agreement constitutes an admission by the Defendant of any liability or wrongdoing whatsoever;
- d. Bar and enjoin all Releasing Parties from asserting against any of the Released Parties any and all Released Claims;
- e. Release each Released Party from any and all Released Claims;
- f. Determine that this Settlement Agreement is entered into in good faith and represents a fair, reasonable, and adequate settlement that is in the best interests of the members of the Settlement Class; and

- g. Preserve the Court's continuing and exclusive jurisdiction over the Parties to this Settlement Agreement, including Defendant and all Participating Settlement Class Members, to administer, supervise, construe, and enforce this Agreement in accordance with its terms for the mutual benefit of the Parties, but without affecting the finality of the Judgment.

IX. MODIFICATION AND TERMINATION

90. **Modification.** The terms and provisions of this Agreement may be amended, modified, or expanded by written agreement of the Parties and approval of the Court; provided, however, that, after entry of the Preliminary Approval Order, the Parties may, by written agreement, effect such amendments, modifications, or expansions of this Agreement and its implementing documents (including all exhibits hereto) without further notice to the Settlement Class or approval by the Court if such changes are consistent with the Court's Preliminary Approval Order and do not materially alter, reduce, or limit the rights of Settlement Class Members under this Agreement.

91. **Settlement Not Approved.** If: (1) the Court does not issue the Preliminary Approval Order or Final Approval Order; (2) the Effective Date does not occur; or (3) the Final Approval Order is modified or reversed in any material respect by any appellate or other court, the Parties shall have sixty (60) days from the date of such non-occurrence during which the Parties shall work together in good faith in considering, drafting, and submitting reasonable modifications to this Agreement to address any issues identified by the Court or that otherwise caused the Preliminary Approval Order or Final Approval Order not to issue or the Effective Date not to occur. If such efforts are unsuccessful, either Party may at their sole discretion terminate this Agreement on seven days written notice to the other Party. For avoidance of any doubt, neither Party may terminate the Agreement while an appeal from an order granting approval of the Settlement is pending.

92. **Termination.** Defendant may also unilaterally terminate this Agreement on seven (7) days written notice to Class Counsel if more than the agreed-upon number of individuals (more than 3,500 Class Members) submit valid Requests for Exclusion, as agreed to by the Parties and as communicated to the Court *in camera*.

93. **Effect of Termination.** In the event that a party exercises his/her/its option to withdraw from, rescind, revoke, and/or terminate this Agreement pursuant to any provision, this Agreement and the Settlement shall be considered null and void; all of the Parties' obligations under the Agreement shall cease to be of any force and effect and the Parties shall return to the status quo ante in the Litigation as if the Parties had not entered into this Agreement or the Settlement. Further, in the event of such a termination, the certification of the Settlement Class shall be void. Defendant reserves the right to contest class certification for all purposes other than this Settlement. Any orders preliminarily or finally approving the certification of any class contemplated by the Settlement shall be null, void, and vacated, and shall not be used or cited thereafter by any person or entity in support of claims or defenses or in support or in opposition to a class certification motion. In addition: (a) the fact that Defendant did not oppose certification of

a class under the Settlement shall not be used or cited thereafter by any person or entity, including in a contested proceeding relating to class certification and (b) in the event of such a termination, all of the Parties' respective pre-Settlement claims and defenses will be preserved. 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 award shall constitute grounds for cancellation or termination of the Settlement Agreement. Further, notwithstanding any statement in this Settlement Agreement to the contrary, HBI shall be obligated to pay amounts already billed or incurred by the Settlement Administrator for costs of Notice to the Class and Claims Administration, except that each Party shall bear its own attorneys' fees and costs.

X. RELEASES

94. Upon Final Approval of this Settlement Agreement, Settlement Class Members release, acquit, and forever discharge Defendant and its Related Entities, including but not limited to any past or present agents, subsidiaries, parents, and affiliates, and their respective employees, officers, directors, shareholders, partners, members, managers, owners, heirs, executors, attorneys, representatives, predecessors, successors, insurers (including excess insurers and reinsurers), sureties ("Released Persons"), and/or subrogees and assigns of any of the foregoing from any and all Released Claims. "Released Claims" shall collectively mean any and all claims, causes of action, suits, obligations, debts, demands, agreements, promises, liabilities, damages, losses, controversies, costs, expenses and attorneys' fees of any nature whatsoever, whether based on any law (including federal law, state law, common law, contract, rule, or regulation) or equity, whether known or unknown, suspected or unsuspected, asserted or unasserted, foreseen or unforeseen, actual or contingent, liquidated or unliquidated, punitive or compensatory, monetary or nonmonetary, that have been pled in the Litigation, or that could have been pled in the Litigation and/or the complaints filed in the lawsuits filed individually by Plaintiffs that ultimately resulted in the consolidated Litigation, as described in ¶¶ 1-3 above., 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 but not limited to claims of negligence; negligence *per se*; breach of contract; breach of implied contract; breach of fiduciary duty; breach of confidence; intrusion into private affairs; invasion of privacy; fraud; misrepresentation (whether fraudulent, negligent or innocent); unjust enrichment; bailment; wantonness; breach of the covenant of good faith and fair dealing; unfair or deceptive business practices; failure to protect confidential information; statutory or common law claims for breaches of confidentiality and/or privacy; and 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, statutory damages, punitive damages, special damages, exemplary damages, restitution, and/or the appointment of a receiver, whether 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 Class Member against any of the Released Persons based on, relating to, concerning or arising out of the Data Incident or the allegations, transactions, occurrences, facts, or circumstances alleged in or otherwise described in the complaints filed in the Litigation and/or the complaints filed in the lawsuits filed individually by Plaintiffs that ultimately resulted in the consolidated Litigation, as described in ¶¶ 1-3 above. Released Claims shall include

Unknown Claims as defined in ¶ 71. Released Claims shall not include the right of any 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 Class Members who have timely excluded themselves from the Class.

95. Each Releasor waives any and all defenses, rights, and benefits that may be derived from the provisions of applicable law in any jurisdiction that, absent such waiver, may limit the extent or effect of the release contained in this Settlement Agreement.

96. **Mutual Understanding.** The Parties understand that if the facts upon which this Agreement is based are found hereafter to be different from the facts now believed to be true, each Party expressly assumes the risk of such possible difference in facts, and agrees that this Agreement, including the releases contained herein, shall remain effective notwithstanding such difference in facts. The Parties agree that in entering this Agreement, it is understood and agreed that each Party relies wholly upon its own judgment, belief, and knowledge and that each Party does not rely on inducements, promises, or representations made by anyone other than those embodied herein.

97. **Release of Class Representatives and Class Counsel.** Upon the Effective Date, Defendant and its representatives, officers, agents, directors, principals, affiliates, employees, insurers, and attorneys shall be deemed to have released, acquitted, and forever discharged the Settlement Class Representatives and Class Counsel from any and all claims or causes of action of every kind and description, including any causes of action in law, claims in equity, complaints, suits or petitions, and any allegations of wrongdoing, demands for legal, equitable or administrative relief (including, but not limited to, any claims for injunction, rescission, reformation, restitution, disgorgement, constructive trust, declaratory relief, compensatory damages, consequential damages, penalties, exemplary damages, punitive damages, attorneys' fees, costs, interest or expenses), whether known or unknown, that arise out of, are based upon, or relate to prosecution of the Litigation, (provided, however, that this release and discharge shall not include claims relating to the enforcement of the terms of the Settlement or this Agreement).

98. **Bar to Future Suits.** Upon entry of the Final Approval Order, the Settlement Class Representatives and other Settlement Class Members shall be enjoined from prosecuting any claim they have released in the preceding paragraphs in any proceeding against Defendant or based on any actions taken by any of the Released Parties that are authorized or required by this Agreement or by the Final Approval Order. Likewise, Defendant and its representatives, officers, agents, directors, principals, affiliates, employees, insurers, and attorneys shall be enjoined from prosecuting any claim they have released in the preceding paragraphs in any proceeding against Settlement Class Representatives and Class Counsel or based on any actions taken by Settlement Class Representatives and Class Counsel that are authorized or required by this Agreement or by the Final Approval Order. It is further agreed that the Settlement may be pleaded as a complete defense to any proceeding subject to this section.

IX. SERVICE AWARD PAYMENT

99. **Service Award Payment.** At least fourteen (14) days before the Opt-Out and Objection Deadlines, Class Counsel will file a Fee Application that will include a request for

Service Award Payments for the Settlement Class Representatives in recognition for their contributions to this Action not to exceed \$1,600.00 per representative plaintiff. HBI shall make the service award payment to Plaintiffs, in the amount approved by the Court, no later than fourteen (14) days after the Effective Date.

100. **No Effect on Agreement.** In the event the Court declines to approve, in whole or in part, the Service Award Payments in the amount requested, the remaining provisions of this Agreement shall remain in full force and effect. No decision by the Court, or modification or reversal or appeal of any decision by the Court, concerning the amount of the service awards shall constitute grounds for termination of this Agreement.

X. ATTORNEYS' FEES, COSTS, EXPENSES

101. **Attorneys' Fees and Costs and Expenses.** At least fourteen (14) days before the Opt-Out and Objection Deadlines, Class Counsel will file a Fee Application for an award of attorneys' fees to be paid to plaintiff's counsel not to exceed \$475,000, plus actual litigation costs and expenses not to exceed \$45,000. Prior to the disbursement or payment of the Fee Award and Costs under this Agreement to the IOLTA trust account of Mason LLP, Mason LLP shall provide to Defendant's Counsel a properly completed and duly executed IRS Form W-9. Fee Award and Costs shall be paid by the Defendant, in the amount approved by the Court, via wire transfer, no later than fourteen (14) calendar days after the Effective Date. Unless otherwise ordered by the Court, Class Counsel shall have the sole and absolute discretion to allocate any approved Fee Award and Costs amongst themselves. Defendant shall have no liability or other responsibility for allocation of any such attorneys' fees and costs.

102. **No Effect on Agreement.** In the event the Court declines to approve, in whole or in part, the Attorneys' Fees and Costs and Expenses in the amount requested, the remaining provisions of this Agreement shall remain in full force and effect. No decision by the Court, or modification or reversal or appeal of any decision by the Court, concerning the amount of the Attorneys' Fees, Costs, and Expenses shall constitute grounds for termination of this Agreement.

XI. NO ADMISSION OF LIABILITY

103. **No Admission of Liability or Wrongdoing.** The Parties understand and acknowledge that this Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties either previously or in connection with the negotiations or proceedings connected with this Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses heretofore made, or an acknowledgment or admission by any party of any fault, liability, or wrongdoing of any kind whatsoever.

104. **No Use of Agreement.** Neither the Settlement Agreement, nor any act performed or document executed pursuant to or in furtherance of the Settlement is or may be:

- a. deemed to be, or may be used as, an admission of, or evidence of, the validity of any claim, assertion, or fact made by Plaintiffs;

- b. deemed to be, or may be used as, an admission of, or evidence of, any negligence, fault, wrongdoing, omission, assertion, or fact by Defendant in the Action or in any proceeding in any court, administrative agency, or other tribunal; or
- c. described as or construed against the Released Parties, Plaintiffs, or any Settlement Class Members as an admission or concession that the consideration to be given hereunder represents the amount which could be or would have been awarded to said Plaintiffs or the members of the Settlement Class after trial.

XII. MISCELLANEOUS

105. **Integration of Exhibits.** The exhibits to this Agreement and any exhibits thereto are a material part of the Settlement and are incorporated and made a part of the Agreement.

106. **Entire Agreement.** This Agreement, including all exhibits hereto, shall constitute the entire Agreement among the Parties with regard to the subject matter hereof and shall supersede any previous agreements, representations, communications and understandings among the Parties. Each of the Parties to this Settlement Agreement acknowledges that no other Party to this Settlement Agreement, nor any agent or attorney of any such party, has made any promise, representation, or warranty, express or implied, not contained in this Settlement Agreement to induce either party to execute this Settlement Agreement. Neither Party is relying on the other Party or their agents or attorneys and rather each Party decided to resolve the dispute in their own independent determination and judgment. This Agreement may not be changed, modified, or amended except in writing signed by all Parties, subject to Court approval. The Parties contemplate that, subject to Court approval or without such approval where legally permissible and where such changes are non-material, the exhibits to this Agreement may be modified by subsequent agreement of counsel for the Parties prior to dissemination of Notice to the Settlement Class.

107. **Deadlines.** If any of the dates or deadlines specified herein falls on a weekend or legal holiday, the applicable date or deadline shall fall on the next business day. All reference to “days” in this agreement shall refer to calendar days unless otherwise specified.

108. **Construction.** For the purpose of construing or interpreting this Agreement, the Parties agree that this Agreement is to be deemed to have been drafted equally by all Parties hereto and shall not be construed strictly for or against any Party.

109. **Cooperation of Parties.** The Parties to this Agreement agree to cooperate, assist, and undertake all reasonable actions and steps in order to accomplish all requirements of this Settlement Agreement on the schedule set by the Court, subject to the terms of this Settlement Agreement.

110. **Obligation to Meet and Confer.** Before filing any motion in the Court raising a dispute arising out of or related to this Agreement, the Parties shall consult with each other in good faith prior to seeking Court intervention.

111. **Governing Law.** The Agreement shall be construed in accordance with, and be governed by, the laws of the State of North Carolina, without regard to the principles thereof regarding choice of law.

112. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all signatories do not sign the same counterparts. Original signatures are not required. Any signature submitted electronically through e-mail of an Adobe PDF shall be deemed an original.

113. **Severability.** The waiver or breach by one Party of any provision of this Settlement Agreement shall not be deemed a waiver or breach of any other provision of this Agreement.

114. **Headings.** The headings contained in this Settlement Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Settlement Agreement.

115. **Taxability.** Defendant does not make and has not made any representations regarding the taxability of any Settlement Benefit, Fee Award, and/or any other payments made pursuant to this Agreement. Plaintiffs, Class Representatives, and Class Counsel (on behalf of themselves and the Settlement Class Members) represent that that they have not relied upon any representation of any of the Defendant or their attorneys or the Settlement Administrator on the subject of taxability of any consideration provided under this Agreement. Plaintiffs, Class Representatives, and Class Counsel (on behalf of themselves and the Settlement Class Members) understand and expressly agree that any income or other tax, including any interest, penalties or other payment obligations ultimately determined to be payable from or with respect to any settlement benefit, Fee Award, and/or any other payments made pursuant to this Agreement, as well as any state or federal reporting obligations imposed on them arising therefrom or attributable thereto, shall not be Defendant's responsibility.

116. **Dollar Amounts.** All dollar amounts are in United States dollars, unless otherwise expressly stated.

117. **Notices.** All notices to Class Counsel provided for herein, shall be sent by overnight mail and email to:

Gary E. Mason
MASON LLP
5335 Wisconsin Avenue, NW, Suite 640
Washington, D.C. 20015
gmason@masonllp.com

and

Scott Cole
COLE & VAN NOTE

555 12th Street, 21st Floor
Oakland, CA 94607
sec@colevannote.com

All notices to Defendant provided for herein, shall be sent by overnight mail and email to Amy Lally and Geeta Malhotra per their contact information below:

Amy Lally
SIDLEY AUSTIN LLP
1999 Avenue of the Stars
17th Floor
Los Angeles, CA 90067
alally@sidley.com

Geeta Malhotra
SIDLEY AUSTIN LLP
1 South Dearborn
Chicago, Illinois 60603
gmalhotra@sidley.com

The notice recipients and addresses designated above may be changed by written notice.

118. **Authority.** Each signatory to this Settlement Agreement represents and warrants (i) that he, she, or it has all requisite power and authority to execute, deliver and perform this Settlement Agreement and to consummate the transactions contemplated herein, (ii) that the execution, delivery and performance of this Settlement Agreement and the consummation by it of the actions contemplated herein have been duly authorized by all necessary corporate action on the part of each signatory, and (iii) that this Settlement Agreement has been duly and validly executed and delivered by each signatory, and constitutes its legal, valid and binding obligation.

By: _____
[INSERT]
Counsel for Defendant

Date: _____

By: _____

Date: _____

[INSERT], Hanesbrands Inc.
Defendant

By: _____
 Gary E. Mason
 Mason LLP

Date: _____

By: _____
 Scott Edward Cole
 Cole & Van Note

Date: _____

Counsel for Plaintiffs and the Settlement Class

By: _____
 Nicole Toussaint
Plaintiff

Date: _____

By: _____
 Veronica Roman
Plaintiff

Date: _____

SETTLEMENT TIMELINE

<u>Grant of Preliminary Approval</u>	
HBI provides list of Settlement Class Members to the Settlement Administrator	+7 days after Preliminary Approval
Long Form and Short Form Notices Posted on the Settlement Website	+30 days after Preliminary Approval
Notice Deadline	+30 days after Preliminary Approval
Class Counsel's Motion for Attorneys' Fees, Reimbursement of Litigation Expenses, and Class Representative Service Award	-14 days prior to the Objection Deadline and Opt-Out Deadline
Objection Deadline	+30 days after Notice Deadline
Opt-Out Deadline	+30 days after Notice Deadline
Claims Deadline	+30 days after Notice Deadline
Settlement Administrator Provide List of Objections/Exclusions to Counsel	+7 days after deadline for Opt-Out
<u>Final Approval Hearing</u>	+120 days after Preliminary Approval Order, or any date thereafter convenient for the court

FOR SETTLEMENT PURPOSES / SUBJECT TO FRE 408
 ATTORNEY CLIENT PRIVILEGE / ATTORNEY WORK PRODUCT

Motion for Final Approval	-28 Days before Final Approval Hearing; at least ninety (90) days after the Settlement Administrator notifies the appropriate government officials of this Settlement Agreement pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1715
<u>Final Approval</u>	
Effective Date	+1 day after all conditions met pursuant to ¶ 35
Payment of Attorneys' Fees and Expenses Class Representative Service Award	+14 days after Effective Date
Distribution of Settlement Relief	+90 days after the Effective Date, or +90 days after all Claims are resolved, whichever is later
Settlement Website Deactivation	+90 days after the Effective Date