

**EXHIBIT A**

This Class Settlement Agreement (“Agreement”) is entered into by and between:

(i) Plaintiffs Kalman Rosenfeld and Lois Ryder (“Plaintiffs” or “Settlement Class Representatives”), for themselves and on behalf of the Settlement Class; and (ii) Defendant AC2T, Inc. (“Defendant”). (All capitalized terms used herein are as defined in Section 2.)

## 1. RECITALS

**1.1** On March 6, 2023, the Settlement Class Representatives filed a Class Action Complaint against Defendant in the Supreme Court of the State of New York, County of Kings. In that complaint, the Settlement Class Representatives alleged that Defendant engaged in deceptive marketing regarding the Covered Products. Settlement Class Representatives further alleged that they and the proposed class members relied on Defendant’s marketing statements when purchasing these products.

**1.2** The Settlement Class Representatives believe that their claims have merit. However, the Settlement Class Representatives and Settlement Class Counsel recognize and acknowledge the expense and length of continued proceedings necessary to prosecute the claims through trial, appeals, and ancillary actions. They also have taken into account the uncertain outcome and the risk of any litigation, as well as the difficulties and delays inherent in such litigation. They believe that the settlement set forth in this Agreement confers substantial benefits upon the Settlement Class. Based upon their evaluation, they have determined that the settlement set forth in this Agreement is in the best interest of the Settlement Class.

**1.3** Defendant has denied and continues to deny all liability with respect to any and all of the Released Claims and the facts alleged in support thereof and has denied and continues to deny all charges of wrongdoing or liability arising out of or relating to any conduct, acts, or omissions alleged or that could have been alleged in the Action. Defendant’s willingness to resolve the Released Claims on the terms and conditions embodied in this Agreement is based on, among other things: (i) the time and expense associated with litigating the Released Claims through trials and any appeals; (ii) the benefits of resolving the Released Claims, including limiting further expense,

inconvenience, and distraction, disposing of burdensome litigation, and permitting Defendant to conduct its business unhampered by the distractions of continued litigation; and (iii) the uncertainty and risks inherent in any litigation.

**1.4** This Agreement is the product of extensive, arms-length, and vigorously-contested settlement discussions, including non-binding mediation before a retired Southern District of New York magistrate judge. Before and during the settlement discussions, the Parties had an arms'-length exchange of sufficient information to permit the Settlement Class Representatives and Settlement Class Counsel to evaluate the claims and potential defenses and to meaningfully conduct informed settlement discussions.

**1.5** Based upon the discovery and investigation to date and evaluation of the facts and law relating to the matters alleged in the Complaint, Settlement Class Representatives and Settlement Class Counsel have agreed to settle, subject to Court approval, the claims asserted in the Action pursuant to the provisions of this Agreement. In so doing, Settlement Class Representatives and Settlement Class Counsel have considered the terms of this Agreement, the numerous risks of continued litigation and other factors, including but not limited to the following: (i) the expense and length of time necessary to prosecute the Action through trial; (ii) the uncertainty of outcome at trial and the possibility of an appeal by either side following the trial; (iii) the possibility that a contested class might not be certified, and if certified, the possibility that such certification would be reversed on appeal; (iv) the fact that Defendant would file a motion for summary judgment that, if granted, would dispose of all or many of the claims in this Action; and (v) the benefits being made available to the Settlement Class members under the terms of this Agreement.

**1.6** **NOW THEREFORE**, subject to Court approval, as hereinafter provided, it is hereby stipulated and agreed by the Parties that, in consideration of the promises and covenants set forth in this Agreement, this Action shall be settled and compromised upon the terms and conditions contained herein.

## 2. DEFINITIONS

The definitions contained herein shall apply only to this Agreement and shall not apply to any other agreement, including, without limitation, any other settlement agreement, nor shall they be used as evidence, except with respect to this Agreement, of the meaning of any term. Furthermore, each defined term stated in a singular form shall include the plural form, and each defined term stated in a plural form shall include the singular form. As used in this Agreement, in addition to any definitions elsewhere in this Agreement, the following terms shall have the meanings set forth below:

**2.1** “**Action**” means and refers to the lawsuit filed against AC2T, Inc., pending in the Supreme Court of the State of New York, County of Kings.

**2.2** “**Agreement**” means and refers to this settlement agreement.

**2.3** “**Claim Form**” means and refers to a claim form substantially in the form of Exhibit 1 attached hereto and as approved by the Court.

**2.4** “**Claim Period**” means the period of time during which a Settlement Class Member must submit a Claim Form to be eligible to receive a monetary Benefit as part of the Settlement, which shall begin on the Notice Date and end at the Claims Deadline. The Claim Period shall be 60 days and the beginning and end dates shall be agreed between the Parties and Claims Administrator in order to ensure constitutionally adequate notice.

**2.5** “**Claims Deadline**” means the date by which a Claim Form must be postmarked and mailed to the Settlement Administrator, or electronically submitted by 11:59 p.m. Central Time, to be considered timely, and shall be a date no later than 30 days after entry of the Final Approval Order or a date certain as may be reflected in the Court’s Preliminary Approval Order. The Claims Deadline shall be clearly set forth in the Preliminary Approval Order as well as in the Settlement Notice and the Claim Form.

**2.6** “**Class Benefit**” means the total amount payable for payments to Settlement Class Members, settlement administration, attorneys’ fees, costs, and expenses and incentive awards.

- 2.7 “**Class Period**” means and refers to the period from September 21, 2016 through the entry of the Preliminary Approval Order.
- 2.8 “**Covered Products**” means and refers to the Spartan Mosquito Eradicator as well as the Spartan Mosquito Pro Tech.
- 2.9 “**Court**” means and refers to the Supreme Court of the State of New York, County of Kings.
- 2.10 “**Defendant**” means and refers to Defendant AC2T, Inc.
- 2.11 “**Email Notice**” means and refers to the email notice substantially in the form agreed to by the Parties and approved by the Court.
- 2.12 “**Final Approval Hearing**” means and refers to the hearing that is to take place after the entry of a Preliminary Approval order, the implementation of the Notice Program, and the expiration of the Claims Period for purposes of: (i) determining whether the Agreement should be approved as fair, reasonable, and adequate, and in the best interests of the Settlement Class members; (ii) entering the Final Approval Order; and (iii) ruling upon an application for an award of attorneys’ fees, costs, and incentive payments.
- 2.13 “**Final Approval Order**” means and refers to the Court’s judgment and order(s) granting final approval to the settlement and awarding attorneys’ fees, costs, and expenses.
- 2.14 “**Final Effective Date**” means and refers to the latest of the following: (i) the date of final affirmance of the Final Approval Order following any and all appeals of such Order; (ii) the date of final dismissal with prejudice of any and all appeals from the Final Approval Order; and (iii) if no appeal is filed, the expiration date of the time for filing or noticing any valid appeal from the Final Approval Order.
- 2.15 “**Long Form Notice**” means and refers to the full notice substantially in the form agreed to by the Parties and approved by the Court.
- 2.16 “**Notice Date**” means the date on which the Settlement Administrator disseminates the Settlement Notice consistent with the Preliminary Approval Order. The

Notice Date shall be no later than 30 days after the Court's entry of the Preliminary Approval Order.

**2.17** "Notice Program" means and refers to the notice procedures set forth in Section 6.

**2.18** "Objection Deadline" means no less than 60 days after the Notice Date.

**2.19** "Opt Out" means a request by a Settlement Class member to be excluded from the Settlement Class by following the procedures set forth in this Agreement.

**2.20** "Opt Out Period" means and refers to the 60-day period of time following the commencement of the Notice Program during which period Settlement Class members may exercise the right to Opt Out of the Settlement Class pursuant to the provisions of Section 7.

**2.21** "Opt Out Deadline" means 60 days after the Notice Date.

**2.22** "Participating Claimants" means and refers to members of the Settlement Class who submit timely, complete, and valid Claim Forms and who are determined by the Settlement Administrator to be eligible for monetary benefits under this Agreement.

**2.23** "Parties" means and refers to Defendant and the Settlement Class Representatives, on behalf of the Settlement Class.

**2.24** "Person" means and refers to any individual, proprietorship, corporation, partnership, association, trustee, unincorporated association, or any other type of legal entity.

**2.25** "Preliminary Approval Order" means and refers to the Court's order substantially in the form agreed to by the Parties, granting preliminary approval of this Agreement.

**2.26** "Proof of Purchase" means the receipt, invoice, package UPC from the package(s) of the Covered Products purchased, or other similar type of documentation submitted in a form to be approved by the Settlement Administrator evidencing the purchase of authentic Covered Products by the Settlement Class Member. Receipts, invoices,

package UPCs, and other similar type of documentation reflecting purchases of products similar in appearance to the Covered Products but manufactured by Persons other than Defendant (e.g., counterfeit or “knock-off” products), shall not constitute proper Proof of Purchase and shall not entitle putative Settlement Class Members to reimbursement.

**2.27 “Released Claims”** means and refers to any claim, liability, right, demand, suit, matter, obligation, lien, damage, punitive damage, exemplary damage, penalty, loss, cost, expense, debt, action, or cause of action, of every kind and/or nature whatsoever whether now known or unknown, suspected or unsuspected, asserted or unasserted, latent or patent, which any Releasing Party now has, or at any time ever had, regardless of legal theory or type or amount of relief or damages claimed, which: (i) in any way arises out of, is based on, or relates in any way to representations pertaining to the efficacy of the Covered Products; and/or (ii) is asserted in the Complaint filed in this Action. However, Released Claims shall not include claims for personal injury.

**2.28 “Releasing Parties”** means and refers to the Settlement Class and its members, agents, attorneys, partners, joint venturers, affiliates, predecessors, successors, spouses, heirs, assigns, insurers, and any other Persons or entities claiming by or through the Settlement Class, in their capacities as such.

**2.29 “Released Parties”** means and refers to Defendant and Defendant’s owners and shareholders; Jeremy Hirsch, Christopher Bonner, Michael Bonner, and Brett Conerly; Bonner Analytical Testing Co.; and any and all other, officers, executives, directors, managers, board members, and Persons affiliated with Defendant.

**2.30 “Settlement Administrator”** means and refers to the class action administration firm identified by the Parties and approved by the Court to administer and oversee the notice program and the claims administration, as described in this Agreement.

**2.31 “Settlement Class”** means and refers to all Persons who purchased one or more Covered Products during the Class Period. Excluded from the Settlement Class are: (i) all Persons who have accepted refunds from Defendant for any Covered Products they purchased prior to the entry of the Preliminary Approval Order; (ii) all Persons who

purchased or acquired the Covered Products for resale; (iii) Defendant and its employees; (iv) any Person who properly and timely opts out pursuant to this Agreement; (v) federal, state, and local governments (including all agencies and subdivisions thereof, but employees thereof are not excluded); and (vi) the judges to whom this Action is assigned and any member of their immediate family.

**2.32** “Settlement Class Counsel” means and refers to Yitzchak Kopel of Bursor & Fisher, P.A.

**2.33** “Settlement Class Member” means and refers to any Person who is part of the Settlement Class.

**2.34** “Settlement Class Representatives” means and refers to Kalman Rosenfeld and Lois Ryder.

**2.35** “Settlement Fund” means and refers to the financial institution account established to hold all proceeds that are required to be deposited by Defendant pursuant to subsections 10.1, 10.2, and 10.3 of this Agreement.

**2.36** “Settlement Orders” means and refers to the orders entered to implement the terms of this Agreement, including, but not limited to, the Preliminary Approval Order and the Final Approval Order.

**2.37** “Unit” means one box of the Covered Products, regardless of how many Covered Products are contained therein.

### **3. SETTLEMENT PURPOSES ONLY**

**3.1 General.** This Agreement is for settlement purposes only.

**3.2 No Admissions.** This Agreement, any negotiations, proceedings, documents or anything else related to this Agreement, its implementation, or its judicial approval (as well as the fact of this settlement and any acts or documents related to the settlement or its implementation) shall not be construed as, or deemed to be evidence of, any admission or concession by any of the Parties regarding the claims in dispute. By entering into this Agreement, it is understood that the Released Parties do not admit and expressly deny that they have breached any duty, obligation, or agreement; deny that they have



engaged in any illegal, tortious, or wrongful activity; deny that they are liable to any member of the Settlement Class or any other Person; and/or deny that any damages have been sustained by any member of the Settlement Class or by any other Person in any way arising out of or relating to the alleged conduct. This Agreement, any negotiations, proceedings, documents or anything else related to this Agreement, its implementation, or its judicial approval (as well as the fact of this settlement and any acts or documents related to the settlement or its implementation) shall not be construed as, or deemed to be evidence of, any admission or concession by any of the Parties or any other Person regarding any matter, including, without limitation, the absence or presence of liability, the absence or presence of damage, or the propriety or impropriety of class treatment.

**3.3 Permissible Uses Of Agreement/Fact Of Settlement.** Neither this Agreement nor any negotiations, proceedings, or documents related to the Agreement, its implementation, or its judicial approval (as well as the fact of this Agreement and any acts or documents related to the Agreement or its implementation) may be asserted or used by any Person to support a contention that class certification is proper or improper or that liability does or does not exist, or for any other reason, in the above-captioned Action or in any other proceedings concerning Defendant or the Products; provided, however, Settlement Class members, Settlement Class Counsel, Defendant, other Released Parties, and any Person who is the beneficiary of a release set forth herein, may reference and file this Agreement, and any resulting Order or Judgment, with the Court, or any other tribunal or proceeding, in connection with the implementation or enforcement of its terms (including but not limited to the releases granted therein, or any dispute related thereto).

**3.4 Conditional Certification.** The Parties hereby agree, solely for purposes of this settlement, to the certification of a nationwide Settlement Class, to the conditional appointment of Settlement Class Counsel and to the conditional approval of Plaintiffs as suitable Settlement Class Representatives. However, if the Court ultimately does not grant final approval of the proposed settlement, or if the Final Approval Order does not become final, Defendant and all other Persons retain all rights they had immediately preceding this

Agreement to object to the maintenance of this Action as a class action. For clarity, , nothing in this Agreement or in any other papers or proceedings relating to the proposed settlement shall be used as evidence or argument by or against any Party concerning the propriety of class certification in this or any other proceeding.

#### **4. JURISDICTION**

**4.1 Continuing Jurisdiction.** To the fullest extent available under New York law, the Court has, and shall continue to have, jurisdiction to make any orders as may be appropriate to effectuate, consummate, and enforce the terms of this Agreement, to approve awards of attorneys' fees and costs pursuant hereto, and to supervise the administration of this Agreement. Except for those matters specifically identified in this Agreement as being subjects for decision by the Settlement Administrator, and any other claims-related matters which Settlement Class Counsel and Defendant later agree in writing to refer to the Settlement Administrator, any dispute or question relating to or concerning the interpretation, enforcement, or application of this Agreement shall be presented to the Court for resolution.

#### **5. COURT APPROVAL OF THE SETTLEMENT**

**5.1 Preliminary Approval.** Following the execution of this Agreement, Plaintiffs shall move the Court for an order, that, in accordance with this Agreement and for settlement purposes only: (i) conditionally certifies the Settlement Class; (ii) preliminarily approves this settlement; (iii) approves and authorizes the implementation of the Notice Program; (iv) approves the Settlement Administrator; (v) appoints Plaintiffs as Settlement Class Representatives; and (vi) appoints Plaintiffs' counsel as Settlement Class Counsel. In connection therewith, Settlement Class Counsel shall submit to the Court a mutually-acceptable proposed Preliminary Approval Order.

**5.2 Objection Period.** Subject to Court approval, Settlement Class members shall have 60 days from the commencement of the Notice Program to file and serve objections to this Agreement.

**5.3 Opt Out Period.** Subject to Court approval, Settlement Class members shall have 60 days from the commencement of the Notice Program to opt out of the Settlement Class and this Agreement.

**5.4 Final Approval.** After the expiration of the Opt Out Period, if the Agreement has not been terminated, Plaintiffs shall move the Court for final approval of this Agreement. In connection therewith, Settlement Class Counsel shall submit to the Court a mutually-acceptable proposed Final Approval Order.

## **6. CLASS NOTICE PROCEDURES**

**6.1 Content.** The Long Form Notice shall: (i) inform the Settlement Class members that, if they do not opt out from the settlement, they may be eligible to receive a monetary benefit; (ii) contain a short, plain statement of the background of this Action, the certification of the Settlement Class for settlement purposes, and the proposed settlement; (iii) describe the proposed settlement relief outlined in this Agreement; (iv) state that the proposed settlement benefits are contingent on the Court's entry of the Final Approval Order; (v) inform Settlement Class members that they may opt out or exclude themselves from the Settlement Class by submitting a written exclusion request no later than 60 days after the commencement of the Notice Program; (vi) inform Settlement Class members that, if they do not opt out, they may, if they desire, object to the proposed settlement by filing and serving a written statement of objections no later than 60 days after the commencement of the Notice Program; (vii) inform Settlement Class members that they may appear at the Final Approval Hearing; (viii) inform Settlement Class members that any judgment entered in this Action, whether favorable or unfavorable to the Settlement Class, may include and be binding on all Settlement Class members who have not excluded themselves from the Settlement Class, even if they have objected to the proposed settlement and even if they have any other claim, lawsuit, or proceeding pending against any of the Released Parties; and (ix) explain that Settlement Class members who have not timely submitted a written opt out request may submit a Claim Form seeking a monetary benefit during the Claims Period.

**6.2 Internet Notice.** The Settlement Administrator will implement a digital notice campaign that is designed by the Settlement Administrator, agreed to by the Parties, and approved by the Court.

**6.3 Email Notice.** Within 14 days of the Court's issuance of an order granting preliminary approval, Defendant shall provide to the Settlement Administrator a list containing the names and email addresses of all persons who have ordered the Products directly from Defendant's website, to the extent Defendant has such information in its possession. On the Notice Date, the Settlement Administrator shall cause the Email Notice to be sent via email to all persons on this list.

**6.4 Settlement Website.** Prior to the commencement of the Email and Internet Notice, the Settlement Administrator shall establish a settlement website capable of providing generalized information, including this Agreement, applicable deadlines, the identity of Settlement Class Counsel, the Long Form Notice, the Preliminary Approval Order, FAQs, and the Claim Form. The website shall be maintained by the Settlement Administrator until after both the hearing on the final approval of this Agreement and the expiration of the Claims Period.

**6.5 Cost Of The Notice Program.** The cost of Notice Program shall be paid from the settlement proceeds.

**6.6 Records Of Notice.** The Settlement Administrator shall keep records of all notices and the cost thereof.

## 7. RIGHT OF EXCLUSION

**7.1 Procedure.** Individual Settlement Class members may opt out of the Settlement Class at any time during the Opt Out Period. Any Settlement Class member who does not wish to participate in this settlement must send to the Settlement Administrator a written request to exclude himself or herself from this Agreement, which request should contain the Settlement Class member's name, address, and telephone number. Such request for exclusion must be postmarked or received by the Settlement Administrator before the end of the Opt Out Period. All Settlement Class members who do not opt out in accordance with this Agreement during the Opt Out Period will be deemed Settlement Class members for all purposes under this Agreement. Any Person who timely opts out shall no longer be a Settlement Class member, is not entitled to object to the approval of this Agreement, and is not entitled to any relief under and is not affected by this Agreement. "Mass" or "Class" opt outs shall not be allowed.

**7.2 Withdrawal Of Election To Opt Out.** Prior to the entry of the Final Approval Order, any Person who has elected to opt out may withdraw that election by notifying the Settlement Administrator in writing that he or she wishes to be a member of the Settlement Class. The Settlement Administrator shall maintain records of all withdrawn opt outs, and shall provide such information to the Parties and to the Court. At any time after the entry of the Final Approval Order, any Person who has elected to opt out of this Agreement may withdraw that election only upon receiving the written consent of Defendant and Court approval.

**7.3 Multiple Purchases.** A Person who purchased more than one Covered Product may exercise his or her election to opt out of the Settlement Class only by doing so with respect to all such purchases.

## 8. RIGHT TO OBJECT

**8.1 Procedure.** Any Settlement Class member, on his or her own, or through an attorney hired at his or her own expense, may object to the proposed settlement or the requests for attorneys' fees, costs/expenses, and/or an incentive award set forth herein. To

be considered, such objections must: (i) be filed with the Court and served on Class Counsel and Defendant's Counsel during the Objection Period; and (ii) be in writing and include all of the following information: (a) the name of this Action; (b) the objector's full name, address, and telephone number (and, if applicable, the objector's lawyer's full name, address, and telephone number); (c) a statement of his or her membership in the Settlement Class, including a verification under oath of Covered Product(s) purchased and, to the extent known, the location, approximate date, and approximate price paid; (d) a written statement of all grounds for the objection, including any legal support for the objection; (e) copies of any papers, briefs, or other documents upon which the objection is based; (f) a list of any and all Persons who will be called to testify in support of the objection; (g) a statement of whether the objector or the objector's attorney intends to appear at the Final Approval Hearing; (h) a list and copies of any and all exhibits that the objector or the objector's lawyer intends to offer at the Final Approval Hearing; (i) the identify of any current or former lawyer who may be entitled to compensation for any reason related to the objection; and (j) a list of any other objections submitted by the Settlement Class member and/or his attorney(s) to any proposed class settlement in any state or federal court within the previous 5 years. Any objections not raised properly and timely will be waived. Any Settlement Class member who fails to file and serve timely a written objection containing all of the information listed above, including notice of his or her intent to appear at the final approval hearing, shall not be permitted to object to the settlement and shall be foreclosed from seeking any review of the settlement by any means, including but not limited to an appeal.

## 9. SETTLEMENT TERMINATION

**9.1 Termination Prior To The Final Effective Date.** If any court does not approve and/or does not honor this Agreement and/or denies the Parties' motion to enter all of the Settlement Orders in a form agreeable to the Parties, Settlement Class Counsel and/or Defendant shall have the right to terminate this Agreement as set forth in Section 9.4

**9.2 Termination After Opt Out Period.** If more than 5,000 Persons opt out of this Agreement, Defendant shall have the right to terminate this Agreement as set forth in Section 9.4.

**9.3 Termination After Appeal.** If a court declares unenforceable, reverses, vacates, or modifies on appeal in what Settlement Class Counsel and/or Defendant determines to be a material way any aspect of this Agreement, Settlement Class Counsel and/or Defendant may terminate this Agreement as set forth in Section 9.4.

**9.4 Termination Procedure And Effect.** Any election of the right to terminate this Agreement may be done only by giving written notice to all counsel of record and to the Settlement Administrator. Notice of termination pursuant to Sections 9.1 or 9.3 must be given prior to the Final Effective Date. Notice of termination pursuant to Section 9.2 must be given within 60 days after the expiration of the Opt Out Period, or prior to the Final Approval hearing, whichever is earlier. However, Settlement Class Counsel and Defendant may agree in writing to extend these deadlines. If any Party terminates this Agreement pursuant to Sections 9.1, 9.2, and/or 9.3 the termination shall void all of the rights, obligations, and releases under this Agreement, except for Sections 3.1, 3.2, 3.3 and those provisions of this Agreement that are necessary to effectuate the termination. Within 30 days after a notice of termination is mailed, the Settlement Administrator shall return all settlement payments made prior to such withdrawal (inclusive of interest and exclusive of notice and administration costs already expended). If this Agreement is terminated before Defendant deposits sufficient funds to cover notice and administrative costs already expended, Defendant shall send to the Settlement Administrator an amount sufficient to

cover the foregoing items within 30 calendar days after receipt of the Settlement Administrator's schedule of the amounts due.

## **10. SETTLEMENT FUNDING**

### **10.1 Funding For Initial Costs Of Notice And Administration Upon**

**Preliminary Approval.** Within 5 days after notice of the entry of the Preliminary Approval Order, Defendant shall wire to the Settlement Administrator the sum necessary to pay the initial notice and administration expenses that are likely to be incurred. This deadline may be extended, and the terms of the initial payment may be adjusted, by mutual consent of the Parties in consultation with the Settlement Administrator.

### **10.2 Funding For Payment Of Attorneys' Fees, Costs/Expenses, And**

**Incentive Award.** Funding for the payment of attorneys' fees, costs, and expenses, and for payment of the Class Representative incentive awards shall be made by Defendant in accordance with Section 13. This deadline may be extended by mutual consent of the Parties.

### **10.3 Funding For Distribution Of Payments To Settlement Class Members.**

Within 10 days after the resolution of any objections pursuant to Section 11.10, Defendant shall wire to the Settlement Administrator the sum necessary to pay the amounts payable to Participating Claimants.

**10.4 Interest On The Settlement Fund.** All interest generated by the monies in the Settlement Fund shall be deemed and credited as a payment by Defendant.

**10.5 Maximum Funding Of Class Benefit.** The maximum funding obligation for the Class Benefit under this Agreement is \$3,600,000, and all payments made pursuant this Agreement shall be deemed and credited as a payment by Defendant toward this maximum amount.

## **11. MONETARY BENEFITS**

**11.1 Settlement Administrator.** The Settlement Administrator shall have the sole authority to administer the settlement. The Settlement Administrator shall carry out its duties in strict accordance with the procedures set forth in this Agreement and shall have the



responsibility to deny reimbursement for fraudulent and suspicious claims. Any Party may move the Court to compel such compliance.

**11.2 Maintenance Of Records.** The Settlement Administrator shall maintain complete, accurate, and detailed records regarding the administration of the Settlement Fund and shall provide copies of such records to Defendant's counsel following final distribution of Settlement Fund.

**11.3 Settlement Fund Costs.** All reasonable and necessary costs of administering the settlement shall be paid out of the Settlement Fund.

**11.4 Submission Of Claims.** At any time prior to the expiration of the Claims Period, members of the Settlement Class may submit a Claim Form to the Settlement Administrator by mail or through the settlement website pursuant to the directions on the Claim Form.

**11.5 Collection Of Claims.** The Settlement Administrator shall collect and log the Claim Forms postmarked and/or received on or before expiration of the Claims Period.

**11.6 Evaluation Of Claims.** Within 20 days after the Final Effective Date, the Settlement Administrator shall determine whether each submitted Claim Form requires further information or confirmation. Claimants shall have 15 days to respond to any request from the Settlement Administrator for further information or confirmation. To avoid unreasonable delays for other claimants, the failure to satisfactorily respond within this 15-day period shall result in the denial of the claim. The Settlement Administrator shall use adequate and customary procedures and standards to prevent the payment of fraudulent claims, to deny Claim Forms that contain evidence of waste, fraud, or abuse, and to pay only legitimate claims.

**11.7 Determination Of Benefits.** Within 20 days after the completion of the evaluation described in Section 11.6 (including evaluation of any claimant responses), the Settlement Administrator shall determine each Participating Claimant's Benefit Payment in accordance with the following:

- a. **With Proof of Purchase.** Settlement Class Members who submit a valid Claim Form, along with Proof of Purchase establishing purchase of the Covered Products, and revealing the actual price paid for the Covered Products, will receive a full refund of the purchase price for all documented purchases of the Covered Products during the Class Period. Settlement Class Members who submit a valid Claim Form, along with Proof of Purchase that does not reveal the actual price paid for the Covered Products will receive a refund of \$10.00 for each such box.
- b. **Without Proof of Purchase.** Settlement Class Members who submit a valid Claim Form without Proof of Purchase, but who submit attestation of Claimant's purchase, may recover up to a maximum of \$7.00 per box, limited to 1 box per Household.

**11.8 Cap On Total Amount Of Class Benefit Payable.** If the Benefit Payments set forth in subsection (i) would cause the total Class Benefit (including notice and administration expenses, attorneys' fees, costs, incentive payment, and payments to Participating Claimants) to exceed \$3,600,000, the Class Benefit shall be reduced pro rata so that the maximum settlement amount is not exceeded.

**11.9 Notification Of Proposed Benefits.** The Settlement Administrator shall promptly report its determination of the number of Participating Claimants and the calculation of the Benefit Payments, pursuant to Section 11.7, to Settlement Class Counsel and to Defendant.

**11.10 Objections To The Proposed Benefits.** Settlement Class Counsel and Defendant shall have 15 calendar days from receipt of the report referenced in Section 11.8 to notify the Settlement Administrator in writing of any errors in the calculation of the proposed benefits.

**11.11 Resolutions Of Objections To Proposed Benefits.** If the Settlement Administrator receives timely objections to any proposed benefit, the Settlement

Administrator shall consider the objections and attempt to resolve the objections between the Parties.

**11.12 Distribution Of Individual Benefits To Participating Claimants.** If no objections are timely made, or when such objections are resolved, the Settlement Administrator shall promptly disburse the Benefit Payment to each Participating Claimant.

**11.13 Maintenance Of Records.** The Settlement Administrator shall maintain complete, accurate, and detailed records regarding the administration of the Settlement Fund, including but not limited to: all Claim Forms submitted; any objection to proposed benefits and the resolution thereof; and any and all receipts by and disbursements from the Settlement Fund. The Settlement Administrator shall maintain all records for a period of not less than one year following the Final Effective Date.

## **12. NON-MONETARY BENEFITS**

**12.1 Spartan Mosquito Eradicator.** As of the Final Effective Date, Defendant will no longer manufacture or sell the Spartan Mosquito Eradicator. However, the Parties acknowledge that some third-party wholesalers, distributors, or retailers outside of Defendant's control who previously purchased the Spartan Mosquito Eradicator for resale may continue to list the product for sale, and such sales will not be attributed to Defendant for the purposes of this Section 12.1. This Court shall have continuing jurisdiction if a dispute arises between Class Counsel and Defendant concerning Section 12.1.

**12.2 Spartan Mosquito Pro Tech.** During the 18-month period following the Final Effective Date, to the extent not already performed, Defendant will conduct research regarding the efficacy of the Spartan Mosquito Pro Tech. Following the 18-month period, to the extent such testing shows a lack of efficacy for the Spartan Mosquito Pro Tech, Defendant will either update the formulation or cease sales of the Spartan Mosquito Pro Tech. This Court shall have continuing jurisdiction if a dispute arises between Class Counsel and Defendant concerning Section 12.2.

### 13. ATTORNEYS' FEES, COSTS, AND EXPENSES, AND INCENTIVE PAYMENTS

**13.1 Attorneys' Fees, Costs, and Expenses.** In connection with the Final Approval Hearing, Settlement Class Counsel shall submit a request for approval of an award of attorneys' fees, costs, and expenses of up to a total aggregate sum of \$1,200,000 to compensate them for their work on behalf of the Settlement Class. Settlement Class Counsel agree they will not seek attorneys' fees, costs, and expenses in excess of this sum. The Settlement Administrator shall wire the awarded attorneys' fees, costs, and expenses into an account to be identified by Settlement Class Counsel within 10 days after the entry of the Final Approval Order and the execution by Settlement Class Counsel and Defendant of a mutually-agreeable stipulated undertaking for the repayment of attorneys' fees, costs, and expenses in the event that termination right is exercised or to the extent the awarded fees, costs, and expenses are reduced, reversed, or vacated. However, the payment of attorneys' fees shall occur no sooner than September 1, 2023.

**13.2 Incentive Payments To Settlement Class Representatives.** In connection with the motion for final approval, Settlement Class Counsel shall submit a request to the Court seeking approval for an award of an incentive payment to each Settlement Class Representative of up to \$2,500.

**13.3 Miscellaneous.** Except as provided herein, each Settlement Class member shall bear his/her/its own attorneys' fees, costs, and expenses incurred in connection with any claim against Defendant.

### 14. RELEASE

**14.1 Class Release.** As of the Final Effective Date, except for the obligations and rights created by this Agreement, the Releasing Parties hereby release and absolutely and forever discharge Defendant and all Released Parties from any and all Released Claims. The Final Approval Order shall include this release.

**14.2 Civil Code Section 1542.** To the fullest extent permitted by law, in connection with the Released Claims, the Releasing Parties waive and relinquish any and all

rights or benefits they have or may have under California Civil Code Section 1542, or any comparable provision of state or federal law, with regard to the Released Claims. California Civil Code Section 1542 provides:

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

The Settlement Class Representatives acknowledges that they and Settlement Class members and/or their attorneys may hereafter discover claims or facts in addition to or different from those now known or believed to be true with respect to the Released Claims, but it is their intention to fully, finally, and forever settle and release any and all Released Claims described herein, whether known or unknown, suspected or unsuspected, which now exist, hereinafter may exist, or heretofore may have existed. In furtherance of this intention, the releases contained in this Agreement shall be and remain in effect as full and complete releases of the Released Claims by the Releasing Parties without regard to the subsequent discovery or existence of such different or additional claims or facts.

**14.3 Release Of The Settlement Class Representatives And Settlement Class Counsel.** Except for the obligations and rights created by this Agreement, Defendant hereby releases all actions, causes of action, claims, administrative claims, demands, debts, damages, costs, attorneys' fees, obligations, judgments, expenses, compensation, or liabilities, in law in equity, whether now known or unknown, contingent or absolute, that Defendant now has against Settlement Class Representatives or Settlement Class Counsel by reason of any act, omission, harm, matter, cause, or event whatsoever arising out of the initiation, prosecution, or settlement of this Action or the claims and defenses asserted in this Action.

## **15. NOTICES**

**15.1 Designated Recipients.** Unless otherwise specified in this Agreement or agreed to in writing by the party receiving such communication, all notices, requests, or

other required communications hereunder shall be in writing and shall be sent by one of the following methods: (i) by registered or certified, first class mail, postage prepaid; or (ii) by personal delivery (including by Federal Express or other courier service). All such communications shall be sent to the undersigned persons at their respective addresses as set forth herein.

Settlement Class Counsel:

Yitzchak Kopel  
Bursor & Fisher, P.A.  
888 Seventh Avenue  
New York, NY 10019

Defendant:

Jacob Abrams  
Kasowitz Benson Torres LLP  
1441 Brickell Avenue, Suite 1420  
Miami, FL 33131

Notice shall be deemed effective when signed for or when delivery is refused.

**15.2 Changes In Designated Recipients.** Any Party may re-designate the Person to receive notices, requests, demands, or other communications required or permitted by this Agreement by providing written notice to the other Party, the Settlement Administrator, and the Court.

**16. MISCELLANEOUS**

**16.1 Entire Agreement.** This Agreement supersedes and replaces any and all other prior agreements and all negotiations leading up to the execution of this Agreement, whether oral or in writing, between the Parties with respect to the subject matter hereof. The Parties acknowledge that no representations, inducements, promises, or statements, oral or otherwise, have been made or relied upon by any of the Parties or by anyone acting on behalf of the Parties which are not embodied or incorporated by reference herein, and further agree that no other covenant, representation, inducement, promise, or statement not set forth in writing in this Agreement shall be valid or binding.

**16.2 Modification Or Amendment.** This Agreement may not be modified or amended except in a writing signed by the Settlement Class Representatives and Defendant,

and, if after the entry of the Preliminary Approval Order, such written modification must also be approved by the Court.

**16.3 Execution In Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original.

**16.4 Authority Of Counsel.** Settlement Class Counsel is authorized by the members of the Settlement Class, and by the Court, to take all appropriate action required and permitted to be taken by the Settlement Class pursuant to this Agreement to effectuate its terms.

**16.5 Headings.** The headings of the sections, paragraphs, and subparagraphs of this Agreement are included for convenience only and shall not be deemed to constitute part of this Agreement or to affect its construction.

**16.6 Liens.** The Released Parties shall have no obligation to pay or otherwise resolve any liens that are or may be asserted against settlement payments to Settlement Class members pursuant to the terms of this Agreement. In the event any such lien is asserted, it is the responsibility of the Settlement Class member to pay, compromise, or otherwise resolve the lien at no cost to Defendant or the Settlement Fund.

**16.7 Cooperation And Further Acts.** The Parties and their counsel agree to cooperate fully with one another and to use their best efforts to effectuate the settlement, including without limitation, in seeking preliminary approval and final approval of the Agreement, carrying out the terms of this Agreement, and promptly agreeing upon and executing all such other documentation as may be reasonably required to obtain final Court approval of the settlement. The Parties shall cooperate in good faith and undertake all reasonable actions and steps to accomplish the events described in this Agreement.

**16.8 Heirs, Successors, And Assignees.** This Agreement shall be binding upon and shall inure to the benefit of the Parties' heirs, successors, and assignees.

**16.9 Choice Of Law.** This Agreement in all respects shall be interpreted, enforced, and governed by and under the laws of the State of New York applicable to instruments, persons, and transactions which have legal contacts and relationships solely

within the State of New York. Any action pertaining to the terms of this Agreement shall be filed in the Supreme Court of the State of New York, County of Kings.

**16.10 Time Periods.** The time periods and/or dates described in this Agreement with respect to the giving of notices and hearings are subject to approval and change by the Court or by the written agreement of Settlement Class Counsel and Defendant's counsel, without notice to Settlement Class members. The Parties reserve the right, by written agreement, to grant any reasonable extension of time that might be needed to carry out any of the provisions of this Agreement.

**16.11 Warranty Re Advice.** Settlement Class Counsel warrants that the Settlement Class Representatives have been fully advised of and agree to the terms of this Agreement. The Parties hereby acknowledge that they have been represented by independent legal counsel throughout all negotiations which preceded the execution of this Agreement, and that this Agreement has been executed with the consent and on the advice of said counsel.



AGREED TO AND ACCEPTED.

Dated: Mar, 29, 2023

By: *Kalman Rosenfeld*  
Kalman Rosenfeld (Mar 29, 2023 14:17 EDT)  
Kalman Rosenfeld  
Settlement Class Representative

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Lois Ryder  
Settlement Class Representative

AC2T, Inc.

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

AGREED TO AND ACCEPTED.

Dated: \_\_\_\_\_

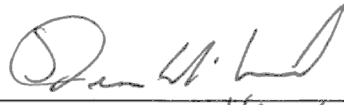
By: \_\_\_\_\_  
Kalman Rosenfeld  
Settlement Class Representative

Dated: April 4, 2023

By: ~~\_\_\_\_\_~~ APR 4 2023 13:23 EDT  
Lois Ryder  
Settlement Class Representative

AC2T, Inc.

Dated: April 12<sup>th</sup>, 2023

By:   
Name: Jeremy Hirsch  
Title: Chairman

**IMPORTANT LEGAL MATERIALS**

**CLAIM FORM**

**GENERAL INSTRUCTIONS**

**Settlement Class Members who seek payment from the Settlement must complete and return this Claim Form.** Completed Claim Forms must be mailed to the Settlement Administrator at \_\_\_\_\_ or can be submitted via the Settlement Website, www.\_\_\_\_\_.com. **Claim Forms must be POSTMARKED OR SUBMITTED ONLINE NO LATER THAN \_\_\_\_\_, \_\_\_\_\_ at 11:59 pm, eastern time.**

Before you complete and submit this Claim Form by mail or online, you should read and be familiar with the Notice of Proposed Class Action Settlement (“the Notice”) available at www.\_\_\_\_\_.com. Defined terms (with initial capitals) used in these General Instructions have the same meaning as set forth in the Notice. By submitting this Claim Form, you acknowledge that you have read and understand the Notice, and you agree to the Release included as a material term of the Settlement Agreement.

If you fail to submit a timely Claim Form, your Claim will be rejected and you will be precluded from any recovery from the Settlement fund. If you are a member of the Settlement Class and you do not timely and validly seek exclusion from the Settlement Class, you will be bound by any judgment entered by the Court approving the Settlement regardless of whether you submit a Claim Form. You can elect one Benefit per Household. To receive the most current information and regular updates, please submit your Claim Form on the Settlement Website at www.\_\_\_\_\_.com. On the Settlement Website, you will also be able to submit your web Claim.

**Claimant Information**

Claimant Name: \_\_\_\_\_  
First Name MI Last Name

Street Address: \_\_\_\_\_

Street Address2: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Daytime Phone Number: ( \_\_\_\_\_ ) \_\_\_\_\_ - \_\_\_\_\_

Evening Phone Number: ( \_\_\_\_\_ ) \_\_\_\_\_ - \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Purchaser ID: \_\_\_\_\_

**For use with Tier 1 Claims**

Tier 1 Benefit is available for Class Members who purchased Spartan Mosquito Products, including “Spartan Mosquito Eradicator” and “Spartan Mosquito Pro Tech,” during the Class Period and do not have a valid Proof of Purchase. You may receive up to a maximum of \$7.00 per Box, up to 1 Box, although this amount may be reduced depending on the total number of claims received.

**Purchase Information**

1. Please identify the Spartan Mosquito Product(s) you purchased:

- Eradicator  Pro Tech
- Other: \_\_\_\_\_

2. Please provide the following information:

Store Location (Name, City, State)	Approximate Purchase Date	Retailer or Online Seller

**For use with Tier 2 Claims**

Tier 2 Benefit is available for Class Members who purchased Spartan Mosquito Products, including “Spartan Mosquito Eradicator” and “Spartan Mosquito Pro Tech” during the Class Period and have a valid Proof of Purchase that reflects the actual purchase price paid for the product. You may receive reimbursement for the full purchase price shown on the proof of purchase for all boxes purchased, or less depending on a number of factors including how many Valid Claims are submitted.

**Purchase Information**

1. Please identify the Spartan Mosquito Product(s) you purchased:

Eradicator

Pro Tech

Other: \_\_\_\_\_

2. How many Units did you purchase?

One

Two

Three

Four

Five or more

3. Please attach copies of your Proof(s) of Purchase for each Unit for which you are claiming reimbursement. Proofs of Purchase may not be re-submitted for additional reimbursement and may not be shared among or used by multiple Class Members.

**For use with Tier 3 Claims**

Tier 3 Benefit is available for Class Members who purchased Spartan Mosquito Products, including “Spartan Mosquito Eradicator” and “Spartan Mosquito Pro Tech” during the Class Period and have an otherwise valid Proof of Purchase that does not reflect the actual purchase price paid. You may receive reimbursement for up to [\$10.00] per box for all boxes purchased, or less depending on a number of factors including how many Valid Claims are submitted.

**Purchase Information**

1. Please identify the Spartan Mosquito Product(s) you purchased:

- Eradicator
- Pro Tech
- Other: \_\_\_\_\_

2. How many Units did you purchase?

- One
- Two
- Three
- Four
- Five or more

3. Please attach copies of your Proof(s) of Purchase for each Unit for which you are claiming reimbursement. Proofs of Purchase may not be re-submitted for additional reimbursement and may not be shared among or used by multiple Class Members

[Redacted]

By signing below, you are submitting to the jurisdiction of the Supreme Court of New York, XX County.

**Certification under Penalty of Perjury**

**I hereby certify under penalty of perjury that:**

1. I have read the Settlement Agreement and agree to its terms, including the Release;
2. The information provided in this Claim Form is accurate and complete to the best of my knowledge, information and belief;
3. The proof of purchase provided to the Settlement Administrator to support my Claim is an original or a complete and true copy of the original document;
4. I am a member of the Settlement Class and did not request to be excluded from the Settlement Class;
5. I have not entered into a Settlement for any of the Claims set forth in this Claim Form;
6. I am neither (a) a Person who purchased or acquired the Product for resale; (b) Defendant and its employees, principals, affiliated entities, legal representatives, successors and assigns; (c) a government entity; or (d) a judge to whom this Action is assigned or any member of the judge's immediate family;
7. I have not submitted any other Claim for the same purchases and have not authorized any other Person or entity to do so, and know of no other Person or entity having done so on my behalf;
8. No other Person in my Household has submitted a Claim under this Settlement;
9. I will timely provide any additional information requested by the Settlement Administrator to validate my Claim;
10. I understand that by submitting this Claim Form, I am deemed to have given a complete Release of all settled Claims; and
11. I understand that Claims will be audited for veracity, accuracy and fraud. Invalid or illegible Claims Forms can be rejected.

Signature: \_\_\_\_\_ Dated: \_\_\_\_ / \_\_\_\_ / \_\_\_\_