

SETTLEMENT AGREEMENT AND RELEASE

On the terms set forth below and to the full extent reflected herein, Roy Lo, on the one hand, and defendant NutriBullet, LLC and affiliated entities Capital Brands Holding Inc. Capital Brands LLC, and Capital Brands Distribution LLC (collectively “NutriBullet”), on the other, enter this Settlement Agreement to effect, among other things, a full and final settlement, release and dismissal with prejudice of all claims against NutriBullet alleged in the case captioned *Roy Lo, Individually and On Behalf of Others Similarly Situated, Plaintiff v. NutriBullet, LLC, Defendant*, Superior Court of the State of California, County of Los Angeles, Case No. 21STCV12852. Capitalized terms shall have the meanings ascribed to them in Section II of this Settlement Agreement.

I. RECITALS

A. NutriBullet is a company that manufactures and sells consumer products such as blenders, including but not limited to the NutriBullet Blender Combo.

B. NutriBullet is a California corporation with its headquarters in Los Angeles, California.

C. Plaintiff served a demand letter dated April 1, 2021 on Defendant pursuant to Cal. Civ. Code § 1782(a).

D. The Complaint in the Action was filed on April 2, 2021.

E. In the Action, Plaintiff alleges, *inter alia*, that Defendant was able to chill warranty claims and benefit monetarily, to the detriment of consumers, by intentionally omitting from its warranty or product registration cards/forms disclosures required by California’s Song-Beverly Consumer Warranty Act, Cal. Civ. Code § 1793.1. Based upon these and other allegations, Plaintiff asserts claims under California’s Song-Beverly Warranty Act, Cal. Civ. Code § 1790, *et seq.* (“SBA”); California’s Consumer Legal Remedies Act, Cal. Civ. Code § 1750, *et seq.* (“CLRA”); and California’s Unfair Competition Law, Cal. Bus & Prof. Code § 17200, *et seq.* (“UCL”).

F. NutriBullet denies all material allegations in the Action. NutriBullet denies that it has engaged in any wrongdoing whatsoever, that it has violated any of the laws, statutes, or

legal principles identified in the Action, that it has any liability in connection with the claims asserted or that could have been asserted in the Action, that its alleged wrongdoing or violations caused damages to Plaintiff or anyone else, and further denies that the claims in the Action are appropriate for handling on a class basis, other than for settlement purposes.

G. The Plaintiff and Settlement Class Counsel have conducted an investigation into the business and practices of NutriBullet, have received and reviewed information from NutriBullet, and have conducted informal discovery with NutriBullet.

H. This Settlement Agreement was reached after a full day of mediation before the Honorable Patrick J. Walsh (Ret.) of Signature Resolutions LLC and following several subsequent telephonic discussions between the Parties.

I. The Plaintiff and Settlement Class Counsel have concluded that this Settlement Agreement provides substantial benefits to the Settlement Class and the Settlement Class Members, as well as to Plaintiff, and resolves all issues that were or could have been raised in the Action without prolonged litigation and the risks and uncertainties inherent in the Action.

J. The Plaintiff and Settlement Class Counsel have concluded that the Settlement is fair, reasonable, adequate, and in the best interests of the Settlement Class and the Settlement Class Members.

K. The Parties understand and agree that NutriBullet does not have control over the inventory that Retailers sell in terms of the Covered Products or when Retailers sell such inventory.

L. Without admitting or conceding any wrongdoing, liability, or damages, or the appropriateness of the Plaintiff's claims or similar claims for class treatment, NutriBullet consents to the Settlement solely to avoid the expense, inconvenience, and inherent risk of the Action as well as the concomitant disruption of its business operations.

M. Nothing in this Settlement Agreement shall be construed as an admission or concession by NutriBullet of the truth of any allegations raised in the Action or of any fault, wrongdoing, liability, or damages of any kind, or of the suitability of this Action for class action treatment.

N. This Settlement Agreement, its terms, documents related to it shall not be offered or received into evidence in the Action or in any other action or proceeding to establish any liability or admission by NutriBullet. Additionally, the negotiations or proceedings connected with the Settlement Agreement, including, without limitation, all discussions related to the mediations described above, are confidential and are protected by California Evidence Code Sections 1119, 1152 and 1154.

O. This Settlement Agreement, its terms, documents related to it, and the negotiations or proceedings connected with it are contingent on NutriBullet's production of contact information for the Settlement Class Members that is reasonably retrievable, which information may be provided before or after the issuance of the Preliminary Approval Order, or in the alternative, the provision of notice of the proposed Settlement to Settlement Class Members.

II. DEFINITIONS

As used herein, the following terms have the meanings set forth below.

A. "Action" means the action captioned *Roy Lo, Individually and On Behalf of Others Similarly Situated, Plaintiff v. NutriBullet, LLC, Defendant*, Superior Court of the State of California, County of Los Angeles, Case No. 21STCV12852.

B. "Attorneys' Fees and Costs Award" means any Court-approved award of attorneys' fees and Action costs to Settlement Class Counsel made in accordance with Section VI, Paragraph A.

C. "Claim Deadline" means the final date on which Class Members may submit their claim. The Claim Deadline is the final day of the Claims Period.

D. "Claim Form" means the claim form that Settlement Class Members must complete and submit on or before the Claim Deadline to be eligible for a Voucher Award, substantially in the form attached hereto as Exhibit A. Among other things, the Claim Form requires the Settlement Class Member to declare that s/he purchased at least one of the Covered Products in the State of California or from NutriBullet's website (nutribullet.com) during the Class Period. Additional requirements relating to the completion of Claim Forms are set forth

in Section V.

E. “Claims Period” means the period for Settlement Class Members to submit a claim. The Claims Period shall run for thirty (30) days from the Notice Date.

F. “Class Notice” means the Court-approved forms of notice to the Settlement Class, which shall notify Persons in the Settlement Class of the Claim Deadline, entry of the Preliminary Approval Order, the scheduling of the Final Approval Hearing, and the process for submitting a Claim Form, among other things. The Class Notice shall consist of (1) email notice to Class Members for which NutriBullet has an email address; (2) an internet banner ad campaign; and (3) detailed notice on the Settlement Website. The email notice shall be substantially in the form attached hereto as Exhibit B. The internet banners advertisements shall be substantially in the form attached hereto as Exhibit C. The notice on the Settlement Website shall be substantially in the form attached hereto as Exhibit D.

G. “Class Period” means August 1, 2019, through the date of entry of a preliminary approval order in the Action.

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

I. “Covered Products” means all warrantied NutriBullet and Magic Bullet products sold during the Class Period, including the NutriBullet Blender Combo. A full list of such products and the labels subject to the Settlement shall be identified on the Settlement Website.

J. “Days” means calendar days, except that when computing any period of time prescribed or allowed by this Settlement Agreement, the day of the act, event, or default from which the designated period of time begins to run shall not be included. Furthermore, when computing any period of time prescribed or allowed by this Settlement Agreement, the last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a Federal or State of California legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or Federal or State of California legal holiday.

K. “Distributor” means Persons that sell or have sold Covered Products on a wholesale basis for resale to consumers by Retailers or others, but not NutriBullet.

- L. “Effective Date” means the date determined in accordance with Section XII.
- M. “Extended Warranty” means Extended Warranty as detailed in Section IV, Paragraph F.
- N. “Final” means final as detailed in Section XII, Paragraph B.
- O. “Final Approval Hearing” or “Fairness Hearing” means the hearing at which the Court considers the fairness, reasonableness, and adequacy of the Settlement, and whether it should be finally approved by the Court.
- P. “Final Order And Judgment” or “Final Approval Order” means the order detailed in Section X and in substantially the form attached hereto as Exhibit F, pursuant to Section 904.1 of the Code of Civil Procedure.
- Q. “IVR” means Interactive Voice Response. IVR is an automated telephone system which allows incoming callers to access information via a voice response system of pre-recorded messages without having to immediately speak to an agent. NutriBullet will ensure that a toll-free IVR is established by the Settlement Administrator for Settlement Class Members to access material information relating to the Settlement and to receive assistance regarding the claims process.
- R. “Motion for Preliminary Approval” means the motion requesting a Preliminary Approval Order.
- S. “Plaintiff” means Roy Lo.
- T. “Notice And Administration Costs” means any and all reasonable and authorized costs and expenses of notice and administration relating to this Settlement Agreement, as detailed in Section IV, Paragraph B.
- U. “Notice Date” or “Notice Deadline” means the first day on which the Settlement Administrator begins disseminating the Class Notice and shall begin no later than thirty (30) Days after the Preliminary Approval Date.
- V. “NutriBullet” means Defendant NutriBullet, LLC and its current and former parents, affiliates, subsidiaries, predecessors, and successors, including but not limited to Capital Brands Holding Inc. Capital Brands LLC, and Capital Brands Distribution LLC.

W. “NutriBullet’s Counsel” means Aaron S. Dyer and Derek M. Mayor of Pillsbury Winthrop Shaw Pittman LLP.

X. “Opt-Out” means a Person in the Settlement Class who properly and timely submits a request for exclusion from the Settlement Class as set forth in Section VII, Paragraph D, and who does not submit a Claim Form to the Settlement Administrator by the Claim Deadline (the submission of which rescinds any request for exclusion) or otherwise rescind his or her opt-out as specified in Section VII, Paragraph D.

Y. “Opt-Out And Objection Date” means the date by which a Person in the Settlement Class may timely submit a request for exclusion from the Settlement Class as set forth in Section VII, Paragraph D, and the date by which Settlement Class Members must file objections, if any, to the Settlement Agreement in accordance with Section VII, Paragraph C. The Opt-Out And Objection Date shall be no later than forty-five (45) days after the Notice Date.

Z. “Opt-Out List” means a list of Opt-Outs, which shall be compiled by the Settlement Administrator pursuant to Section VII, Paragraph D.

AA. “Parties” means Plaintiff together with NutriBullet.

BB. “Person” means an individual, corporation, partnership, limited partnership, limited liability company, association, member, shareholder, joint stock company, estate, legal representative, trust, unincorporated association, any business or legal entity, and such individual’s or entity’s spouse, heirs, and past, present, and future direct and indirect predecessors, successors, representatives and assignees, parents, subsidiaries, affiliates, joint venturers, unincorporated entities or associations, shareholders, joint stock companies, divisions, groups, directors, officers, shareholders, members, employees, partners, agents, insurers, and attorneys of any of the foregoing.

CC. “Preliminary Approval Date” means the date that the Preliminary Approval Order is executed and entered by the Court and received by counsel for the Parties.

DD. “Preliminary Approval Order” means the order described in Section IX as proposed in substantially the form attached hereto as Exhibit E.

EE. “Release” means the release and discharge, as of and through the date that the Settlement Administrator first publishes Class Notice on the Settlement Website, by the Plaintiff and all Settlement Class Members (and their respective present, former and future administrators, agents, assigns, executors, heirs, predecessors-in-interest, and successors), and shall include the agreement and commitment by the Plaintiff and all Settlement Class Members not to now or hereafter initiate, maintain, or assert against the Released Persons or any of them, any Released Claim that has been, could have been, may be, or could be alleged or asserted now or in the future by the Plaintiff or any Settlement Class Members against the Released Persons, or any of them, in the Action or in any other legal proceeding, court action, or before any administrative body (including, without limitation, any regulatory entity or organization), tribunal, arbitration panel, or other adjudicating body, arising out of or relating to the Released Claims.

FF. “Released Claims” means any and all claims, claims for damages, equitable (including injunctive relief), legal and/or administrative relief, interest, demands, or rights, including without limitation, claims for damages of any kind, including but not limited to those in excess of actual damages, whether based on federal, state, or local law, statute, ordinance, regulation, contract, common law, or any other sources, all claims, actions, causes of action, rights, demands, suits, debts, liens, contracts, agreements, offsets or liabilities, including but not limited to tort claims, negligence claims, claims for breach of contract, breach of any express or implied warranties, breach of the duty of good faith and fair dealing, breach of statutory duties, actual or constructive fraud, misrepresentations, fraudulent inducement, statutory and consumer fraud, breach of any consumer legal remedies statutes, breach of fiduciary duty, violation of elder abuse and dependent adult civil protection acts, unfair business or trade practices, unfair competition, false advertising, restitution, rescission, compensatory and exemplary or punitive damages, injunctive or declaratory relief, attorneys’ fees, interests, costs, penalties, and any other claims, whether known or unknown, alleged or not alleged in the Action, suspected or unsuspected, contingent or matured, under federal, state, or local law, which the Plaintiff and/or any Settlement Class Member had, now have or may in

the future have with respect to any conduct, act, omissions, facts, matters, transactions, or oral or written statements or occurrences, during the Class Period, arising from or relating to alleged improper warranty information on Defendant's warranty registration cards and online warranty registration for, based on the SBA, CLRA, UCL, or any comparable state consumer protection statute that would give rise to claims for the warranty materials as it concerns the Covered Products.

Expressly **excluded** from the Released Claims is any and all claims for bodily injury.

GG. "Released Persons" means: NutriBullet, its respective affiliates, agents, employees, officers, directors, parents, subsidiaries, representatives, predecessors, successors, insurers, advisors, retailers/resellers, or anyone acting on its behalf.

HH. "Releasing Persons" includes (1) the Plaintiff, on behalf of himself and all Settlement Class Members, (2) all Settlement Class Members, and (3) the respective former and present administrators, agents, assigns, executors, heirs, predecessors-in-interest, and successors of each of the Plaintiff and all Settlement Class Members.

II. "Retailers" means Persons that sell or have sold the Covered Products directly to consumers, but not NutriBullet or its Distributors.

JJ. "Service Award" means any Court-approved award to the Plaintiff, made in accordance with Section VI, Paragraph B.

KK. "Settlement" means the settlement of the Action as contemplated in the Settlement Agreement.

LL. "Settlement Account" means the interest-bearing account designated by the Settlement Administrator to receive deposits into, hold, and disburse the monies paid by NutriBullet, the interest thereon of which shall be added to the account.

MM. "Settlement Administrator" means the settlement administrator appointed by the Court which will administer Class Notice, maintain the Settlement Website, undertake the other actions specified in this Settlement Agreement, and engage in any other tasks related to the Settlement as directed by the Court, or jointly by Settlement Class Counsel and NutriBullet's Counsel.

NN. “Settlement Agreement” means this Settlement Agreement and General Release, including all exhibits hereto.

OO. “Settlement Class,” “Settlement Class Members,” or “Class” means all Persons who fall within the description of the class as detailed in Section III, Paragraph A.

PP. “Settlement Class Counsel” means Abbas Kazerounian and Jason A. Ibey of Kazerouni Law Group, APC, and Adib Assassi of Black Oak Law Firm.

QQ. “Settlement Class Members” means all Persons in the Settlement Class who are not Opt-Outs.

RR. “Settlement Class Notice Program” or “Notice Program” means the program by which notice of this Settlement Agreement shall be provided to the Settlement Class.

SS. “Settlement Website” means the dedicated website created and maintained by the Settlement Administrator, which will contain relevant documents and information about the Settlement, including, without limitation, this Settlement Agreement, the Class Notice, and the Claim Form.

TT. “Valid Claim” means a timely and fully completed Claim Form submitted by a Person in the Settlement Class as detailed in Section V.

UU. “Voucher Award” means the voucher that each Settlement Class Member who submits a Valid Claim shall be entitled to receive as detailed in Section IV, Paragraph C.

VV. The plural of any defined term includes the singular, and vice versa, as made necessary in context.

III. PROPOSED CLASS FOR SETTLEMENT PURPOSES

A. Pursuant to California Code of Civil Procedure 382, for purposes of the Settlement only, and subject to Court approval, the following Settlement Class shall be certified:

All persons who purchased one or more of Defendant’s warrantied products within California between August of 2019 and the date of entry of a preliminary approval order.

Specifically excluded from the Settlement Class are the following Persons:

1. NutriBullet and its respective affiliates, employees, officers, directors, agents, and representatives, and their immediate family members;
2. Settlement Class Counsel and partners, attorneys, and employees of their law firms;
3. The judge(s) who have presided over the Action, the case identified in Paragraph I.E, or the mediator referenced in Paragraph I.H, and their immediate family members; and
4. All individuals or entities who purchased the Covered Products for resale.

B. Solely for the purpose of implementing this Settlement Agreement, Plaintiff and Settlement Class Counsel will apply for, and NutriBullet will not oppose, an order preliminarily certifying the Settlement Class, appointing Roy Lo as representative of the Settlement Class, and appointing the following as counsel for the Settlement Class:

Abbas Kazerounian
KAZEROUNI LAW GROUP, APC
245 Fischer Ave., Unit D1
Costa Mesa, CA 92626
Telephone: (800) 400-6808
Facsimile: (800) 520-5523

Jason A. Ibey
KAZEROUNI LAW GROUP, APC
321 N. Mall Drive, Ste. R108
St. George, UT 84790
Telephone: (800) 400-6808
Facsimile: (800) 520-5523

Adib Assassi
BLACK OAK LAW FIRM
1100 W. Town and Country Rd., Ste. 1250
Orange, CA 92868
Telephone: (800) 500-0301
Facsimile: (800) 500-0301

C. Plaintiff and Settlement Class Counsel will file a Motion for Preliminary Approval of the Settlement Agreement with the Court within thirty (30) days of full execution of the Settlement Agreement.

D. The Parties agree that the Court may appoint either Kurtzman Carson Consultants LLC or Simpluris to serve as Settlement Administrator. Any dispute relating to the Settlement Administrator and Class Notice prior to moving for preliminary approval of the proposed Settlement that the Parties are unable to resolve within seven (7) days shall be taken to the neutral mediator (Hon. Patrick Walsh, Ret.) for resolution and ultimate recommendation to the Settlement Administrator.

E. Solely for the purpose of implementing this Settlement Agreement, Plaintiff and Settlement Class Counsel will seek, and NutriBullet will not oppose, an order from the Court preliminarily finding that the Plaintiff and Settlement Class Counsel are adequate representatives of the Settlement Class.

F. NutriBullet does not agree to the certification of the Settlement Class (or any other class) or to the appointment or adequacy of the Plaintiff or Settlement Class Counsel for any purpose other than to effectuate the Settlement Agreement.

G. In the event that the Settlement Agreement is terminated pursuant to its terms or is not approved in all material respects by the Court, or such approval is reversed, vacated, or modified in any material respect by the Court or by any other court, the certification of the Settlement Class shall be deemed vacated, and no reference to the Settlement Class, this Settlement Agreement, or any documents, Defendants' confidential business and sales records, communications or negotiations related in any way thereto shall be made for any purpose, by any Person (including Opt-Outs), in the Action or in any other action or proceeding, nor shall any such matter be admissible in evidence for any purpose in the Action. In addition, the Action shall proceed as if the Settlement Class had never been preliminarily certified or certified and all documents and communications that have been exchanged by counsel for the parties in this matter, including this Agreement and all drafts of such Agreement, shall be deemed as Confidential-Attorney Eyes' Only under a stipulated protective order whether such documents have previously been so marked, unless such documents have been filed with the Court and are not under seal. The Parties further agree that all drafts, discussions, negotiations, documentation, Defendants' confidential business and sales records, or other information

prepared or provided in relation to this Settlement Agreement, and the Parties' settlement discussions may not, absent a court order, be disclosed to any Person other than the Parties' counsel or potential settlement administrators as reasonably necessary, and only for purposes of the Action.

H. NutriBullet shall be responsible for payment of Notice and Administration Costs, as further described herein, and may participate in the settlement administration process.

IV. **BENEFITS TO THE CLASS**

A. **Limitations on Payments or Distributions from the Settlement Account.**

Until the Effective Date, the Settlement Administrator shall make no payments or distributions from the Settlement Account. All distributions or payments of Vouchers, Attorney Fees and Costs Awards, and Service Award shall only be made after the Effective Date and as provided in this Settlement Agreement.

B. **Notice And Administration Costs.** After the Court enters a Preliminary Approval Order, the Settlement Administrator may pay from the Settlement Account reasonable Notice And Administration Costs arising under this Settlement Agreement, as those costs are incurred and payment becomes due.

C. **Voucher Award.** Each Settlement Class Member who submits a Valid Claim shall be entitled to receive from NutriBullet one (1) voucher of \$10.00 that may be used towards the purchase of any product manufactured or sold by NutriBullet, which shall be valid for fifteen (15) months after it is sent to the Settlement Class Member and shall be freely transferrable. Vouchers shall only be redeemable on NutriBullet's website (nutribullet.com), for a purchase (excluding the purchase of parts) that exceeds \$30.00 before shipping expenses and taxes. Vouchers may also be used in conjunction with any other promotion, but only one (1) voucher may be used per purchase. The details, requirements, terms, and limits of the claims process are further set forth in Section V, of this Settlement Agreement. Settlement Class Members may submit only one Claim Form to participate in the Settlement, regardless of the number of Covered Products purchased during the Class Period.

D. **Distribution of Voucher Awards.**

1. No later than ten (10) Days after the Parties have resolved any disputes regarding rejected claims, in accordance with the process identified in Section V, Paragraphs B and C, the Settlement Administrator will provide Class Counsel and NutriBullet's Counsel with a report identifying the total of the Vouchers that would be payable if all Valid Claims were paid.

2. Distribution of vouchers to Settlement Class Members who made Valid Claims shall commence within thirty (30) Days after the Effective Date, to be completed no later than one sixty (60) Days after the Effective Date.

E. **Warranty, Website, and Literature Changes.**

1. Without admitting wrongdoing or liability, NutriBullet shall, to the extent it has not already done so, commencing within six (6) months after the Settlement Agreement is preliminarily approved by the Court, remove, and otherwise refrain from using, the statement "Warranty Registration Card" and all substantially similar statements from the registration cards contained within the Covered Products' packaging as well as on Defendant's website and online advertisements that it controls. NutriBullet shall also include the Song-Beverly Disclosure language as required by California Civil Code § 1793.1(a)(1) on its online product registration form and any registration cards or printed warranty materials contained within or on the Covered Products' packaging. NutriBullet's website presentations regarding the Covered Products shall, to the extent reasonably commercially practicable, conform to Section IV Paragraph E.1.

2. The terms of Section IV, Paragraph E.1, shall be prospective only, and shall not require Defendant to remove any Covered Products currently in the stream of commerce or revise the packaging or package contents of any Covered Products that have already been manufactured and packaged.

3. Modifications made by NutriBullet under Section IV, Paragraph E.1, shall not be construed or interpreted as an admission by NutriBullet regarding the validity of any claims asserted in the Action or of any alleged impropriety of statements used or omitted on other versions of the registration cards or printed materials of the Covered

Products or on any web pages.

F. **Extended Warranty.**

1. NutriBullet shall provide every Settlement Class Member with a six (6) month Extended Warranty, regardless of whether the Settlement Class Member submits a valid Claim Form in accordance with Section V of the Settlement Agreement.

2. The Extended Warranty shall become effective from the date of preliminary approval of the Settlement Agreement or last for eighteen (18) months from the date of purchase of the Covered Product, whichever occurs later.

3. Application of the Extended Warranty shall otherwise be subject to the terms and conditions of the standard NutriBullet One-Year Limited Warranty.

V. **CLAIMS PROCESS**

A. **Notice and Submission of Claims.** The Class Notice shall provide information regarding the filing of Claim Forms. Claim Forms shall be available from the Settlement Administrator and on the Settlement Website. To make a Valid Claim, Settlement Class Members must complete a Claim Form, indicating whether the Settlement Class Member purchased a Covered Product from NutriBullet in the State of California during the Class Period, and submit the Claim Form via U.S. mail or electronically via the Settlement Website to the Settlement Administrator no later than the Claim Deadline. Only Settlement Class Members who submit Valid Claims by the Claim Deadline shall be entitled to a Voucher Award.

B. **Determination of Validity.** The Settlement Administrator shall be responsible for reviewing all Claim Forms to determine which claims represent Valid Claims.

1. Any claim that is not substantially in compliance with the instructions on the Claim Form or the terms of this Settlement Agreement, or is postmarked or submitted electronically later than the Claim Deadline, shall be rejected unless otherwise accepted by the Court.

2. Following the Claim Deadline, the Settlement Administrator shall provide a report of any rejected claims to NutriBullet's Counsel and Settlement Class Counsel.

If Settlement Class Counsel do not agree with the rejection of a claim, they shall bring it to the attention of NutriBullet's Counsel, and the Parties shall meet and confer and attempt, in good faith, to resolve any dispute regarding the rejected claim. Following their meet and confer, the Parties shall provide the Settlement Administrator with their positions regarding the disputed, rejected claim. The Settlement Administrator, after considering the positions of the Parties, will make the final decision in its sole discretion.

C. **Fraudulent Filings.** At any time during the claims' process, if the Settlement Administrator has a reasonable suspicion of fraud, the Settlement Administrator shall immediately notify both Settlement Class Counsel and NutriBullet's Counsel of that fact and the basis for its suspicion. Settlement Class Counsel and NutriBullet's Counsel shall endeavor to reach an agreed-upon appropriate solution to any suspected fraud. If necessary, NutriBullet may suspend the claims' process, and the Parties will promptly seek assistance from the Court.

VI. **ATTORNEYS' FEES AND COSTS AND SERVICE AWARDS**

A. **Attorneys' Fees and Costs Award.** Settlement Class Counsel will apply to the Court for an aggregate Attorneys' Fees and Costs Award of up to one hundred ninety-five thousand dollars (\$195,000.00) to be paid by NutriBullet. NutriBullet will not oppose a motion for an aggregate Attorneys' Fees and Costs Award of up to one hundred ninety-five thousand dollars (\$195,000.00). Any Attorneys' Fees and Costs Award to be paid pursuant to this Section VI, Paragraph A, will be paid by NutriBullet within fourteen (14) Days after the Effective Date by wire transfer to an account designated by Settlement Class Counsel.

B. **Service Award.** The Plaintiff will apply for a Service Award not to exceed three thousand dollars (\$3,000.00). Any Service Award provided by the Final Order And Judgment (up to, but not exceeding three thousand dollars (\$3,000.00) to the Plaintiff) shall be paid by NutriBullet. Any Service Award to be paid pursuant to this, Paragraph VI.B will be paid by NutriBullet within fourteen (14) Days of the Effective Date.

C. **Effect of Fees, Costs, and Service Awards on Settlement Agreement.** Court approval of Attorneys' Fees and Costs Award and the Service Award will not be a condition of the

Settlement Agreement. If the Court denies, in whole or part, the application for Attorneys' Fees and Costs Award and/or Service Award, or if any Attorneys' Fees and Costs Award or Service Award ordered by the Court is the subject of any appeal, the remainder of the terms of this Agreement shall remain in effect. In addition, no interest will accrue on such amounts at any time. Class Counsel, Plaintiff, and Class Representative agree not to request, or to accept, any award inconsistent with these terms and conditions of this Settlement Agreement, including this Section VI, Paragraph C.

VII. SETTLEMENT NOTICE, OBJECTIONS AND OPT-OUT RIGHTS

A. **Direction.** The Settlement Administrator will work under the direction of Settlement Class Counsel and NutriBullet's Counsel who shall work together cooperatively.

B. **Settlement Class Notice Program.** The Parties will seek a determination from the Court regarding the Settlement Class Notice Program as described in the Motion for Preliminary Approval and in the exhibits thereto.

C. **Objections.** Any Settlement Class Member who intends to object must do so on or before the Opt-Out And Objection Date. In order to object, the Settlement Class Member must include in the objection submitted to the Settlement Administrator and served on Settlement Class Counsel and Nutribullet's Counsel: (1) the name, address, telephone number of the Person objecting and, his/her counsel, if any; (2) a signed declaration stating that he or she is a Person in the Settlement Class and purchased one or more of the Covered Products; (3) a statement of all objections to the Settlement Agreement and any supporting documentation; and (4) a statement of whether he or she intends to appear at the Final Approval Hearing, either with or without counsel, and if with counsel, the name of his or her counsel who will attend. Any Settlement Class Member who fails to submit and timely serve a written objection and notice of his or her intent to appear at the Final Approval Hearing pursuant to this Section VII, Paragraph C, and as detailed in the Class Notice, shall not be permitted to object to the approval of the Settlement Agreement at the Final Approval Hearing and shall be foreclosed from seeking any review of the Settlement Agreement by appeal or other means.

D. **Opt-Outs.**

1. A Person in the Settlement Class who wishes to opt-out of the Settlement

Class must complete and send to the Settlement Administrator a request for exclusion that is post-marked or submitted electronically via the Settlement website no later than the Opt-Out And Objection Date. The request for exclusion must be personally signed by the Person in the Settlement Class requesting exclusion, contain a statement that indicates his or her desire to be excluded from the Settlement Class in the matter of *Lo v. NutriBullet, LLC* (or sufficient words to indicate the present lawsuit against NutriBullet), and contain a statement that he or she is otherwise a Person in the Settlement Class and purchased one or more of the Covered Products.

2. A Person in the Settlement Class may opt-out on an individual basis only. So-called “mass” or “class” opt-outs, whether filed by third parties on behalf of a “mass” or “class” of class members or multiple class members where no personal statement has been signed by each and every Person who desires to Opt-Out, shall not be allowed.

3. An Opt-Out who submits a Claim Form to the Settlement Administrator thereby rescinds any request for exclusion, and is no longer an Opt-Out. An Opt-Out may rescind his/her opt-out in any manner that makes his/her desire to rescind clearly known to the Court in advance of the Opt-Out And Objection Date. Anyone who does so is no longer an Opt-Out.

4. Except for Opt-Outs, all Persons in the Settlement Class will be deemed to be Settlement Class Members for all purposes under the Settlement Agreement, and upon the Effective Date, will be bound by its terms, regardless of whether they file a Claim Form or receive any Voucher Award.

5. Any Opt-Out shall not: (a) be entitled to relief under the Settlement Agreement; (b) gain any rights by virtue of the Settlement Agreement; or (c) be entitled to object to any aspect of the Settlement Agreement.

6. The Settlement Administrator shall maintain an Opt-Out List and shall provide it to Settlement Class Counsel and NutriBullet’s Counsel within fourteen (14) Days after the Opt-Out And Objection Date.

VIII. CONFIRMATORY DISCOVERY

A. **Before Preliminary Approval.** Within fourteen (14) days of when the Settlement Agreement is fully executed, NutriBullet shall provide to Plaintiff, through counsel, confirmatory discovery in the form of (i) the list of Covered Products; and (ii) the estimated average price of the Covered Products based on prices listed on NutriBullet's website and other manufacturer's suggested retail prices.

B. **After Preliminary Approval.** Within fourteen (14) days after preliminary approval of the Settlement Agreement, NutriBullet shall provide to the Court *in camera* the national sales figures for the Covered Products during the Class Period, including the number of units of Covered Products sold in the United States during the Class Period and the estimated number of units of Covered Products sold in the State of California.

IX. SETTLEMENT APPROVAL PROCESS

Within thirty (30) Days of the full execution of this Settlement Agreement, the Plaintiff and Settlement Class Counsel shall move the Court to enter the Preliminary Approval Order that is without material alteration from Exhibit E hereto, which:

- A. Preliminarily approves this Settlement Agreement;
- B. Preliminarily certifies the Settlement Class;
- C. Finds that the proposed Settlement Agreement is sufficiently fair, reasonable and adequate to warrant providing notice to the Settlement Class;
- D. Schedules a Final Approval Hearing on final approval of this Settlement Agreement to consider its fairness, reasonableness, and adequacy, and whether it should be finally approved by the Court, which Final Approval Hearing shall take place not less than one hundred (100) Days after the Preliminary Approval Date;
- E. Appoints the Settlement Administrator in accordance with Section III, Paragraph D of this Settlement Agreement;
- F. Approves the Class Notice, and directs the Settlement Administrator to disseminate the Class Notice in accordance with the Settlement Class Notice Program;
- G. Finds that the Settlement Class Notice Program: (1) is the best practicable notice

under the circumstances, (2) will fairly apprise the Settlement Class of the pendency of the Action, of the right to object to or Opt-Out of the proposed Settlement Agreement, of the right of any Person in the Settlement Class who has not Opted-Out to appear at the Final Approval Hearing, and of the right to seek monetary and other relief, (3) constitutes reasonable, due, adequate, and sufficient notice to all Persons entitled to receive notice, and (4) meets all requirements of due process and any other applicable law.

H. Requires the Settlement Administrator to file proof of compliance with the Settlement Class Notice Program at or before the Final Approval Hearing;

I. Approves the Claim Form, and sets a Claim Deadline;

J. Approves the creation of the Settlement Website in accordance with the terms of this Settlement Agreement;

K. Requires any Person in the Settlement Class who wishes to exclude himself or herself from the Settlement Class to submit an appropriate, timely request for exclusion, postmarked or submitted electronically no later than the Opt-Out And Objection Date, or as the Court may otherwise direct, to the Settlement Administrator at the address on the Class Notice;

L. Orders that any Person in the Settlement Class who does not Opt-Out will be bound by all proceedings, orders, and judgments in the action, even if such Settlement Class Member has previously initiated or subsequently initiates an individual Action or other proceedings encompassed by the Release;

M. Requires any Settlement Class Member who wishes to object to the fairness, reasonableness or adequacy of this Settlement Agreement (the "Objector") to file with the Court and serve on Settlement Class Counsel and NutriBullet's Counsel no later than the Opt-Out And Objection Date, or as the Court may otherwise direct, a statement of the objection signed by the Settlement Class Member containing all of the following information:

1. The Objector's full name, address, and telephone number;
2. A signed declaration that he or she is a Person in the Settlement Class;
3. A written statement of all grounds for the objection and any supporting documentation;

4. A statement of whether the Objector intends to appear at the Final Approval Hearing; and

5. If the Objector intends to appear at the Final Approval Hearing through counsel, the objection must also identify the attorney representing the Objector who will appear at the Final Approval Hearing;

N. Orders that any response to an objection shall be filed with the Court no later than seven (7) Days prior to the Final Approval Hearing;

O. Specifies that any Settlement Class Member who does not submit to the Settlement Administrator a timely written objection to the Settlement Agreement or who fails to otherwise comply with the requirements of Section VII, Paragraph C, of this Settlement Agreement shall be foreclosed from seeking any adjudication or review of this Settlement Agreement by appeal or otherwise;

P. Requires that any attorney hired by a Settlement Class Member for the purpose of objecting to the proposed Settlement Agreement, the Attorneys' Fees and Costs Award, or the Service Award(s), and who intends to make an appearance at the Final Approval Hearing, must provide to the Settlement Administrator (who shall forward it to Settlement Class Counsel and NutriBullet's Counsel) and must file with the Clerk of the Court a notice of intention to appear no later than the Opt-Out And Objection Date or as the Court may otherwise direct;

Q. Directs the Settlement Administrator to establish a post office box in the name of the Settlement Administrator to be used for receiving requests for exclusion and any other communications, and providing that only the Settlement Administrator, Settlement Class Counsel, NutriBullet's Counsel, the Court, the Clerk of the Court and their designated agents shall have access to this post office box, except as otherwise provided in this Settlement Agreement;

R. Directs that Settlement Class Counsel shall file their applications for the Attorneys' Fees and Costs Award and Service Award(s) in accordance with the terms set forth in Section VI of this Settlement Agreement;

S. Orders the Settlement Administrator to provide the Opt-Out List to Settlement

Class Counsel and NutriBullet's Counsel no later than fourteen (14) Days after the Opt-Out And Objection Date, and then file with the Court the Opt-Out List with an affidavit attesting to the completeness and accuracy thereof no later than ten (10) Days thereafter or on such other date as the Parties may direct;

T. Preliminarily enjoins all Persons in the Settlement Class who are not Opt-Outs from (1) filing, commencing, prosecuting, intervening in, or participating as plaintiff, claimant, or class member in any other lawsuit or administrative, regulatory, arbitration or other proceeding in any jurisdiction based on, relating to, or arising out of the claims and causes of action or the facts and circumstances giving rise to the Action and/or the Released Claims; (2) filing, commencing, participating in, or prosecuting a lawsuit or administrative, regulatory, arbitration, or other proceeding as a class action or otherwise on behalf of any Person in the Settlement Class who is not an Opt-Out (including, without limitation, by seeking to amend a pending complaint to include class allegations or seeking class certification in a pending action), based on, relating to, or arising out of the claims and causes of action or the facts and circumstances giving rise to the Action and/or the Released Claims; and (3) attempting to cause a class of individuals in any lawsuit or administrative, regulatory, arbitration, or other proceeding based on, relating to, or arising out of the claims and causes of action or the facts and circumstances giving rise to the Action and/or the Released Claims to opt out of any settlement thereof. This Settlement Agreement is not intended to prevent Persons in the Settlement Class from participating in any action or investigation initiated by a state or federal agency; and

U. Contains any additional provisions agreeable to the Parties that might be necessary or advisable to implement the terms of this Settlement Agreement.

X. FINAL ORDER AND JUDGMENT AND RELEASES

A. **Final Order And Judgment.** If this Settlement Agreement (including, without limitation, any modification thereto made with the consent of the Parties as provided for herein) is approved by the Court following the Final Approval Hearing scheduled by the Court in its Preliminary Approval Order, the Parties shall request the Court to enter a Final Order

And Judgment pursuant to the California Rules of Civil Procedure and all applicable laws that, among other things:

1. Finds that the Court has personal jurisdiction over the Plaintiff and Settlement Class Members and that the Court has subject matter jurisdiction to approve this Settlement Agreement (and all exhibits thereto) and the Settlement described herein;
2. Certifies a Settlement Class solely for purposes of approving and implementing this Settlement Agreement;
3. Grants final approval to this Settlement Agreement as being fair, reasonable, and adequate as to all Parties and consistent and in compliance with all requirements of due process and applicable law, as to and in the best interests of all Parties, and directs the Parties and their counsel to implement and consummate this Settlement Agreement in accordance with its terms and provisions;
4. Declares this Settlement Agreement and the Final Order And Judgment to be binding on and have *res judicata* and preclusive effect in all pending and future lawsuits or other proceedings encompassed by the Release, maintained by or on behalf of the Plaintiff and any or all Settlement Class Members, as well as their respective present, former and future administrators, agents, assigns, attorneys, executors, heirs, partners, predecessors-in-interest, and successors;
5. Finds that the Settlement Class Notice Program (a) constitutes the best practicable notice under the circumstances, (b) will fairly apprise Persons in the Settlement Class of the pendency of the Action, of their right to object to or Opt-Out of the proposed Settlement Agreement, of their right (if they have not Opted-Out) to appear at the Final Approval Hearing and of their right to seek monetary and other relief, (c) constitutes reasonable, due, adequate, and sufficient notice to all Persons entitled to receive notice, and (d) meets all requirements of due process and any other applicable law;
6. Approves the Claim Form that was made available to all Persons in the Settlement Class, the content of which was without material alteration from Exhibit A to

this Settlement Agreement;

7. Finds that Settlement Class Counsel and the Plaintiff adequately represented the Settlement Class for purposes of entering into and implementing the Settlement and Settlement Agreement;

8. Dismisses the Action now pending before the Court on the merits and with prejudice and without fees or costs except as provided herein, in accordance with the terms of the Final Order And Judgment;

9. Adjudges that, as of the Effective Date, the Plaintiff and the Settlement Class and the Settlement Class Members have conclusively compromised, settled, dismissed and released, any and all Released Claims against NutriBullet and the Released Persons;

10. Approves the Attorneys' Fees and Costs Award and the Service Award(s) (if any);

11. Without affecting the finality of the Final Order And Judgment for purposes of appeal, reserves jurisdiction over the Settlement Administrator, NutriBullet, the Plaintiff, and the Settlement Class Members as to all matters relating to the administration, consummation, enforcement and interpretation of the terms of the Settlement Agreement and Final Order And Judgment and for any other necessary purposes;

12. Provides that, as of the Effective Date, the Plaintiff and all Settlement Class Members, whether or not they return a Claim Form within the time and in the manner provided for, shall be barred from asserting any Released Claims against NutriBullet and/or any Released Persons, and all Settlement Class Members shall have released any and all Released Claims as against NutriBullet and all Released Persons;

13. Determines that the Settlement Agreement and any proceedings taken pursuant thereto are not and should not in any event be offered or received as evidence of, a presumption, concession, or an admission of liability or of any misrepresentation or omission in any statement or written document approved or made by NutriBullet or any

Released Persons or of the suitability of these or similar (or any other) claims to class treatment in the Action and/or trial; provided, however, that reference may be made to this Settlement Agreement in proceedings solely as may be necessary to effectuate the Settlement;

14. Approves the Opt-Out List and determines that the Opt-Out List is a complete list of Opt-Outs and who, accordingly, shall neither share in nor be bound by the Final Order And Judgment.

B. **Release Provisions.** As of the Effective Date, the Releasing Persons are deemed to have fully released and forever discharged the Released Persons of and from all Released Claims, in accordance with the terms of this Settlement Agreement, by operation of entry of the Final Order And Judgment.

1. All Settlement Class Members who are not Opt-Outs shall be bound by this Settlement Agreement and all of their Released Claims shall be dismissed with prejudice and released, irrespective of whether they received actual notice of the Action or this Settlement Agreement.

2. Without in any way limiting the scope of the Release, this Release covers any and all claims for attorneys' fees, costs, or disbursements incurred by Settlement Class Counsel or any other counsel representing the Plaintiff or Settlement Class Members, or any of them, in connection with or related in any manner to the Action, the Settlement, the Settlement Agreement, the administration of such Settlement Agreement and/or the Released Claims as well as any and all claims for any Service Award(s) or any Attorneys' Fees and Costs Award.

3. **Additional Releases.** The Parties expressly acknowledge that they are familiar with principles of law such as Section 1542 of the Civil Code of the State of California, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH 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.

California or other law notwithstanding, the Parties hereby expressly agree that the provisions, rights, and benefits of Section 1542 and all similar federal or state laws, rights, rules, or legal principles of any other jurisdiction that may be applicable herein are hereby knowingly and voluntarily waived, released, and relinquished to the fullest extent permitted by law solely in connection with unknown claims that are the same as, substantially similar to, or overlap the Released Claims, and the Parties acknowledge that this is an essential term of the Release. In connection with the Release, the Parties acknowledge that they are aware that they may hereafter discover claims presently unknown and unsuspected or facts in addition to or different from those which they now know or believe to be true with respect to the Released Claims, and that such claims, to the extent that they are the same as, substantially similar to, or overlap the Released Claims, are hereby released, relinquished, and discharged.

4. Nothing in the Releases shall preclude any action to enforce the terms of this Settlement Agreement, including, without limitation, participation in any of the processes detailed herein.

XI. WITHDRAWAL FROM OR TERMINATION OF SETTLEMENT AGREEMENT

A. Within fifteen (15) Days after the occurrence of any of the following events and upon written notice to counsel for all Parties, a Party shall have the right to withdraw from and terminate this Settlement Agreement:

1. If the Court fails, on motion or following remand, to approve the Settlement Agreement or if on appeal the Court's approval is reversed;
2. If the Court (or an appellate court, on appeal) materially alters any of the terms of the Settlement Agreement, provided however that a reduction in the Attorneys' Fees and Costs Award below \$195,000.00 and/or a reduction of the Service Award below \$3,000.00 to the Plaintiff, shall not be deemed to be a material alteration; and/or
3. Subject to Section XI, Paragraph A.2, if the Preliminary Approval Order,

as described in Section IX, or the Final Order And Judgment, as described in Section X, is not entered by the Court or is reversed or materially modified on appeal or remand to the detriment of the Party seeking withdrawal and termination, or otherwise fails for any reason.

B. In the event of a withdrawal pursuant to Section XI, Paragraph A, any certification of a Settlement Class will be vacated, without prejudice (or benefit) to any Party's position on the issue of class certification and the amenability of the claims asserted in the Action to class treatment, and the Parties shall be restored to their Action position existing immediately before the execution of this Settlement Agreement.

C. If Opt-Outs number more than 100, then NutriBullet may elect in its sole discretion to withdraw from and terminate this Settlement Agreement. In that event, all of NutriBullet's obligations under this Settlement Agreement shall cease to be of any force and effect; the certification of any Settlement Class shall be vacated without prejudice to NutriBullet's position on the issue of class certification (and without any benefit to any Party's position on that issue); and NutriBullet shall be restored to its Action position existing immediately before the execution of this Settlement Agreement, provided that NutriBullet shall remain responsible for payment of notice and settlement administration expenses. In order to elect to withdraw from and terminate this Settlement Agreement on the basis set forth in this Section XI, Paragraph C, NutriBullet must notify Settlement Class Counsel in writing of its election to do so within fourteen (14) Days after the Opt-Out List has been served on the Parties.

D. In the event of withdrawal by any Party in accordance with the terms set forth in this Section XI, the Settlement Agreement shall be null and void, shall have no further force and effect with respect to any Party in the Action and shall not be offered in evidence or used in any Action for any purpose by any Person (including any Opt-Outs), including, without limitation, the existence, certification, or maintenance of any proposed or existing class or the amenability of these or similar claims to class treatment. In the event of such withdrawal, this Settlement Agreement and all negotiations, proceedings, documents prepared, and statements

made in connection herewith shall be without prejudice or benefit to NutriBullet, the Plaintiff, or the Settlement Class Members and shall not be deemed or construed to be an admission or confession in any way by any Party of any fact, matter or proposition of law and shall not be used in any manner for any purpose, and the Parties shall stand in the same position as if this Settlement Agreement (other than the provisions that survive termination, including, without limitation, Section III, Paragraph G; Section VII, Paragraph B; Section XII, Paragraph C; and Section XIV, Paragraphs I and L) had not been negotiated, made or filed with the Court.

XII. EFFECTIVE DATE

A. The Effective Date of this Settlement Agreement shall be the date when each and all of the following conditions have occurred:

1. This Settlement Agreement has been fully executed by all Parties and NutriBullet's Counsel and Settlement Class Counsel;
2. Orders have been entered by the Court certifying the Settlement Class, and approving the forms of Class Notice and Claim Form, all as provided above;
3. A Preliminary Approval Order has been entered;
4. The Settlement Class Notice Program has been executed in accordance with the Preliminary Approval Order;
5. The Court has entered a Final Order And Judgment approving this Settlement Agreement, as provided above; and
6. The Final Order And Judgment has become Final as defined in Section XII, Paragraph B.

B. "Final," when referring to a judgment or order means (1) a judgment or order which is a non-tentative, non-appealable judgment or order and as to which all times to appeal therefrom have expired with no appeal or other review proceeding having been commenced; and (2) a judgment or order which is a non-tentative, non-appealable judgment or order and from which an appeal or other review proceeding has been commenced, and on which such appeal or other review is concluded and no longer is subject to review by any court, whether by appeal, petitions or rehearing or re-argument, petitions for rehearing *en banc*, petitions for writ

of *certiorari*, or otherwise, and as to which such appeal or other review has been resolved in a manner that affirms the Final Order And Judgment in all material respects.

C. If, for any reason, there is no Effective Date, the orders, judgment and dismissal to be entered pursuant to this Settlement Agreement shall be vacated, and the Parties will be returned to the status *quo ante* with respect to the Action as if this Settlement Agreement (other than the provisions that survive termination, including, without limitation, Section III, Paragraph G; Section VII, Paragraph B; Section XII, Paragraph C; and Section XIV, Paragraphs I and L) had never been entered into and any amounts remaining in the Settlement Account will be paid to NutriBullet.

XIII. NOTICES

A. All notices (other than the Class Notice) required by the Settlement Agreement shall be made in writing and communicated both by mail and e-mail to the following addresses:

All notices to Settlement Class Counsel shall be sent to Settlement Class Counsel, c/o:

Abbas Kazerounian
Kazerouni Law Group, APC
245 Fischer Avenue, Suite D1
Costa Mesa, CA 92626
Telephone: (800) 400-6808
E-mail: ak@kazlg.com

All notices to NutriBullet's Counsel provided herein shall be sent to NutriBullet's Counsel, c/o:

Aaron S. Dyer
Pillsbury Winthrop Shaw Pittman LLP
725 South Figueroa Street, 36th Floor
Los Angeles, CA 90017-5406 Telephone:
(213) 488-7100
E-mail: aaron.dyer@pillsburylaw.com

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

C. Upon the request of any of the Parties, the Parties shall promptly provide each other with copies of comments, objections, requests for exclusion, or other documents or filings received as a result of the Class Notice.

XIV. **MISCELLANEOUS PROVISIONS**

A. **Interpretation.** This Settlement Agreement contains the entire agreement among the Parties hereto and supersedes any prior discussions, negotiations, exchanges, agreements or understandings among them as well as any and all prior drafts of this Settlement Agreement, term sheets, and written or oral communications about settlement and/or this Settlement Agreement. All terms are contractual. For the purpose of construing or interpreting this Settlement Agreement, the Settlement Agreement is deemed to have been drafted equally by all Parties hereto and shall not be construed strictly for or against any Party, and any prior drafts may not be used to construe or interpret this Settlement Agreement.

B. **Voluntariness.** The Parties have signed this Settlement Agreement voluntarily and knowingly in exchange for the consideration and equitable relief described herein, and they agree such consideration and equitable relief is adequate and satisfactory.

C. **Review Of Agreement.** The Parties have been provided with a reasonable period of time to review and consider this Settlement Agreement, and they have executed this Agreement after concluding that this Settlement Agreement is satisfactory to them.

D. **Binding Effect.** The terms are and shall be binding upon each of the Parties hereto, their administrators, agents, assigns, attorneys, executors, heirs, partners, representatives, predecessors-in-interest, and successors, as well as upon all other Persons claiming any interest in the subject matter hereto by or through any of the Parties hereto including, without limitation, any Settlement Class Members.

E. **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.

F. **No Rescission on Grounds of Mistake.** The Parties have made their own investigations of the matters covered by this Settlement Agreement to the extent they have

deemed it necessary to do so. Therefore, no Party will seek to set aside the Settlement Agreement or any part or parts thereof on the grounds of mistake. Moreover, the Parties expressly assume the risk that any fact not recited, contained, or embodied in the Settlement Agreement may be other than, different from, or contrary to the facts now known to them or believed by them to be true, and that the Settlement Agreement shall be effective in all respects and shall not be subject to termination, modification, or rescission, any such difference in facts notwithstanding.

G. **Amendment.** This Settlement Agreement may be amended or modified only by a written instrument signed by the Parties or their counsel. Amendments and modifications may be made without notice to the Settlement Class unless notice is required by law or by the Court.

H. **Integration of Exhibits.** The exhibits to this Settlement Agreement are an integral and material part of the Settlement Agreement and are hereby incorporated by reference and expressly made a part of the Settlement Agreement.

I. **No Admission.** Neither this Settlement Agreement nor any of its provisions, or related documents (including, for example, but not limited to drafts of the Settlement Agreement, term sheets, the Preliminary Approval Order or the Final Order And Judgment), its negotiation or any proceedings relating in any way to the Settlement Agreement shall be construed as or deemed to be evidence of an admission or concession by any Person, including, without limitation, NutriBullet, and shall not be offered or received in evidence, or subject to discovery, in this or any other action or proceeding except in an action brought to enforce its terms or except as may be required by law or Court order. The provisions of this Section XIV, Paragraph I shall become effective when this Settlement Agreement has been signed by the Parties and their counsel and shall be binding on the Parties and their counsel regardless of whether the Settlement Agreement is approved by this Court or any other court and regardless of whether the Settlement Agreement is otherwise terminated and/or becomes null and void pursuant to Section XI.

J. **Governing Law.** This Settlement Agreement shall be governed by and

construed in accordance with the internal laws (as opposed to the conflicts of law provisions) of the State of California.

K. **Counterparts.** This Settlement Agreement may be executed in counterparts and may be executed by electronic signatures, and as so executed shall constitute one agreement.

L. **Confidentiality.** All agreements made and orders entered during the course of, or prior to, the Action relating to the confidentiality of information shall survive this Settlement Agreement. The terms of this Settlement Agreement shall remain confidential until the Settlement Agreement is fully executed and filed in the Court, with the Motion for Preliminary Approval. Notwithstanding the foregoing, the Parties may communicate with proposed settlement administrators and Honorable Patrick J. Walsh (Ret.) of Signature Resolutions LLC concerning the terms of this Agreement. The Parties agree that all drafts, discussions, negotiations, documentation, Defendants' confidential business and sales records, or other information prepared or provided in relation to this Settlement Agreement, and the Parties' settlement discussions, shall be treated as strictly confidential and may not, absent a court order, be disclosed to any Person other than the Parties' counsel, and only for purposes of the Action.

M. **Return of Material.** Within sixty (60) Days after the Effective Date, Settlement Class Counsel and NutriBullet's Counsel will return all confidential material produced by one to the other in connection with the Action or shall destroy such confidential material and certify in writing that the confidential material has been destroyed.

N. **No Assignment.** Plaintiff represents and warrants that no portion of any claim, right, demand, action, or cause of action against the Released Persons that Plaintiff has or may have arising out of any allegations made in any of the actions comprising the Action or pertaining to any of the Released Claims, and no portion of any Service Award, recovery or settlement to which each Plaintiff may become entitled, has been assigned, transferred, or conveyed by or for each Plaintiff in any manner; and no Person other than each Plaintiff has any legal or equitable interest in the claims, demands, actions, or causes of action referred to in this Settlement Agreement as those of each Plaintiff.

O. **Stay.** The Parties stipulate to stay all proceedings in the Action until the Effective Date or until the Parties inform the Court of any withdrawal from and voiding of this Settlement Agreement, except the stay of proceedings shall not prevent the filing of any motions, affidavits, and other matters necessary to obtain and preserve the Final Order And Judgment.

P. **Retention of Jurisdiction.** Upon entry of the Final Order And Judgment, the Court shall retain jurisdiction with respect to implementation and enforcement of the terms of this Agreement, and all Parties submit to the jurisdiction of the Court for purposes of implementation and enforcing the Settlement embodied in this Agreement, pursuant to California Rule of Court, rule 3.769(h).

IN WITNESS WHEREOF, the Parties have executed and caused this Settlement Agreement to be executed by their authorized representatives below.

Plaintiff:

Dated: 03/23/2022 _____

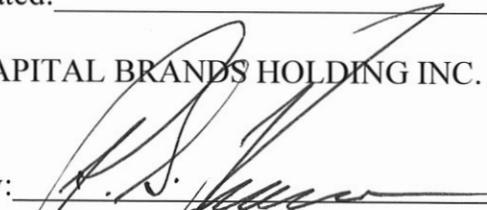
By:  _____

Roy Lo

Defendant:

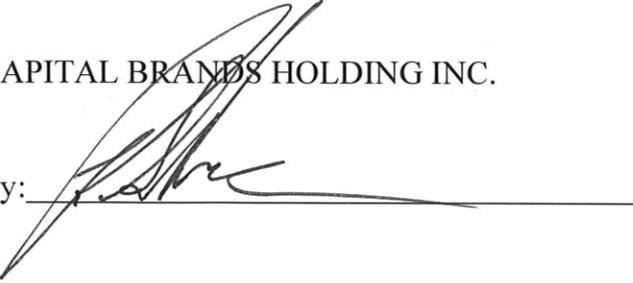
04/11/2022
Dated: _____

CAPITAL BRANDS HOLDING INC.

By:  _____

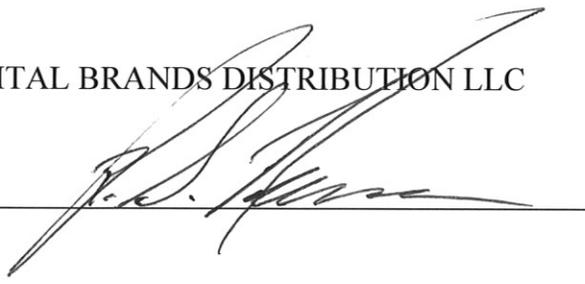
Its: CEO _____

CAPITAL BRANDS HOLDING INC.

By: _____

Its: CEO

CAPITAL BRANDS DISTRIBUTION LLC

By: _____

Its: CEO

CAPITAL BRANDS LLC

By: _____

Its: CEO

NUTRIBULLET, LLC

By: _____

Its: CEO

EXHIBIT A

Roy Lo v. NutriBullet, LLC.

California Superior Court, Los Angeles County
Case No. 21STCV12852
Settlement Claim Form

Use this Claim Form only if you purchased one or more Covered Products in California or from NutriBullet’s website, nutribullet.com, between August 1, 2019, and [DATE]. **CLAIM FORMS SUBMITTED ONLINE MUST BE SUBMITTED NO LATER THAN 11:59 pm, Pacific Standard Time on [DATE].**

The Claim Form can also be submitted via U.S. mail, postmarked no later than [DATE] to [ADDRESS].

Before you complete and submit this Claim Form, you should read and be familiar with the Notice of Proposed Class Action Settlement (the “Notice”) available at [Settlement Website Address]. Defined terms (with initial capitals) used in these General Instructions have the same meaning as set forth in the Settlement Agreement available at [Settlement Website Address with link to SAR]. A full list of the Covered Products and the labels subject to the Settlement are identified on the Settlement Website. By submitting this Claim Form, you acknowledge that you have read and understand the Notice, and you agree to the Released Claims included as a material term of the Settlement Agreement.

If you fail to submit a timely and complete Claim Form, your Claim may be rejected, and you may be precluded from any recovery from the Settlement. If you are a member of the Settlement Class and you do not timely and validly request to Opt-Out from the proposed Settlement, you will be bound by any judgment entered by the Court approving the Settlement regardless of whether you submit a Claim Form. To receive the most current information and updates, please visit the settlement website at [Settlement Website Address].

Part One: Claimant Information		
Provide your name and contact information below. It is your responsibility to notify the Settlement Administrator of any changes to your contact information after the submission of your Claim Form.		
Full Name:		
Mailing Address:		
City:	State:	Zip Code:
Telephone Number:		Email Address (optional):

Part Two: Attestation

I affirm that I purchased at least one Covered Product in California or from NutriBullet's website, nutribullet.com, in the State of California between August 1, 2019 and *[Date]* and that all of the information on this Claim Form is true and correct to the best of my knowledge. I understand that my Claim Form may be subject to audit, verification, and Court review.

Signature

Date

Please keep a copy of your Claim Form for your records.

Questions? Visit *[Settlement Website Address]* or Call *[Number]* Toll-Free

EXHIBIT B

A California Superior Court has authorized this notice. This is not a solicitation from a lawyer.

Roy Lo v. NutriBullet, LLC, Case No. 21STCV12852
California Superior Court, Los Angeles County

You may be entitled to benefits under a class action Settlement.

What happened? A Settlement has been proposed in this lawsuit, which is pending in the Los Angeles County Superior Court (“Court”). The plaintiff in the case claims that NutriBullet, LLC (“NutriBullet”), violated California’s Song-Beverly Warranty Act, Consumer Legal Remedies Act, and Unfair Competition Law by omitting from its warranty or product registration cards/forms certain disclosures required by California law. Although NutriBullet denies that it did anything wrong, the parties reached a proposed Settlement to resolve the claims in the lawsuit.

Who is included? If you purchased a warranted NutriBullet or Magic Bullet product in California or from NutriBullet’s website (nutribullet.com) between August 1, 2019, and [preliminary approval date], you may be included in the proposed Settlement as a “Settlement Class Member.” A full list of the Covered Products and the labels subject to the Settlement are identified on the Settlement Website. If you received this notice via email, NutriBullet’s records suggest that you are likely a Settlement Class Member.

Summary of Settlement. NutriBullet has agreed to provide: (1) a ten dollar (\$10.00) voucher to Settlement Class Members who submit a valid and timely Claim Form; and (2) provide an automatic six (6) month Extended Warranty to all Settlement Class Members. NutriBullet has also agreed to modify its warranty materials, pay a service award to the Class Representative up to \$3,000, pay a combined award of attorney’s fees and costs to Class Counsel up to \$195,000, and pay Settlement notice and administration costs estimated to be \$62,185, subject to Court approval. For complete details of the Settlement, please visit **www.[TBD Settlement Website Address].com or call 1-XXX-XXX-XXXX.**

Am I eligible for the voucher? Each Settlement Class Member who submits a valid and timely Claim Form will receive a \$10.00 voucher if the Settlement is finally approved by the Court. Complete details about the voucher are available on the Settlement Website.

How do I make a Settlement claim? To make a claim, you must submit a timely and completed Claim Form available at [www.\[TBD URL\].com](http://www.[TBD URL].com). Claim Forms submitted online must be submitted no later than 11:59 pm, Pacific Standard Time on [DATE]. Claim Forms submitted by U.S. mail must be postmarked no later than [DATE].

Do I have a lawyer? Yes. The Court has preliminarily appointed Abbas Kazerounian and Jason A. Ibey of Kazerouni Law Group, APC, and Adib Assassi of Black Oak Law Firm, as Class Counsel. These lawyers will be paid attorneys’ fees and costs by NutriBullet as approved by the Court. You may enter an appearance in the case through your own attorney if you so desire, but it is not required.

What options are available to me? Settlement Class Members have four options, indicated below:

SUBMIT A CLAIM FORM	Submit a claim to the Settlement Administrator using a Claim Form to receive a \$10.00 voucher by the deadline of [DEADLINE]. Claim Forms can be obtained or filled-out online at [URL]. Claim Forms may also be mailed to: [ADDRESS].
EXCLUDE YOURSELF	You may exclude yourself from the Settlement by the deadline of [DEADLINE], if you do not want to be bound by the Settlement. If you exclude yourself, you cannot receive a \$10.00 voucher from this Settlement or a free Extended Warranty, but your right to bring a lawsuit against NutriBullet for the claims alleged in the lawsuit will

	not be affected by the Settlement. If you do not exclude yourself, and the Settlement is approved, you will waive your right to sue NutriBullet for the claims asserted in the lawsuit. Please refer to the full Notice of Proposed Class Action Settlement located at [URL] for complete instructions on how to exclude yourself from the Settlement.
OBJECT TO THE SETTLEMENT	Remain a Settlement Class Member but object to the Settlement by the deadline of [DEADLINE], if you do not like some aspect of the Settlement. Instructions and requirements for objecting are available at www.[TBD URL].com.
DO NOTHING	If you do nothing, you will remain part of the Settlement Class and will release your Released Claims against the Released Persons and receive an Extended Warranty—but you will <i>not</i> receive a voucher. More details are available at www.[TBD URL].com.

Scheduled Hearing. The judge has scheduled a hearing for [date & time] at [court address], to decide whether to give final approval to the proposed Settlement, including the amounts of any attorneys’ fees, costs, and any class representative award. The hearing may be changed without notice, but any changes will be updated on the Settlement Website. **It is not necessary for you to appear at this hearing**, but you may attend at your own expense.

Complete details, a Claim Form, relevant documents, and additional information is available at [www.\[TBD URL\].com](http://www.[TBD URL].com) or by calling 1-XXX-XXX-XXXX. You may also write to [Lo Settlement c/o Simpluris].

PLEASE DO NOT CONTACT THE COURT OR NUTRIBULLET WITH ANY QUESTIONS ABOUT THE SETTLEMENT

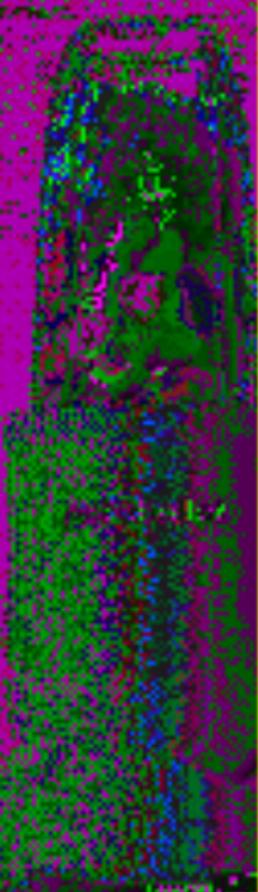
EXHIBIT C

**If you purchased a
warrantied
nutribullet or
magic bullet
product in
California or from
nutribullet.com
between August
1, 2019 and
[insert preliminary
approval date], a
consumer class
action may affect
your rights.**

**Click here for
more information
[domainname.com](#)**



If you purchased a
warranted nutribullet or
magic bullet product in
California or from
nutribullet.com between
August 1, 2019 and
[insert preliminary
approval date],

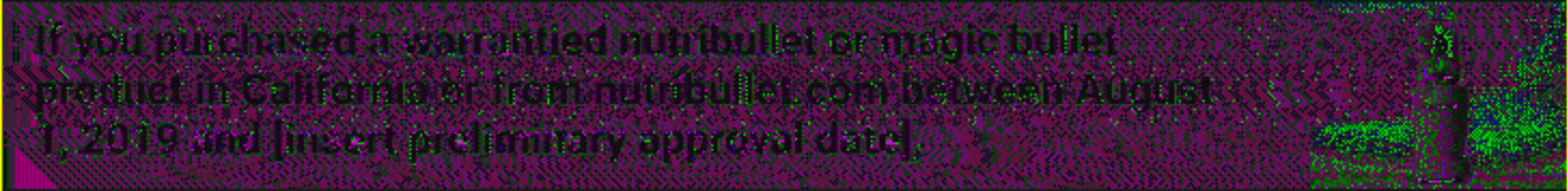


**If you purchased a
warranted nutribullet or
magic bullet product in
California or from
nutribullet.com between
August 1, 2019 and [insert
preliminary approval date],
a consumer class action
may affect your rights.**

**Click here for more
information**

www.domainname.com







Lo v. NutriBullet

Sponsored · 



If you purchased a warranted nutribullet or magic bullet product in California or from nutribullet.com between August 1, ...[see more](#)



DOMAIN.COM

Class Action Notice

See if you qualify for compensat...

[LEARN MORE](#)



Like



Comment



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EXHIBIT D

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Roy Lo v. NutriBullet, LLC, Case No. 21STCV12852
Superior Court of the State of California, County of Los Angeles

If you purchased a warrantied NutriBullet or Magic Bullet product in California or from NutriBullet's website (nutribullet.com) between August 1, 2019, and [preliminary approval date], you may be entitled to benefits under a class action Settlement.

- A consumer ("Class Representative") brought a class action lawsuit in California claiming that NutriBullet, LLC ("NutriBullet" or "Defendant"), violated: (1) California's Song-Beverly Consumer Warranty Act ("SBA"), Cal. Civ. Code § 17901, *et seq.*; (2) California's Consumer Legal Remedies Act ("CLRA"), Cal. Civ. Code § 1750, *et seq.*; and (3) California's Unfair Competition Law ("UCL"), Cal. Bus & Prof. Code § 17200, *et seq.*, by excluding from its warranty or product registration cards/online forms certain disclosures that are required by California law. NutriBullet denies any wrongdoing, and also denies that it violated any law.
- A proposed Settlement has been reached in this case, which affects individuals who purchased a NutriBullet or Magic Bullet warrantied product in California or from NutriBullet's website (nutribullet.com), between August 1, 2019, and [preliminary approval date]. These individuals are Settlement Class Members. A full list of the Covered Products are identified below in this Notice, and the product labels subject to the Settlement are available at [URL].
- The Settlement, if finally approved by the Court, will provide a \$10.00 voucher to eligible persons who file a valid and timely Claim Form.
- Each Settlement Class Member who files a valid and timely Claim Form will be entitled to one ten-dollar (\$10.00) voucher that may be used towards the purchase of any product manufactured or sold by NutriBullet online. Vouchers will be redeemable only on NutriBullet's website (nutribullet.com), for a purchase (excluding the purchase of parts) that exceeds \$30.00 before shipping expenses and taxes. Vouchers may also be used in conjunction with any other promotion, but only one (1) voucher may be used per purchase. The vouchers will be valid for fifteen (15) months after they are sent to Settlement Class Members, and will be freely transferable.
- Each Settlement Class Member will also receive an automatic six (6) month extended warranty on their Covered Product, regardless of whether the Settlement Class Member submits a valid Claim Form ("Extended Warranty"). The Extended Warranty will become effective from the date of preliminary approval of the Settlement Agreement or last for eighteen (18) months from the date of purchase of the Covered Product, whichever occurs later.
- In addition to the voucher award and Extended Warranty provided to Settlement Class Members, NutriBullet will also pay attorneys' fees and costs to attorneys representing the Class Representative and the Class from Kazerouni Law Group, APC and Black Oak Law Firm (the "Class Counsel"), a service award to the Class Representative, and the reasonable costs of notice and administration of the settlement, subject to Court approval.
- **Your legal rights are affected whether you act or do not act. Read this notice carefully.**

Your Legal Rights and Options in this Settlement	
(1) Submit a Claim Form	This is the only way to get the \$10,000 voucher award and an Extended Warranty on the Covered Products. You can submit a valid and timely Claim Form online at www.[TBD-URL].com by the deadline of [DEADLINE]. If you fail to submit a claim, you will not receive this settlement payment in the form of a voucher.
(3) Exclude Yourself or “Opt Out” of the Settlement	If you exclude yourself from the Settlement by the deadline of [DEADLINE], you will <u>not</u> waive any rights you may have against NutriBullet or anyone else with respect to the legal claims in this case. You will not receive a voucher award. You will also be excluded from having an Extended Warranty.
(4) Object	Write to the Court about why you believe the Settlement is unfair or if you do not like an aspect of the Settlement. Even if you file a valid and timely objection by the deadline of [DEADLINE], you can still submit a Claim Form to receive a voucher and Extended Warranty if the Court gives final approval to the Settlement.
(5) Go to the Hearing	Ask to speak in Court about the fairness of the Settlement if you file a valid and timely objection. The fairness hearing has been scheduled for [date & time], but may change without further notice, so it is a good idea to check the Settlement Website for updates.
(2) Do Nothing	If you do nothing, you will not receive a \$10 voucher. You will give up any rights to sue NutriBullet or anyone else separately regarding the legal claims in the lawsuit. However, you will still be entitled to the Extended Warranty.

These rights and options - **and the deadlines to exercise them** - are explained in this notice below. The Court in charge of this case still has to decide whether to approve the Settlement. Voucher awards will be made on valid and timely claims if the Court approves the Settlement and after any appeals are resolved. Please be patient.

WHAT THIS NOTICE CONTAINS

BASIC INFORMATION

1. Why is there a notice?
2. What is this class action lawsuit about?
3. Why is there a settlement?

WHO IS IN THE SETTLEMENT

4. How do I know if I am part of the Settlement?

THE SETTLEMENT BENEFITS – WHAT YOU GET

5. What does the Settlement provide?

HOW YOU GET AN AWARD

6. How and when can I get an award?
7. What am I giving up to get an award or stay in the Settlement Class?

EXCLUDING YOURSELF FROM THE SETTLEMENT

8. How do I exclude myself from the Settlement?

THE LAWYERS REPRESENTING YOU

9. Do I have a lawyer in this case?
10. How will the lawyers and Class Representative be paid?

OBJECTING TO THE SETTLEMENT

11. How do I tell the Court that I do not think the Settlement is fair?

THE COURT'S FINAL APPROVAL HEARING

12. When and where will the Court decide whether to approve the Settlement?
13. May I speak at the hearing?

IF YOU DO NOTHING

14. What happens if I do nothing at all?

GETTING MORE INFORMATION

15. How do I get more information?

BASIC INFORMATION

1. Why is there a notice?

A court authorized this Notice because you have a right to know about a proposed settlement of this class action lawsuit and about all of your rights and options, before the Court decides whether to give final approval to the Settlement. If the Court gives final approval to the Settlement, and after any objections or appeals are resolved, a settlement administrator appointed by the Court will provide the awards that the Settlement allows. Because your rights will be affected by this Settlement if you are a Settlement Class Member, it is important that you read this Notice carefully.

If you received a Notice by email, it is because NutriBullet's records indicate you may have purchased a Covered Product from NutriBullet, in California or from NutriBullet's website (nutribullet.com), between August 1, 2019, and [preliminary approval date].

The Court in charge of the case is the Los Angeles County Superior Court, and the case is titled as *Lo v. NutriBullet, LLC*, Case No. 21STCV12852. The proposed Settlement would resolve all claims in this case for the Settlement Class Members. The person who sued is called the "Plaintiff" or "Class Representative," and the company sued, the defendant, NutriBullet, LLC, is referred to herein as "NutriBullet" or the "Defendant."

2. What is this class action lawsuit about?

A class action is a lawsuit in which the claims and rights of many people are decided in a single court proceeding. A representative plaintiff, also known as the "Class Representative," asserts claims on behalf of the entire Class.

The Class Representative filed this Action alleging that NutriBullet violated: (1) California's Song-Beverly Consumer Warranty Act ("SBA"), Cal. Civ. Code § 17901, *et seq.*; (2) California's Consumer Legal Remedies Act ("CLRA"), Cal. Civ. Code § 1750, *et seq.*; and (3) California's Unfair Competition Law ("UCL"), Cal. Bus & Prof. Code § 17200, *et seq.*, by excluding from its warranty or product registration cards/online forms certain disclosures that are required under California law.

NutriBullet denies that it did anything wrong, or that it is in violation of any law.

3. Why is there a settlement?

The Court has not decided in favor of the Class Representative or Defendant. Both sides agreed to this Settlement instead of going to trial. By reaching a Settlement, both parties avoid the cost of a trial, and the people affected will get compensation. The Class Representative and his attorneys believe the Settlement is the best result for all Settlement Class Members.

WHO IS IN THE SETTLEMENT?

4. How do I know if I am part of the Settlement?

The Court has preliminarily certified a class action for settlement purposes only in this lawsuit. You are in the Settlement Class if you purchased a warranted NutriBullet product in California or from NutriBullet's website (nutribullet.com), between August 1, 2019, and [preliminary approval date]. A full list of the

Covered Products are identified below in this Notice, and the product labels subject to the Settlement are available at [URL].

Excluded from the Settlement Class are: (1) NutriBullet and its respective affiliates, employees, officers, directors, agents, and representatives, and their immediate family members; (2) Settlement Class Counsel and partners, attorneys, and employees of their law firms; (3) the judge(s) and mediator(s) in this case, and their immediate family members; (4) all individuals or entities who purchased the covered products for resale.

If you have questions about whether you are a Settlement Class Member, or are still not sure whether you are included, you can visit [www.\[TBD-URL\].com](http://www.[TBD-URL].com) or call 1-XXX-XXX-XXXX for more information. Please do not contact NutriBullet with questions about the Settlement.

THE SETTLEMENT BENEFITS – WHAT YOU GET

5. What does the Settlement provide?

Each Settlement Class Member who files a valid and timely Claim Form will be entitled to one voucher of \$10.00 that may be used towards the purchase of a NutriBullet product. Vouchers will be redeemable only on NutriBullet’s website (nutribullet.com), for a purchase (excluding the purchase of parts) that exceeds \$30.00 before shipping expenses and taxes. Vouchers may also be used in conjunction with any other promotion, but only one (1) voucher may be used per purchase. The vouchers will be valid for fifteen (15) months after they are sent to Settlement Class Members, and will be freely transferable.

Each Settlement Class Member is also entitled to a six (6) month extended warranty on the Covered Products, regardless of whether the Settlement Class Member submits a Claim Form (“Extended Warranty”). The Extended Warranty shall become effective from the date of preliminary approval of the Settlement Agreement [which is *DATE*] or last for eighteen (18) months from the date of purchase of the Covered Product, whichever occurs later. Application of the Extended Warranty is otherwise subject to the terms and conditions of the standard NutriBullet One-Year Limited Warranty.

In addition to the voucher awards and Extended Warranty provided to Settlement Class Members under the Settlement, NutriBullet will also: (1) modify its warranty materials; (2) pay a combined award of attorneys’ fees and costs to attorneys representing the Class Representative and the Class at Kazerouni Law Group, APC and Black Oak Law Firm (the “Class Counsel”); (3) pay any service award to the Class Representative, and (4) pay for the reasonable costs of notice and administration of the settlement, subject to Court approval.

HOW YOU GET AN AWARD

6. How and when can I get an award?

Each Settlement Class Member who submits a valid and timely Claim Form will receive a \$10 voucher as described above. Eligible Settlement Class Members may make only one claim, regardless of the number of covered products they purchased.

The Claim Form may be submitted electronically by fully completing the Claim Form at [www.\[TBD-URL\].com](http://www.[TBD-URL].com) by no later than 11:59 pm, Pacific Standard Time. The Claim Form may also be submitted via U.S. mail, and must be postmarked no later than [*DATE*] to [*ADDRESS*].

No action is required by Settlement Class Members in order to obtain the Extended Warranty described above on the Covered Products.

7. What am I giving up to get an award or stay in the Settlement Class?

If you are a Settlement Class Member, unless you exclude yourself, you will be bound by the release of claims in the Settlement. This means that, if the Settlement is approved, you cannot sue, continue to sue, or be part of any other lawsuit against NutriBullet or the Released Persons having to do with warranty cards or forms for NutriBullet products purchased in California or from NutriBullet's website (nutribullet.com) between August 1, 2019, and [preliminary approval date], and all of the decisions and judgments by the Court in this lawsuit will be binding on you.

If you file a Claim Form for a voucher or do nothing at all, you will be unable to file your own lawsuit regarding the claims described in this Notice, and you will release NutriBullet and Released Persons from any liability for the Released Claims defined below and in the Settlement Agreement.

Remaining in the Settlement Class means that you, as well as anyone claiming through you such as heirs, administrators, successors, and assigns, relinquish and discharge each and all of the Released Parties from each of the Released Claims (as defined below).

Released Claims. Released Claims means any and all claims, claims for damages, equitable (including injunctive relief), legal and/or administrative relief, interest, demands, or rights, including without limitation, claims for damages of any kind, including but not limited to those in excess of actual damages, whether based on federal, state, or local law, statute, ordinance, regulation, contract, common law, or any other sources, all claims, actions, causes of action, rights, demands, suits, debts, liens, contracts, agreements, offsets or liabilities, including but not limited to tort claims, negligence claims, claims for breach of contract, breach of any express or implied warranties, breach of the duty of good faith and fair dealing, breach of statutory duties, actual or constructive fraud, misrepresentations, fraudulent inducement, statutory and consumer fraud, breach of any consumer legal remedies statutes, breach of fiduciary duty, violation of elder abuse and dependent adult civil protection acts, unfair business or trade practices, unfair competition, false advertising, restitution, rescission, compensatory and exemplary or punitive damages, injunctive or declaratory relief, attorneys' fees, interests, costs, penalties, and any other claims, whether known or unknown, alleged or not alleged in the Action, suspected or unsuspected, contingent or matured, under federal, state, or local law, which the Plaintiff and/or any Settlement Class Member had, now have or may in the future have with respect to any conduct, act, omissions, facts, matters, transactions, or oral or written statements or occurrences, during the Class Period, arising from or relating to alleged improper warranty information on Defendant's warranty registration cards and online warranty registration for, based on the SBA, CLRA, UCL, or any comparable state consumer protection statute that would give rise to claims for the warranty materials as it concerns the Covered Products.

Expressly **excluded** from the Released Claims is any and all claims for bodily injury.

The Release covers any and all claims for attorneys' fees, costs, or disbursements incurred by Settlement Class Counsel or any other counsel representing the Plaintiff or Settlement Class Members, or any of them, in connection with or related in any manner to the Action, the Settlement, the Settlement Agreement, the administration of such Settlement Agreement and/or the Released Claims as well as any and all claims for any Service Award(s) or any Attorneys' Fees and Costs Award.

Additionally, the Parties expressly agree that the provisions, rights, and benefits of Section 1542 and all similar federal or state laws, rights, rules, or legal principles of any other jurisdiction that may be applicable herein are hereby knowingly and voluntarily waived, released, and relinquished to the fullest extent permitted by law solely in connection with unknown claims that are the same as,

substantially similar to, or overlap the Released Claims, and the Parties acknowledge that this is an essential term of the Release. In connection with the Release, the Parties acknowledge that they are aware that they may hereafter discover claims presently unknown and unsuspected or facts in addition to or different from those which they now know or believe to be true with respect to the Released Claims, and that such claims, to the extent that they are the same as, substantially similar to, or overlap the Released Claims, are hereby released, relinquished, and discharged.

The Settlement Agreement (available at the at [www.\[TBD-URL\].com](http://www.[TBD-URL].com)) provides more detail regarding the release and describes the Released Claims with specific descriptions in necessary, accurate legal terminology, so read it carefully. You can talk to the law firm representing the Class listed below in Question 9 for free, or you can, at your own expense, talk to your own lawyer if you have any questions about the Released Parties or the Released Claims or what they mean.

The release does not apply to Settlement Class Members who timely opt-out of the Settlement.

EXCLUDING YOURSELF FROM THE SETTLEMENT

8. How do I exclude myself from the Settlement?

To exclude yourself from the proposed Settlement, you must send a letter by mail saying that you want to be excluded from *Roy Lo v. NutriBullet, LLC*, Case No. 21STCV12852. Be sure to include your full name, address, and the covered NutriBullet products you purchased. You must also include a statement that you wish to be excluded from the Settlement and personally sign the statement. **You can submit your exclusion request online at [URL], no later than 11:59 pm, Pacific Standard Time, on [MONTH DAY, YEAR].**

Alternatively, you may send your exclusion request via U.S. mail, postmarked no later than [MONTH DAY, YEAR], to:

[address]

If you ask to be excluded, you will not get a voucher award from the Settlement and you will not be eligible for the Extended Warranty on the Covered Products. You also cannot object to the Settlement. You will not be legally bound by anything that happens in this lawsuit. You may be able to sue (or continue to sue) NutriBullet and Released Person in the future. A Settlement Class Member may opt-out on an individual basis only. So-called “mass” or “class” opt-outs, whether filed by third parties on behalf of a “mass” or “class” of class members or multiple class members where no personal statement has been signed by each and every Person who desires to Opt-Out, will not be allowed.

THE LAWYERS REPRESENTING YOU

9. Do I have a lawyer in this case?

The Court appointed Abbas Kazerounian and Jason A. Ibey of Kazerouni Law Group, APC, and Adib Assassi of Black Oak Law Firm, to represent you and other Class Members. Those attorneys at this law firm are called Class Counsel. Contact information for Class Counsel is below:

Abbas Kazerounian Jason A. Ibey KAZEROUNI LAW GROUP, APC	Adib Assassi BLACK OAK LAW FIRM 1100 W. Town and Country Rd., Suite 1250
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245 Fischer Avenue, Unit D1 Costa Mesa, CA 92626 ak@kazlg.com Jason@kazlg.com Phone: 800-400-6808	Orange, CA 92868 adib@blackoaklaw.com Phone: 949-688-6009
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You will not be charged separately for the services of these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

Additionally, you may enter an appearance through your own attorney if you so desire, but you do not need to do so.

10. How will the lawyers and Class Representative be paid?

Class Counsel will ask the Court to approve a combined payment to compensate them for attorneys’ fees and costs up to \$195,000. Class Counsel will also request an award to the Class Representative as compensation for his time and effort in representing the Settlement Class Members, up to \$3,000. These payments, along with the costs of administering the Settlement estimated to be \$62,185, will be made separately by NutriBullet, subject to approval by the Court.

OBJECTING TO THE SETTLEMENT

You can tell the Court that you do not agree with the Settlement, or some part of it.

11. How do I tell the Court that I do not think the Settlement is fair?

If you are a Settlement Class Member and do not exclude yourself, you can object to the Settlement, or any part of the Settlement, for example if you think the Settlement is unfair. You may state reasons why you think the Court should not approve the Settlement. The Court will consider your views. To object, you must submit a written statement saying that you object to the proposed Settlement in *Roy Lo v. NutriBullet, LLC*, Case No. 21STCV12852. Be sure to include in the written statement: (1) your full name, address and telephone number; (2) a signed declaration stating you are a Settlement Class Member and that you purchased at least one Covered Product; (3) the reasons you object to the Settlement along with any supporting documentation; (4) whether you intend to appear at the Final Approval Hearing on your own behalf or through counsel; and (5) include evidence that you are a Settlement Class Member. All objections shall identify any lawyer that represents you as to your objection (if any) and provide that lawyer’s address and telephone number, but you do not have to have a lawyer. Any documents that you wish for the Court to consider must also be attached to the objection, and your objection should also be sent to Class Counsel and counsel for NutriBullet.

Your objection to the Settlement must be mailed no later than [DATE]. The objection must be mailed as follows to the Settlement Administrator, Class Counsel and counsel for NutriBullet:

<u>For the Settlement Administrator:</u> [address]	<u>For Class Counsel:</u> Abbas Kazerounian Kazerouni Law Group, APC 245 Fischer Avenue, Unit D1 Costa Mesa, CA 92626 <u>Counsel for NutriBullet:</u> Aaron S. Dyer Pillsbury Winthrop Shaw Pittman LLP
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	725 South Figueroa Street, 36th Floor Los Angeles, CA 90017-5406
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THE FINAL APPROVAL HEARING

12. When and where will the Court decide whether to approve the Settlement?

The Court will hold a fairness hearing to decide whether to give final approval to the proposed Settlement. This Final Approval Hearing will be held [*time & date*], [*court address*]. The hearing may be moved to a different date or time without additional notice or conducted virtually, so it is a good idea to check the Settlement Website, [www.\[TBD-URL\].com](http://www.[TBD-URL].com), for updates.

At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate, and whether to award attorneys' fees, costs, and an incentive award to the Class Representative, settlement notice and administration expenses as described above, and in what amounts.

If there are objections, the Court will consider them. At or after the hearing, the Court will decide whether to approve the Settlement. We do not know how long it will take the Court to issue its decision. **You do not have to come to this hearing**, but you may attend at your own expense. However, any Settlement Class Member who fails to object to the Settlement in the manner described in Section 11 shall be deemed to have waived any such objection, shall not be permitted to object to any terms or approval of the Settlement at the Final Approval Hearing, and shall be foreclosed from seeking any review of the Settlement or the terms of the Agreement by appeal or other means.

13. May I speak at the hearing?

You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must mail a notice saying that you intend to appear at the Final Approval Hearing in *Roy Lo v. NutriBullet, LLC*, Case No. 21STCV12852. Be sure to include your full name, address, and telephone number, as well as copies of any papers, exhibits or other evidence that you intend to present to the Court. Your notice of intent to appear must be mailed to the Settlement administrator, Class Counsel and to counsel for NutriBullet, at the addresses provided above in Section 11, postmarked no later than [*date*]. You cannot speak at the hearing if you exclude yourself from the Settlement or do not submit a timely notice of intent to appear at the hearing.

IF YOU DO NOTHING

What happens if I do nothing at all?

If you do nothing, and are a Settlement Class Member, you will *not* receive a voucher award after the Court approves the Settlement and any appeals are resolved. In order to receive a \$10 voucher, you must submit a Claim Form. Unless you exclude yourself, you will not be able to file a lawsuit, continue with a lawsuit, or be part of any other lawsuit against NutriBullet or Released Persons having to do with the legal issues in this case, and you will be bound by the Settlement. If you are Settlement Class Member, you will be entitled to the Extended Warranty on the Covered Products even if you do nothing.

GETTING MORE INFORMATION

15. How do I get more information?

This Notice summarizes the terms of the proposed Settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement by calling the Administrator toll-free at 1-XXX-XXX-XXXX, writing to: [Lo Settlement c/o Simpluris and address]; or visiting the website at [www.\[TBD-URL\].com](http://www.[TBD-URL].com), where you will also find answers to common questions about the Settlement, a claim form, plus other information to help you determine whether you are a Settlement Class Member and whether you are eligible for a voucher award payment.

**PLEASE DO NOT CONTACT THE COURT OR NUTRIBULLET WITH ANY QUESTIONS
ABOUT THE SETTLEMENT**

EXHIBIT E

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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF LOS ANGELES – UNLIMITED CIVIL**

11
12 **ROY LO, Individually and On Behalf**
13 **of All Others Similarly Situated,**

14 Plaintiff,

15 vs.

16 **NUTRIBULLET, LLC,**

17 Defendant.
18

Case No.: 21STCV12852

**[PROPOSED] ORDER
GRANTING MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT
AND CERTIFICATION OF
SETTLEMENT CLASS**

JUDGE: Hon. William F. Highberger
DEPT.: 10

19
20
21 Plaintiff Roy Lo (“Mr. Lo” or “Plaintiff”) filed a Motion for Preliminary
22 Approval of Class Action Settlement and Certification of Settlement Class (the
23 “Preliminary Approval Motion”) in the above-captioned action (the “Action”). The
24 Preliminary Approval Motion was unopposed by Defendant NutriBullet, LLC
25 (“NutriBullet” or “Defendant”).

26 The Court has read and considered the Settlement Agreement (the
27 “Agreement”), the Preliminary Approval Motion, and the record in this case.
28

1 NOW, THEREFORE IT IS HEREBY ORDERED:

2 I. JURISDICTION: The Court has jurisdiction over the subject matter of the
3 Action and over all settling parties hereto. All capitalized terms used herein
4 have the meanings defined herein and/or in the Agreement.

5 II. PRELIMINARY APPROVAL OF PROPOSED SETTLEMENT: The Court
6 preliminarily finds that the settlement of the Action, on the terms and
7 conditions set forth in the Agreement, is in all respects fundamentally fair,
8 reasonable, adequate and in the best interests of the Settlement Class
9 Members. This takes into consideration the benefits to Settlement Class
10 Members of a change in marketing and advertising practices by NutriBullet
11 as well as the Extended Warranty and Voucher Awards; the strength and
12 weaknesses of Plaintiff's case; the complexity, expense and probable duration
13 of further litigation; and the risk and delay inherent in possible appeals from
14 any significant decisions. The Court preliminarily approves the Settlement
15 Agreement pursuant to Section IX thereof.

16 III. CLASS CERTIFICATION: The Court preliminarily finds that the Action
17 satisfies the applicable prerequisites for class action treatment under
18 California Code of Civil Procedure § 382, involving numerous consumers
19 within the State of California who purchased one or more of the Covered
20 Products during the Class Period.

21 IV. CLASS MEMBERS: Pursuant to Section 382 of the California Code of Civil
22 Procedure, the Action is hereby preliminarily certified, for settlement
23 purposes only, as a class action on behalf of the following members of the
24 Settlement Class:

25
26 All persons who purchased one of Defendant's warrantied
27 products within California between August of 2019 and
28 the date of entry of a preliminary approval order.

1 Excluded from the Settlement Class are: (1) NutriBullet and its respective
2 affiliates, employees, officers, directors, agents, and representatives, and their
3 immediate family members; (2) Settlement Class Counsel and partners,
4 attorneys, and employees of their law firms; (3) the Judge(s) who have
5 presided over the Action, the case identified in Paragraph I.E, or the mediator
6 referenced in Paragraph I.H, and their immediate family members; and (4) all
7 individuals or entities who purchased Covered Products for resale.

8 V. CLASS REPRESENTATIVE AND CLASS COUNSEL APPOINTMENT:

9 For purposes of the Court considering preliminary approval, the Court
10 appoints named Plaintiff Roy Lo as the Class Representative. The Court
11 further appoints Abbas Kazerounian and Jason A. Ibey of Kazerouni Law
12 Group, APC, and Adib Assassi of Black Oak Law Firm as Class Counsel for
13 the purposes of considering preliminary approval.

14 VI. SETTLEMENT ADMINISTRATOR APPOINTMENT: For purposes of the
15 proposed Settlement, the Court appoints Simpluris as Settlement
16 Administrator.

17 VII. NOTICE: The Court hereby approves the proposed forms of Class Notice
18 attached as Exhibits B, C, and D to the Agreement. Notice will be given to
19 Settlement Class no later than thirty (30) days from the Court's entry of this
20 Preliminary Approval Order (i.e., the "Notice Date"). Notice will be provided
21 by (1) email notice to Settlement Class Members for which NutriBullet has an
22 email address; (2) an internet banner advertisement campaign; and (3) detailed
23 notice on the Settlement Website. Each form of notice is to provide or link to
24 a summary of the important details of the Settlement, including deadlines and
25 instructions on how to opt out or object to the proposed Settlement. Further,
26 to facilitate email notice, NutriBullet is to provide the Settlement
27 Administrator with relevant contact information in its possession for the
28 Settlement Class Members, including their last known email address.

1 VIII. CLAIM FORMS: Settlement Class Members shall have thirty (30) days from
2 the Notice Date to submit a Claim Form, via the Settlement Website or via
3 U.S. mail, to be eligible to receive a Voucher Award. To be eligible for a
4 Voucher Award, Settlement Class Members must declare on the Claim Form,
5 among other things, that they purchased a Covered Product in the State of
6 California or from NutriBullet’s website (nutribullet.com) during the Class
7 Period. Settlement Class Members may submit only one (1) Claim Form to
8 participate in the Settlement, regardless of the number of Covered Products
9 purchased. A full list of the Covered Products subject to the Settlement shall
10 be identified on the Settlement Website.

11 IX. RIGHT TO OPT-OUT OR OBJECT: Settlement Class members shall be
12 given forty-five (45) days from the Notice Date to request exclusion from
13 (Opt-Out) of the Settlement or to object to its terms.

14 A. Opt-Out Process: Settlement Class Members who wish to be excluded
15 from the Settlement may do so by completing and mailing an exclusion
16 request to the Claims Administrator. An Opt-Out request must: (1) be
17 personally signed by the Person in the Settlement Class requesting exclusion;
18 (2) contain a statement indicating that Person’s desire to be excluded from the
19 Settlement Class in the matter of *Lo v. Nutribullet, LLC*, Case No.
20 21STCV12852, Superior Court of the State of California, County of Los
21 Angeles (or sufficient words to indicate this matter); and (3) include a
22 statement that the Person is otherwise a member of the Settlement Class and
23 purchased a Covered Product.

24 B. Objection Process: Settlement Class Members who intend to object
25 must include in an objection submitted to the Court and served on the Parties’
26 Counsel: (1) the name, address, telephone number of the Person objecting,
27 and his or her counsel (if any); (2) a signed declaration stating that he or she
28 is a Person in the Settlement Class and purchased a Covered Product; (3) a

1 statement of all objections to the Settlement Agreement and any supporting
2 documentations; and (4) a statement of whether he or she intends to appear at
3 the Final Approval Hearing, either with or without counsel, and if with
4 counsel, the name of said counsel. Any Settlement Class Member who fails to
5 submit and timely serve a written objection and notice of his or her intent to
6 appear at the Final Approval Hearing pursuant to Section VII, Paragraph C of
7 the Agreement, and as detailed in the Class Notice, shall not be permitted to
8 object to the approval of the Settlement Agreement at the Final Approval
9 Hearing and shall be foreclosed from seeking any review of the Settlement
10 Agreement by appeal or other means.

11 X. FINAL APPROVAL HEARING: The Court shall conduct a final approval
12 hearing (“Final Approval Hearing”) on _____, 2022, at _____.m,
13 at the Superior Court of California, County of Los Angeles, Spring Street
14 Courthouse, Department 10, 312 North Spring Street, Los Angeles, CA
15 90012. The Final Approval Hearing may be rescheduled or continued by the
16 Court. At such hearing, the Court will consider:

17 A. Whether this action satisfies the applicable prerequisites for class action
18 treatment for settlement purposes under California Code of Civil Procedure §
19 382;

20 B. Whether the relief proposed by the Settlement is fundamentally fair,
21 reasonable, adequate, and in the best interest of the Settlement Class Members
22 and should be approved by the Court;

23 C. Whether the Final Judgment, as provided under the Agreement, should
24 be entered, dismissing the Action with prejudice and releasing the Released
25 Claims against the Released Parties; and

26 D. Such other issues as the Court deems appropriate.
27
28

1 XI. Attendance at the Final Approval Hearing is not necessary. Settlement Class
2 Members need not appear at the hearing or take any other action with regard
3 to the proposed class action settlement.

4 XII. If the Agreement is not finally approved for any reason, then this order shall
5 be vacated, the Agreement shall have no force and effect, and the Parties'
6 rights and defenses shall be restored, without prejudice, to their respective
7 positions as if the Agreement had never been executed and this order never
8 entered.

9 XIII. Plaintiff shall file and serve Plaintiff's motion for Attorneys' Fees, Costs and
10 Service Award, as well as a Motion for Final Approval of Class Action
11 Settlement, at least thirty (30) days prior to the Final Approval Hearing.

12 XIV. The Court has continuing and exclusive jurisdiction over the action and the
13 parties to the Agreement to consider all further matters arising out of or
14 connected with the settlement, including the administration and enforcement
15 of the Agreement, pursuant to California Rules of Court, rule 3.769(h).

16 **IT IS SO ORDERED.**

17
18 Dated: _____

19 _____
20 HON. WILLIAM F. HIGHBERGER
21 SUPERIOR COURT JUDGE
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EXHIBIT F

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES – UNLIMITED CIVIL**

**ROY LO, Individually and On Behalf
of All Others Similarly Situated,**

Plaintiff,

vs.

NUTRIBULLET, LLC,

Defendant.

Case No.: 21STCV12852

**[PROPOSED] ORDER
GRANTING FINAL APPROVAL
OF CLASS ACTION
SETTLEMENT; AND FINAL
JUDGMENT**

JUDGE: Hon. William F. Highberger
DEPT.: 10

On _____, 2022, Plaintiff Roy Lo (“Mr. Lo” or “Plaintiff”) and Defendant NutriBullet, LLC (“NutriBullet” or “Defendant”) entered into a Class Action Settlement Agreement (the “Settlement Agreement” or “Agreement”), which is subject to review under Rule 3.769 of the California Rules of Court.

1 On _____, 2022, Plaintiff filed the Agreement, along with the
2 Plaintiff’s Motion for Preliminary Approval of Class Action Settlement and
3 Certification of Settlement Class (the “Preliminary Approval Motion”), which was
4 unopposed by Defendant.

5 On _____, 2022, upon consideration of the Agreement, the unopposed
6 Preliminary Approval Motion, and the record, the Court entered an Order of
7 Preliminary Approval of Class Action Settlement (the “Preliminary Approval
8 Order”).

9 On _____, 2022, Plaintiff filed his Motion for Attorneys’ Fees, Costs
10 and Service Awards (the “Fee Petition”).

11 On _____, 2022, Plaintiff filed his Motion for Final Approval of Class
12 Action Settlement (the “Motion for Final Approval”).

13 On _____, 2022, a Final Approval Hearing was held pursuant to Rule
14 3.769 of the California Rules of Court to determine whether the Action satisfies the
15 applicable prerequisites for class action treatment under Section 382 of the
16 California Code of Civil Procedure, and whether the proposed Settlement is
17 fundamentally fair, reasonable, adequate, and in the best interests of the Settlement
18 Class Members and should be approved by the Court.

19 The Court has read and considered the Agreement, the Preliminary Approval
20 Motion, the Fee Petition and the record. All capitalized terms used herein have the
21 meanings defined herein and/or in the Agreement.

22 NOW, THEREFORE, IT IS HEREBY ORDERED:

23 I. JURISDICTION: The Court has jurisdiction over the subject matter of the
24 Action and over all settling parties hereto.

25 II. SETTLEMENT CLASS MEMBERS: Pursuant to Rule 3.769 of the
26 California Rules of Court, and Civ. Proc. Code § 382, the Action is hereby
27 finally certified, for settlement purposes only, as a class action on behalf of the
28 following class members:

1 All persons who purchased one of Defendant's warranted
2 products within California between August of 2019 and
3 *[the date of entry of the preliminary approval order]*.

4 Excluded from the Settlement Class are: (1) NutriBullet and its respective
5 affiliates, employees, officers, directors, agents, and representatives, and their
6 immediate family members; (2) Settlement Class Counsel and partners,
7 attorneys, and employees of their law firms; (3) the Judge(s) who have presided
8 over the Action, the case identified in Paragraph I.E, or the mediator referenced
9 in Paragraph I.H, and their immediate family members; and (4) all individuals
10 or entities who purchased Covered Products for resale.

11 III. CLASS REPRESENTATIVES AND CLASS COUNSEL: Pursuant to the
12 Court's Preliminary Approval Order, the Court confirms the appointment
13 named Plaintiff Roy Lo as the Class Representative. The Court further
14 confirms the appointment of Abbas Kazerounian and Jason A. Ibey of
15 Kazerouni Law Group, APC, and Adib Assassi of Black Oak Law Firm, as
16 Class Counsel.

17 IV. NOTICE: Following the Court's Preliminary Approval Order, the Court
18 determined that the Class Notice to the Settlement Class was appropriate. The
19 Court finds that such notice was disseminated to Settlement Class Members in
20 accordance with the terms of the Agreement (including Exhibits B, C, D
21 attached thereto) and this Court's Preliminary Approval Order. The Court
22 further finds that the notice requirements to Settlement Class Members was
23 met pursuant to California Rules of Court, rule 3.769.

24 V. FINAL CLASS CERTIFICATION: The Court finds that the Action satisfies
25 the applicable prerequisites for class action treatment under California Code of
26 Civil Procedure § 382, for settlement purposes. The Court finds that the
27 settlement of the Action, on the terms and conditions set forth in the
28

1 Agreement, is in all respects fundamentally fair, reasonable, adequate, and in
2 the best interests of the Settlement Class Members, especially in light of the
3 benefits to the Settlement Class Members, the strength of the Plaintiff's case,
4 the complexity, expense and probable duration of further litigation; the risk
5 and delay inherent in possible appeals; and the risk of collecting any judgment
6 obtained on behalf of the class.

7 VI. ATTORNEYS' FEES AND COSTS FOR CLASS COUNSEL: Pursuant to the
8 Court's wide discretion on assessing the reasonableness of fees (*see, e.g.,*
9 *Laffitte v. Robert Half Intern. Inc.* (2016) 1 Cal.5th 480, 506), the Court finds
10 that the combined requested award of Attorneys' Fees and Costs in the amount
11 of \$195,000.00 to be reasonable.

12 VII. SERVICE AWARD FOR CLASS REPRESENTATIVE: The Court finds that
13 \$3,000 is the appropriate amount for a service award to Plaintiff.

14 VIII. SETTLEMENT AWARDS AND BENEFITS: The Agreement, which has
15 been filed with the Court and shall be deemed incorporated herein, and the
16 proposed Settlement are finally approved and shall be consummated in
17 accordance with the terms and provisions thereof, except as amended by any
18 order issued by this Court. The material terms of the Agreement include, but
19 are not limited to, the following:

- 20 1. **Service Award**: NutriBullet shall pay the total sum of \$3,000.00 to Mr.
21 Lo, payable through Class Counsel, as a Service Award for bringing and
22 participating in this Action on behalf of the Class.
- 23 2. **Attorney's Fees and Costs**: NutriBullet shall pay to Class Counsel the
24 total sum of \$195,000.00 as a combined and reasonable award of attorneys'
25 fees and litigation costs incurred in litigating this Action, in the manner
26 specified in the Agreement. The Court also finds that Class Counsels'
27 hourly rates are reasonable.

- 1 3. **Notice and Administration Costs**: NutriBullet is responsible for payment
2 of reasonable Notice and Administrative Costs.
- 3 4. **Voucher Award**: NutriBullet shall provide a freely transferrable \$10.00
4 voucher to each Settlement Class Member who submit a timely and valid
5 Claim Form. The voucher may be used toward any product manufactured
6 or sold by NutriBullet and shall be valid for fifteen (15) months after being
7 sent to Class Members. Finally, vouchers are to be redeemable on
8 NutriBullet’s website for purchases (excluding purchase of parts)
9 exceeding \$30.00 before shipping expenses and taxes.
- 10 5. **Extended Warranty**: NutriBullet shall afford every Settlement Class
11 Member (regardless of whether they submit a valid Claim Form) with an
12 Extended Warranty that shall be effective for six (6) months from the
13 Preliminary Approval Order or last eighteen (18) months from the date
14 each Covered Product was purchased, whichever occurs later.
- 15 6. **Changes Warranty, Website, and Literature**: NutriBullet shall (to the
16 extent it has not already done so) promptly remove, and otherwise refrain
17 from using, the statement “Warranty Registration Card” and all
18 substantially similar statements from the registration cards contained
19 within the Covered Products’ packaging as well as on Defendant’s website
20 and online advertisements that it controls. NutriBullet shall also include
21 the Song-Beverly Disclosure language as required by California Civil
22 Code § 1793.1(a)(1) on its online product registration form and any
23 registration cards or printed warranty materials contained within or on the
24 Covered Products’ packaging. NutriBullet’s website presentations
25 regarding the Covered Products shall, to the extent reasonably
26 commercially practicable, conform with these requirements. These
27 changes are to be implemented by Defendant within six (6) months after
28 the Preliminary Approval Order.

1 IX. This Order is binding on all Settlement Class Members.

2 X. OBJECTIONS AND OPT-OUTS:

3 a. Objectors: The deadline for Settlement Class Members to file an objection
4 was _____, 2022. No objections to the Settlement were received
5 by the Settlement Administrator and the Court is unaware of any objections
6 to the Settlement.

7 b. Opt-Outs: The deadline for Settlement Class Members to request exclusion
8 from the Settlement was _____, 2022. Persons validly excluded
9 themselves from the Settlement Class, which is attached hereto as **Exhibit**
10 **A**. The Court finds that **Exhibit A** is a complete list of Opt-Outs who
11 neither share in, nor are bound by, this Final Order and Judgment.
12 Settlement Class Members who were not excluded from the Settlement
13 Class are bound by the terms and conditions of the Agreement.

14 XI. RELEASE OF CLAIMS: In exchange for the consideration provided by the
15 Agreement, Plaintiff and all Settlement Class Members hereby release their
16 Released Claims, which includes a waiver under Section 1542 of the Civil
17 Code of the State of California. Expressly excluded from the Release are
18 claims for bodily injury. The Court finds the Release in Section X(B) of the
19 Agreement is tailored to claims arising during the Class Period and
20 reasonable.

21 XII. This Order is not, and shall not be construed as, an admission by Defendant
22 of any liability or wrongdoing in this or in any other proceeding.

23 XIII. Without affecting the finality of this Final Judgment, the Court hereby retains
24 continuing and exclusive jurisdiction over the parties and all matters relating
25 to the Action and/or Agreement, including the administration, interpretation,
26 construction, effectuation, enforcement, and consummation of the settlement
27 and this order, pursuant to California Rules of Court, rule 3.769(h).

1 XIV. A post-approval final accounting hearing shall be held at _____,
2 202__ at _____ .m., with status report due seven (7) days in advance.

3
4 **IT IS SO ORDERED.**

5
6 Dated: _____

7 _____
8 HON. WILLIAM F. HIGHBERGER
9 SUPERIOR COURT JUDGE