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19 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
20 **COUNTY OF SAN BERNARDINO**
21

22 CHRISTOPHER O'BRIEN and TIFFANY
KIPIKASHA, individually and on behalf of all
23 others similarly situated,
24 Plaintiffs,
25 v.
26 SUNSHINE MAKERS, INC., a California
corporation,
27 Defendant.
28

Case No.:
[CLASS ACTION]
**CLASS ACTION SETTLEMENT
AGREEMENT**
Hon. David Cohn
Courtroom 4
Complaint Filed: December 18, 2020

1 This Class Action Settlement Agreement (the “Settlement”), dated the date last signed
2 below, is made and entered into by and between the Class Representatives Christopher O’Brien,
3 Tiffany Kipikasha, and Michelle Moran (“Class Representatives”), on behalf of themselves and the
4 Settlement Class, and Defendant Sunshine Makers, Inc. (“Defendant”) to settle and compromise the
5 Actions, as defined below, and settle, resolve, and discharge the Released Claims, as defined
6 below, according to the terms and conditions herein.

7 **PREAMBLE**

8 1. WHEREAS, on May 12, 2020, Class Representative Michelle Moran filed a class
9 action entitled *Moran v. Sunshine Makers, Inc.* in the United States District Court for the Northern
10 District of California, Case. No. 4:20-cv-0324 (“*Moran*”), alleging violations of California’s
11 consumer protection statutes for deceptively labeling its cleaning products as “Non Toxic.” On
12 December 18, 2020, Class Representatives Christopher O’Brien and Tiffany Kipikasha filed the
13 above-captioned class action lawsuit against Defendant entitled *O’Brien, et al. v. Sunshine Makers,*
14 *Inc.*, Superior Court of the State of California, County of San Bernardino, Case No. CIV-SB-
15 2027994 (“*O’Brien*”). *Moran* and *O’Brien*, together, shall be referred to as the “Actions.”

16 2. WHEREAS, Class Representatives allege that Defendant has engaged in acts that
17 violate state consumer protections laws (including California’s False Advertising Laws (“FAL”),
18 Bus. & Prof. Code §§ 17500 *et seq.*, California’s Unfair Competition Laws (“UCL”), Bus. & Prof.
19 Code §§ 17200 *et seq.*, and California’s Consumers Legal Remedies Act (“CLRA”), Civil Code §§
20 1750 *et seq.*), as well as breached state warranty and unjust enrichment laws. The alleged
21 violations are based on Class Representatives’ allegation that the products in question may cause
22 harm to humans, animals, and/or the environment, some individuals even passing or minor impacts
23 such as headache, stinging eyes, or dry skin/rash, and that, as a direct result of such violations,
24 Class Representatives and the putative class have suffered monetary damages and also seek
25 equitable remedies.

26 3. WHEREAS, Defendant denies the allegations of Class Representatives, denies that
27 it has violated the FAL, UCL, CLRA or other laws in advertising its products as having a non-toxic
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1 formula or in any other manner, and denies that Class Representatives have suffered any damage as
2 a result of the actions Defendant is alleged to have taken.

3 4. WHEREAS, the Settling Parties participated in informal settlement discussions, as
4 well as a full-day mediation with JAMS Mediator Martin Quinn on December 7, 2020.

5 5. WHEREAS, based upon the discovery taken to date, investigation, and evaluation of
6 the facts and law relating to the matters alleged in the pleadings, plus the risks and uncertainties of
7 continued litigation and all factors bearing on the merits of settlement, Class Representatives and
8 Defendant have agreed to settle the claims asserted in the Actions pursuant to provisions of this
9 Settlement.

10 NOW, THEREFORE, subject to the Final Approval of the Court as required herein and by
11 applicable law and rules, the Settling Parties hereby agree, in consideration of the mutual promises
12 and covenants contained herein, that any Released Claims against any Released Parties shall be
13 settled, compromised, and forever released upon the following terms and conditions.

14 **TERMS AND CONDITIONS OF THE SETTLEMENT**

15 1. DEFINITIONS

16 As used in this Class Action Settlement Agreement and the related documents attached
17 hereto as exhibits, the terms set forth below shall have the meanings set forth below.

18 1.1. "Actions" means the civil action entitled *O'Brien, et al. v. Sunshine Makers, Inc.*,
19 Case No. CIV-SB-2027994, currently pending in the Superior Court of the State of California,
20 County of San Bernardino, and *Moran v. Sunshine Makers, Inc.* currently pending in the United
21 States District Court for the Northern District of California, Case No. 4:20-cv-0324.

22 1.2. "Administrative Costs" means all costs and expenses incurred by the Claims
23 Administrator in administering the Class Action Settlement Agreement and providing Notice in
24 accordance with the Preliminary Approval Order.

25 1.3. "Claim" or "Settlement Claim" means a claim for payment submitted by a
26 Settlement Class Member to the Claims Administrator as provided in this Class Action Settlement
27 Agreement.

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1 1.4. "Claim Form" or "Settlement Claim Form" means a claim form, substantially in the
2 form of Exhibit C attached hereto, to be submitted by Claimants seeking payment pursuant to this
3 Class Action Settlement Agreement to the Claims Administrator.

4 1.5. "Claim Fund" means the sum of money that Defendant shall make available for
5 payment of Valid Claims, which shall equal the amount of money remaining from the Total
6 Monetary Settlement Amount after deducting Administrative Costs, any attorneys' fees, costs, and
7 expenses awarded by the Court, and any incentive award ordered by the Court.

8 1.6. "Claimant" means a Settlement Class Member who submits a claim for payment.

9 1.7. "Claims Administrator" refers to Digital Settlement Group LLC.

10 1.8. "Class Action Settlement Agreement," "Settlement Agreement," "Settlement," or
11 "Agreement" means this Class Action Settlement Agreement, including the attached exhibits.

12 1.9. "Class Counsel" means Ryan J. Clarkson, Katherine Bruce, Lauren Anderson, and
13 Clarkson Law Firm, P.C., and Christopher D. Moon, Kevin O. Moon, and Moon Law APC.

14 1.10. "Class Member" means any and all persons who are within the Settlement Class.

15 1.11. "Class Period" means the time period between May 12, 2016 through the date the
16 Preliminary Approval Order is entered.

17 1.12. "Class Representatives" means Christopher O'Brien, Tiffany Kipikasha, and
18 Michelle Moran.

19 1.13. "Court" means the State Court of California, County of San Bernardino.

20 1.14. "Covered Products" or "Settlement Class Products" or "Products" means all
21 products sold by Defendant and labeled "Non-Toxic," including the following: (1) Simple Green
22 All-Purpose Cleaner; (2) Simple Green All-Purpose Cleaner (Fresh); (3) Simple Green All-Purpose
23 Cleaner (Lemon); (4) Simple Green All-Purpose Cleaner (Lavender); (5) Simple Green Oxy Solve
24 Total Outdoor Cleaner; (6) Simple Green Oxy Solve House and Siding Cleaner; (7) Simple Green
25 Oxy Solve Concrete and Driveway Cleaner; (8) Simple Green Oxy Solve Deck and Fence Cleaner;
26 (9) Simple Green Wash & Wax; (10) Simple Green All-Purpose Wipes; (11) Simple Green All-
27 Purpose Wipes (Lemon); (12) Simple Green Multi-Purpose Foaming Cleaner; (13) Simple Green
28 Carpet Cleaner; (14) Simple Green Marine All-Purpose Boat Cleaner; (15) Simple Green Heavy

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1 Duty BBQ & Grill Cleaner; (16) Simple Green Heavy Duty BBQ & Grill Cleaner (Aerosol); (17)
2 Simple Green Oxy Dog Stain & Odor Oxidizer; (18) Simple Green Bio Dog; (19) Simple Green
3 Advanced Dog Bio Boost Stain & Odor Remover; (20) Simple Green Cat Pet Stain & Odor
4 Remover; and (21) Simple Green Outdoor Odor Eliminator, and all sizes and packaging types of
5 those products.

6 1.15. "Defendant" means Sunshine Makers, Inc., as well as its past, present, and future
7 officers, directors, shareholders, employees, predecessors, affiliates, parents, subsidiaries, partners,
8 distributors, principals, insurers, administrators, agents, servants, successors, trustees, vendors,
9 subcontractors, buyers, independent contractors, attorneys, representatives, heirs, executors,
10 experts, consultants, and assigns of all of the foregoing persons and entities.

11 1.16. "Defendant's Counsel" means Defendant's counsel of record in the Action, Eileen
12 M. Diepenbrock and Jennifer L. Dauer, of Diepenbrock Elkin Dauer McCandless LLP.

13 1.17. "Effective Date" means the first date by which all of the following events shall have
14 occurred: the Court has entered the Final Approval Order and Judgment on the docket in the
15 Action, and (a) the time to appeal from such order has expired and no appeal has been timely filed,
16 (b) if such an appeal has been filed, it has finally been resolved and has resulted in an affirmation of
17 the Final Approval Order and Judgment, or (c) the Court, following the resolution of the appeal,
18 enters a further order or orders approving settlement on the terms set forth herein, and either no
19 further appeal is taken from such order(s) or any such appeal results in affirmation of such order(s)
20 on appeal. Without limiting the generality of the foregoing, the Effective Date shall not occur prior
21 to final resolution of the Fee and Cost Application and any appeals regarding the Fee and Cost
22 Application.

23 1.18. "Fee and Cost Application" means the written motion or application by which the
24 Class Representatives and/or Class Counsel request that the Court award attorneys' fees, costs,
25 expenses, and incentive awards. Neither the pendency of the Fee and Cost Application, nor any
26 appeal pertaining solely to a decision on the Fee and Cost Application, shall in any way delay or
27 preclude the Final Approval Order and Judgment from becoming final.
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1 1.19. "Final Approval Hearing" means the hearing scheduled to take place at least ninety
2 (90) days after the date of entry of the Preliminary Approval Order at which the Court shall: (a)
3 determine whether to grant final approval to this Class Action Settlement Agreement and to certify
4 the Settlement Class; (b) consider any timely objections to this Settlement and all responses thereto;
5 and (c) rule on the Fee and Cost Application.

6 1.20. "Final Approval Order" means the order in which the Court grants final approval of
7 this Class Action Settlement Agreement, certifies the Settlement Class, and authorizes the entry of
8 a final judgment and dismissal of the Action with prejudice.

9 1.21. "Judgment" means the judgment to be entered by the Court pursuant to the
10 Settlement.

11 1.22. "Notice" shall mean a document substantially in the form of Exhibit D hereto, and
12 "Summary Notice," meaning a document substantially in the form of Exhibit E hereto, to be
13 disseminated in accordance with the Preliminary Approval Order, informing persons who fall
14 within the Settlement Class definition of, among other things, the pendency of the Action, the
15 material terms of the Proposed Settlement, and their options with respect thereto.

16 1.23. "Notice Date" means the date thirty (30) days after the Court provides Preliminary
17 Approval to the Settlement Agreement, by which the Claims Administrator shall commence
18 dissemination of Notice to the Settlement Class.

19 1.24. "Notice Plan" means the method of providing the Settlement Class with notice of
20 the Class Action Settlement Agreement, as approved by the Court.

21 1.25. "Notice Response Deadline" means the deadline for all members of the Settlement
22 Class to respond to the Notice, which shall be at least sixty (60) days after the Notice Date.

23 1.26. "Opt-Out Date" means the date that is the end of the period to request exclusion
24 from the Settlement Class established by the Court and set forth in the Notice.

25 1.27. "Participating Claimant" means a Claimant who submits a Qualifying Settlement
26 Claim Form in response to the Notice.

27 1.28. "Parties" means Plaintiffs Christopher O'Brien and Tiffany Kipikasha and
28 Defendant Sunshine Makers, Inc. "Party" shall refer to each of them individually.

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1 1.29. "Passing Impacts" means any physical reaction or discomfort that is transitory and
2 does not result in permanent or long-term personal injury, including without limitation headache,
3 stinging eyes, dry skin/rash, coughing, or sneezing.

4 1.30. "Person" means any natural person, individual, and such individual's spouse, heirs,
5 predecessors, successors, representatives, and assignees.

6 1.31. "Plaintiff" means Christopher O'Brien and Tiffany Kipikasha.

7 1.32. "Preliminary Approval Order" means the order in which the Court grants its
8 preliminary approval to this Class Action Settlement Agreement, preliminarily certifies the
9 Settlement Class, authorizes dissemination of Notice to the Settlement Class, and appoints the
10 Claims Administrator.

11 1.33. "Publication Notice" means the long-form and short-form notices, substantially in
12 the form of Exhibits D and E attached hereto. The long-form Publication Notice and the short-form
13 Publication Notice will be published as set forth in the Preliminary Approval Order.

14 1.34. "Qualifying Settlement Claim Form" shall mean a Claim Form that is fully
15 completed, properly executed, and timely returned to the Claims Administrator on or before the
16 Notice Response Deadline by a Settlement Class Member. A "Qualifying Settlement Claim Form"
17 must be either returned with a postmark via U.S. mail or submitted online through the Class
18 Settlement Website to be created and maintained by the Claims Administrator, at the Participating
19 Claimant's discretion. The Claims Administrator reserves the right to seek additional information
20 beyond the Qualifying Settlement Claim Form, as necessary.

21 1.35. "Receipt" shall mean documentary evidence establishing the purchase of one or
22 more Covered Products, the date of purchase, and the purchase price.

23 1.36. "Released Claims" means all of the claims alleged in the class action complaints
24 filed in the Actions, including without limitation those arising out of Plaintiffs' price premium
25 theory and/or other allegations that they expected to receive a product that did not pose any risk of
26 harm to humans, animals, and the environment, including Passing Impacts, and any and all claims
27 or causes of action based on substantially the same factual predicate, whether in law or equity,
28 whether seeking damages or any other relief (including attorneys' fees), of any kind or character,

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1 known or unknown, that are now recognized by law or that may be created or recognized in the
2 future by statute, regulation, judicial decision, or in any other manner, based upon any federal or
3 state statutory or common law, including, without limitation, claims sounding in tort, contract, and
4 the consumer protection laws of the United States or of any other state or jurisdiction within the
5 United States, as well as under the unfair or deceptive trade practices, trade regulation, consumer
6 fraud, misrepresentation, and false advertising law of the United States or any state or other
7 jurisdiction within the United States, regardless of whether the challenged assertions were made on
8 the Product label, the Internet, television, radio, in person, print, or otherwise. Excluded from the
9 Released Claims are any and all claims for personal injury, wrongful death, and/or emotional
10 distress arising from wrongful death. With respect to the claims released pursuant to this
11 paragraph, each Settlement Class Member shall be deemed to have waived and relinquished, to the
12 fullest extent permitted by law, the provisions, rights and benefits of California Civil Code section
13 1542 (and equivalent, comparable, or analogous provisions of the laws of the United States of
14 America or any state or territory thereof, or of the common law or civil law). Section 1542
15 provides that:

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

20 Each and every term of this paragraph shall inure to the benefit of each and all of the Released
21 Parties and Released Persons, and each and all of their respective successors and personal
22 representatives, which persons and entities are intended to be beneficiaries of this paragraph.

23 1.37. "Released Parties" and "Released Persons" means Defendant, its parent companies,
24 subsidiary companies, affiliated companies, past, present, and future officers (as of the Effective
25 Date), directors, shareholders, employees, predecessors, affiliates, parents, subsidiaries, joint
26 partners, distributors, principals, insurers, administrators, agents, servants, successors, trustees,
27 vendors, subcontractors, buyers, independent contractors, attorneys, representatives, heirs,
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1 executors, experts, consultants, and assigns of all of the foregoing persons and entities, and all
2 suppliers, wholesalers, distributors, and retailers of any Covered Products.

3 1.38. "Releasing Parties" means all Settlement Class Members.

4 1.39. "Request for Exclusion" means a valid request for exclusion from a member of the
5 Settlement Class. To be valid, a request for exclusion must: (a) be submitted by the member of the
6 Settlement Class to the Claims Administrator and postmarked by a date no later than the Notice
7 Response Deadline; (b) contain the submitter's name, address, and telephone number; and (c)
8 otherwise comply with the instructions set forth in the Notice.

9 1.40. "Settlement" means the settlement set forth in this Class Action Settlement
10 Agreement.

11 1.41. "Settlement Class" means, collectively, all persons in the United States of America
12 who purchased one or more of Defendant's Covered Products at any time during the Class Period.
13 Excluded from the Settlement Class are any officers, directors, or employees of Defendant, and the
14 immediate family members of any such person. Also excluded is any judge who may preside over
15 this case.

16 1.42. "Settling Parties" means, collectively, Defendant, the Class Representatives, and all
17 Settlement Class Members.

18 1.43. "Settlement Class Member" means any Class Member who does not submit a timely
19 and valid Request for Exclusion.

20 1.44. "Total Monetary Settlement Amount" means Four Million, Three Hundred Fifty
21 Thousand dollars (\$4,350,000.00).

22 1.45. "Valid Claim" means a claim for reimbursement submitted by a Settlement Class
23 Member that satisfies all the criteria for submission of a Qualifying Settlement Claim Form and any
24 additional information reasonably requested by the Settlement Administrator, if any.

25 1.46. The singular of any defined term includes the plural, and the plural of any defined
26 term includes the singular.

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2. DENIAL OF WRONGDOING AND LIABILITY

2.1. Defendant has denied and continues to deny the material factual allegations and legal claims asserted by Plaintiffs, including any and all charges of wrongdoing or liability arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the Actions. Defendant also denies that Plaintiffs or any Class Members were harmed or damaged in any way by the conduct alleged in the Actions. In addition, Defendant maintains that it has meritorious defenses to all claims alleged in the Actions. Nonetheless, as set forth below and in consideration of the expense, burden and uncertainties involved in continued litigation, Defendant has agreed to settle the Actions on the terms set forth herein.

3. THE BENEFITS OF SETTLEMENT

3.1. The Parties and their counsel recognize and acknowledge the expense and length of continued proceedings that would be necessary to prosecute the Actions through trial and appeals. The Parties and their counsel also have taken into account the uncertain outcome and the risk of any litigation, especially in complex actions such as the Actions, as well as the difficulties and delays inherent in such litigation. The Class Representatives and Class Counsel are mindful of the inherent issues of proof and possible defenses to the claims asserted in the Action. The Class Representatives and Class Counsel believe that the proposed settlement set forth in this Class Action Settlement Agreement confers substantial benefits upon the Settlement Class. In particular, settlement will result in the marketing assertions that the Class Representatives claim to be misleading being addressed substantially faster than if the matter were tried. Based on their evaluation of all of these factors, the Class Representatives and Class Counsel have determined that the Class Action Settlement Agreement is fair, reasonable, adequate to resolve their grievances, and in the best interests of the Class Representatives and the Settlement Class.

4. SETTLEMENT CONSIDERATION

4.1 Injunctive Relief

4.1.1. Within ninety (90) days after the Effective Date, Defendant will provide the Settlement Class injunctive relief by way of removing the references to “Non-Toxic” from the

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1 packaging and labeling of the Covered Products, except to the extent Defendant is permitted to sell
2 existing inventory as specified in Section 4.1.2.

3 4.1.2. Notwithstanding Section 4.1.1, if Defendant (including any of its wholesalers,
4 retailers, or distributors) (a) has any Covered Product inventory with labels that include the “non-
5 toxic” language or (b) has any labels that include the “non-toxic” language that were printed prior
6 to the date of the Preliminary Approval Order but not affixed to a Covered Product prior to the date
7 specified in Section 4.1.1, then Covered Products with such labels may be sold, used, or donated
8 until said supply is exhausted. Defendant’s right to avoid the expense of re-labeling Covered
9 Products and the costs of disposing of existing printed labels is a material consideration in this
10 settlement.

11 4.1.3 To the extent that any state and/or federal statute, regulation, policies, and/or code
12 may at any time impose other, further, different and/or conflicting obligations or duties on
13 Defendant at any time with respect to the Covered Products, this Class Action Settlement
14 Agreement and any Judgment that may be entered pursuant thereto, as well as the Court’s
15 continuing jurisdiction with respect to implementation and enforcement of the terms of this Class
16 Action Settlement Agreement, shall cease as to the Settlement Class’s and Defendant’s conduct
17 covered by that statute, regulation and/or code as of the effective date of such statute, regulation,
18 and/or code.

19 4.1.4 Releasing Parties agree that the agreed modifications to the labeling of the Covered
20 Products are satisfactory to Releasing Parties and alleviate each and every alleged deficiency with
21 regard to the labeling, packaging, advertising, and marketing of the Covered Products set forth in or
22 related to the Actions.

23 4.1.5 The injunctive relief contained herein shall expire on the effective date of any
24 revision to the Federal Trade Commission “Green Guides” addressing “non-toxic” claims that
25 materially changes any limitations on the use of “non-toxic” claims on product labels or more
26 clearly defines when such claims may be made. Notwithstanding the foregoing, any change to the
27 Green Guides that further limits the use of “non-toxic” claims, including without limitation barring
28 the use of “non-toxic” claims on product labels, shall not affect the injunctive relief herein.

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1 4.1.6 The Parties acknowledge that product formulas and packaging, and laws governing
2 formulas and packaging, may change. Nothing in this Settlement Agreement shall limit or preclude
3 Defendant from (a) making changes to its labels that do not include the term “non-toxic”; (b)
4 making any changes to its labels or advertising necessary or appropriate to comply with any
5 applicable statute, regulation, standard (including without limitation the Green Guides), decision, or
6 guidance of any government agency or industry organization; or (c) making any changes to its
7 labels or advertising necessary or appropriate to address formula or packaging changes to a
8 Covered Product.

9 4.2 Monetary Relief

10 4.2.1. Defendant shall make available the Total Monetary Settlement Amount for payment
11 of Valid Claims, Administrative Costs, attorneys’ fees, costs, and expenses awarded by the Court,
12 and any incentive awards approved by the Court, as set forth below. Defendant’s total financial
13 commitment and obligation under this Settlement Agreement shall not exceed the Total Monetary
14 Settlement Amount (\$4,350,000.00).

15 4.2.1.1. Valid Claims shall be paid from the Claim Fund as soon as practicable but in
16 no event later than ninety (90) days after the Effective Date.

17 4.2.1.2. Defendant shall not be required to make any part of the Claim Fund available
18 to the Claims Administrator for payment of Valid Claims until thirty (30) days after the Effective
19 Date. Thirty (30) days after the Effective Date, Defendant shall pay to the Claims Administrator
20 for payment of Valid Claims the remainder of the Total Monetary Settlement Amount, net of all
21 amounts previously paid or committed to be paid for attorneys’ fees and costs, Administrative
22 Costs (as addressed in Paragraph 5 below), Class Representative incentive awards, or other
23 amounts ordered or permitted to be paid out of the Total Monetary Settlement Amount.

24 4.2.2. The amount of the payment for any Valid Claim shall be determined as follows:

25 4.2.2.1. For any Participating Claimant who provides a Receipt, the Participating
26 Claimant shall be entitled to a refund of three dollars (\$3.00) per Covered Product purchased,
27 subject to Paragraph 4.2.6.
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1 4.2.2.2. For any Participating Claimant who does not provide a Receipt, but who
2 submits a claim form, either online or via mail, attesting, swearing, or affirming under penalty of
3 perjury that he or she purchased a Covered Product during the Class Period, the actual amount paid
4 to each Participating Claimant will be three dollars (\$3.00) per Covered Product, with a cap of ten
5 (10) Covered Products per Participating Claimant for a maximum total payment of up to thirty
6 dollars (\$30.00), subject to Paragraph 4.2.6.

7 4.2.3. Participating Claimants cannot combine claims with Receipts with claims without
8 Receipts.

9 4.2.4. Payment will be made directly to the Participating Claimant within ninety (90) days
10 after the Effective Date.

11 4.2.5. Adequate and customary procedures and standards will be used by the Claims
12 Administrator to prevent the payment of fraudulent claims and to pay only legitimate claims
13 including requesting additional information from Claimants (beyond the online claim form), if
14 necessary.

15 4.2.6. If the amount in the Claim Fund is either more or less than the amount of the total
16 cash claims submitted by Participating Claimants, the claims of each Participating Claimant will be
17 increased or decreased, respectively, pro rata to ensure the Claim Fund is exhausted. If there is
18 money left over in the Claim Fund due to uncashed checks, then half of that money shall be paid to
19 the Gary Sinise Foundation and the other half to a charitable organization of Class Counsel’s
20 choosing.

21 4.2.7. There will be no reversion of money from the Claim Fund to Defendant.

22 **5. ADMINISTRATION AND NOTICE**

23 5.1.1. All Administrative Costs shall be paid out of the Total Monetary Settlement
24 Amount, and shall not exceed five hundred thirty thousand dollars (\$530,000), plus postage.

25 5.1.1.1. Defendant shall pay the Administrative Costs, or cause the Administrative
26 Costs to be paid, as follows: Two Hundred Sixty-five Thousand Dollars (\$265,000) within seven
27 (7) days after entry of the order granting preliminary approval, and Two Hundred Sixty-Five
28 Thousand Dollars (\$265,000) within thirty-seven (37) days after the preliminary approval order.

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1 The payments shall be subject to the Claims Administrator providing applicable tax I.D. number(s),
2 payment routing information, and invoices for the charges no later than thirty (30) days in advance
3 of the required payments.

4 5.1.2. Appointment and Retention of Claims Administrator

5 5.1.2.1. The Parties retained Digital Settlement Group LLC as a Notice
6 Administrator and Claims Administrator to implement the terms of the Class Action Settlement
7 Agreement.

8 5.1.2.2. The Claims Administrator will facilitate the notice process by assisting the
9 Parties in the implementation of the Notice Plan and administering all aspects of the Settlement.

10 5.1.3. Class Settlement Website

11 5.1.3.1. The Claims Administrator will create and maintain the Class Settlement
12 Website, to be activated within twenty (20) days of the entry of the Preliminary Approval Order by
13 the Court. The Claims Administrator’s responsibilities will also include securing an appropriate
14 URL. The Class Settlement Website will post the settlement documents and case-related documents
15 such as the Class Action Settlement Agreement, the Long-Form Notice, the Claim Form (in English
16 and Spanish versions), and the Preliminary Approval Order. In addition, the Class Settlement
17 Website will include procedural information regarding the status of the Court-approval process,
18 such as an announcement of the Final Approval Hearing Date, when the Final Approval Order and
19 Judgment have been entered, and when the Effective Date has been reached. Claimants will be able
20 to submit their claims electronically via the Class Settlement Website.

21 5.1.3.2. The Class Settlement Website will terminate (be removed from the Internet)
22 and no longer be maintained by the Claims Administrator thirty (30) days after either (a) the
23 Effective Date or (b) the date on which the Class Action Settlement Agreement is terminated or
24 otherwise not approved by a court, whichever is later. The Claims Administrator will then transfer
25 ownership of the URL to Defendant.

26 5.1.3.3. All costs and expenses related to the Class Settlement Website shall be paid
27 by Defendant as part of the Administrative Costs as set forth in 5.1.1 and 5.1.1.1 of this Agreement.

28 5.1.4. Notice Plan

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1 5.1.4.1. The class notice shall conform to all applicable requirements of the Federal
2 Rules of Civil Procedure, the United States Constitution (including the Due Process Clauses), and
3 any other applicable law, and shall otherwise be in the manner and form agreed upon by the Parties
4 and approved by the Court. The class notice shall constitute the best notice that is practicable under
5 the circumstances.

6 5.1.4.2. Within thirty (30) days after preliminary approval by the Court of this Class
7 Action Settlement Agreement, the Claims Administrator shall provide notice to the Settlement
8 Class according to the Notice Plan.

9 5.1.4.3. The Notice Plan will include Internet and print notice. The Notice Plan will
10 have a calculated reach of seventy percent (70%) or greater, to be attested to by affidavit or
11 declaration of the Settlement Administrator. A true and correct copy of the initial proposal for the
12 Notice Plan is attached hereto as Exhibit A.

13 5.1.4.4. The Settlement Claims Administrator shall purchase the print notice and
14 other forms of notice associated with the Notice Plan, which shall be included in the amount paid to
15 Digital Settlement Group LLC and paid as set forth in 5.1.1 and 5.1.1.1.

16 5.1.4.5. The Parties agree to the content of these notices substantially in the forms
17 attached to this Agreement as Exhibits D and E.

18 5.1.5. Taxes

19 Settlement Class Members, the Class Representatives, and Class Counsel shall be
20 responsible for paying any and all federal, state, and local taxes due on any payments made to them
21 pursuant to the Class Action Settlement Agreement, if any.

22 **6. RELEASES**

23 6.1. Upon the Effective Date, the Class Representatives and each of the Settlement Class
24 Members will be deemed to have, and by operation of the Judgment will have fully, finally, and
25 forever released, relinquished, and discharged the Released Parties from all Released Claims during
26 the Class Period.

27 6.2 Plaintiffs fully understand that the facts upon which this Class Action Settlement
28 Agreement is executed may hereafter be other than or different from the facts now believed by the

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1 Plaintiffs and Class Counsel to be true and nevertheless agree that this Class Action Settlement
2 Agreement and the release shall remain effective notwithstanding any such difference in facts.

3 **7. CLASS CERTIFICATION**

4 7.1.1. The Parties agree that, for settlement purposes only, the *O'Brien* Action shall be
5 certified as a class action pursuant to Civil Code Section 382, with Class Representatives serving as
6 class representatives, and Class Counsel as counsel for the Settlement Class.

7 7.1.2. In the event the Class Action Settlement Agreement is terminated or for any reason
8 the Class Action Settlement Agreement is not effectuated, the certification of the Settlement Class
9 and the appointment of Class Counsel shall be vacated and the Actions shall proceed as if the
10 Settlement Class had not been certified and Class Counsel had not been appointed.

11 **8. SETTLEMENT HEARING**

12 8.1. Promptly after execution of this Class Action Settlement Agreement, Plaintiffs will
13 submit the Class Action Settlement Agreement together with its Exhibits to the Court and will
14 request that the Court grant preliminary approval of the Class Action Settlement Agreement, issue
15 the Preliminary Approval Order, and schedule a hearing on whether the Class Action Settlement
16 Agreement should be granted final approval and whether the Fee and Cost Application should be
17 granted (“Settlement Hearing”).

18 8.2. Procedures for Objecting to the Class Action Settlement Agreement

19 8.2.1. Settlement Class Members shall have the right to appear and show cause, if they
20 have any reason why the terms of this Class Action Settlement Agreement should not be given
21 Final Approval, subject to each of the subprovisions in Paragraph 8.2. Any objection to this Class
22 Action Settlement Agreement, including any of its terms or provisions, must be in writing, filed
23 with the Court, with a copy sent the Court and Class Counsel, Counsel for Defendant, and the
24 Claims Administrator at the addresses set forth in the Class Notice, and postmarked no later than
25 the Notice Response Deadline. Settlement Class Members may object either on their own or
26 through an attorney hired at their own expense.

27 8.2.2. If a Settlement Class Member hires an attorney to represent him or her at the Final
28 Approval Hearing, he or she must do so at his or her own expense.

1 8.2.3. Any objection regarding or related to the Class Action Settlement Agreement shall
2 contain a caption or title that identifies it as “Objection to Class Settlement in *O’Brien, et al. v.*
3 *Sunshine Makers, Inc.*, No. CIV-SB2027994” and also shall contain the following information: (i)
4 the objector’s name, address, and telephone number, (ii) the name, address, telephone number, and
5 email address of any attorney for the objector with respect to the objection; (iii) the factual basis
6 and legal grounds for the objection, including any documents sufficient to establish the basis for
7 their standing as a Settlement Class Member, e.g., receipt(s), or verification under oath as to the
8 approximate date(s) and location(s) of their purchase(s) of the Covered Products; and (iv)
9 identification of the case name, case number, and court for any prior class action lawsuit in which
10 the objector and the objector’s attorney (if applicable) has objected to a proposed class action
11 settlement, the general nature of such prior objection(s), and the outcome of said prior objection(s).
12 If an objecting party chooses to appear at the hearing, no later than the Notice Response Deadline, a
13 notice of intention to appear, either in person or through an attorney, must be filed with the Court
14 and list the name, address, telephone number, facsimile number, and email address of the attorney,
15 if any, who will appear.

16 8.2.4. If a Settlement Class Member wishes to present witnesses or evidence at the Final
17 Approval Hearing in support of a timely and validly submitted objection, all witnesses must be
18 identified in the objection, and true and correct copies of all supporting evidence must be appended
19 to, or filed and served with, the objection. Failure to identify witnesses or provide copies of
20 supporting evidence in this manner waives any right to introduce such testimony or evidence at the
21 Final Approval Hearing. While the declaration described above is prima facie evidence that the
22 objector is a member of the Settlement Class, Class Representatives or Defendant or both may take
23 discovery regarding the matter, subject to Court approval.

24 8.2.5. Any Class Member who does not timely object to the Class Action Settlement
25 Agreement or timely submit a Request for Exclusion is deemed to be a Settlement Class Member
26 and bound by the Class Action Settlement Agreement or any further orders of the Court in this
27 Action.

28 8.3. Right to Respond to Objections

1 8.3.1. Class Counsel and Defendant shall have the right, but not the obligation, to respond to
2 any timely filed objection no later than seven (7) days prior to the Final Approval Hearing. The
3 Settling Party so responding shall file a copy of the response with the Court, and shall serve a copy,
4 by regular mail, hand or overnight delivery, to the objector (or counsel for the objector) and to
5 counsel for Class Representatives and Defendant. Counsel for the Settling Parties agree to service
6 of such a response by email.

7 8.4. Opt Outs

8 8.4.1. Any Class Member who does not wish to participate in this Class Action Settlement
9 Agreement must make a Request for Exclusion in writing to the Claims Administrator stating an
10 intention to be “excluded” from this Class Action Settlement Agreement by the Opt-Out Date. This
11 written Request for Exclusion must be sent via first class United States mail to the Claims
12 Administrator at the address set forth in the Class Notice and postmarked no later than the Notice
13 Response Deadline. The Request for Exclusion must be personally signed by the Class Member.
14 So-called “mass” or “class” opt-outs shall not be allowed. A Class Member who timely submits a
15 valid Request for Exclusion pursuant to this paragraph shall not be a Settlement Class Member and
16 shall not be considered a party to this Action for any purpose.

17 8.4.2. Any Class Member who does not request exclusion from the Settlement has the right
18 to object to the Settlement as set forth in Paragraphs 8.2.1 to 8.2.5 above. If a Class Member
19 submits a written Request for Exclusion, he or she shall be deemed to have complied with the terms
20 of the opt-out procedure and shall not be bound by the Class Action Settlement Agreement if
21 approved by the Court. However, any objector who has not timely requested exclusion from the
22 Settlement will be bound by the terms of the Class Action Settlement Agreement and by all
23 proceedings, orders and judgments in the Action.

24 8.4.3. At least seven (7) calendar days prior to the Final Approval Hearing, Class Counsel
25 shall prepare or cause the Settlement Administrator to prepare a list of the persons who have
26 excluded themselves in a valid and timely manner from the Settlement Class (the “Opt-Outs”), and
27 Class Counsel shall file that list with the Court.
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9. ATTORNEYS’ FEES, COSTS, AND EXPENSES

9.1. Class Counsel may apply to the Court for an award of attorneys’ fees not to exceed One Million Four Hundred and Fifty Thousand Dollars (\$1,450,000), plus costs and expenses. This amount will be paid out of the Total Monetary Settlement Fund. Defendant shall pay or cause to be paid any attorney’s fees, costs and expenses awarded to Class Counsel and approved by the Court pursuant to the schedule set forth below.

9.1.1. Defendant will pay the award of Court-approved attorneys’ fees, costs, and expenses within thirty (30) days after entry of the Court’s final order approving the settlement and fee award, notwithstanding any appeal, subject to Class Counsel providing applicable tax I.D. number(s), providing payment routing information, and executing an undertaking in the form attached hereto as Exhibit B. If the Final Approval Order and Judgment or any part of it is vacated, overturned, reversed, or rendered void as a result of an appeal, or the Settlement Agreement is voided, rescinded, or otherwise terminated for any other reason, or the Court’s award of attorney fees, costs or expenses is reduced on appeal or otherwise prior to the Effective Date, then within thirty (30) days of such event, Class Counsel shall return to Defendant the attorneys’ fees, costs, and other payments received by Class Counsel under this paragraph, in the amounts and according to the procedures set forth in Exhibit B. The terms set forth in Exhibit B are expressly incorporated into this Class Action Settlement Agreement and shall be binding as if fully set forth herein.

9.2. Class Representatives may apply to the Court for incentive awards of \$5,000 each for their service as named plaintiffs and class representatives. The amount of the incentive awards ordered by the Court shall be paid out of the Total Monetary Settlement Fund and sent to Class Counsel within thirty (30) days after the Effective Date, subject to the prior delivery to Defendant of tax I.D. number(s) and address for delivery for each individual receiving such award.

10. CONDITIONS FOR EFFECTIVE DATE; EFFECT OF TERMINATION

10.1. The Effective Date of this Class Action Settlement Agreement shall be the date as defined in Paragraph 1.17.

10.2. If this Class Action Settlement Agreement is not approved by the Court or the Settlement is terminated or fails to become effective in accordance with the terms of this Class

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1 Action Settlement Agreement, the Settling Parties will be restored to their respective positions in
2 the Actions as of the date the Motion for Preliminary Approval is filed. In such event, the terms and
3 provisions of this Class Action Settlement Agreement rejected by the Court will have no further
4 force and effect with respect to the Settling Parties and will not be used in this Action or in any
5 other proceeding for any purpose, and any Judgment or order entered by the Court in accordance
6 with the rejected terms of this Class Action Settlement Agreement will be treated as vacated. The
7 Parties will meet and confer to cure the rejected provisions, or regarding a proposed class
8 certification schedule, and will submit to the Court a proposed schedule, or competing alternative
9 schedules if they cannot reach agreement.

10 **11. MISCELLANEOUS PROVISIONS**

11 11.1. The Parties acknowledge that it is their intent to consummate this Class Action
12 Settlement Agreement, and they agree to cooperate to the extent reasonably necessary to effectuate
13 and implement all terms and conditions of this Class Action Settlement Agreement and to exercise
14 their best efforts to accomplish the foregoing terms and conditions of this Class Action Settlement
15 Agreement.

16 11.2. The Parties intend the Settlement to be a final and complete resolution of all disputes
17 between them with respect to the Actions. The Settlement compromises claims that are contested
18 and will not be deemed an admission by any Settling Party as to the merits of any claim or defense.
19 The Parties agree that the consideration provided to the Settlement Class and the other terms of the
20 Settlement were negotiated in good faith by the Parties, and reflect a settlement that was reached
21 voluntarily after consultation with competent legal counsel.

22 11.3. Neither this Class Action Settlement Agreement nor the Settlement, nor any act
23 performed or document executed pursuant to or in furtherance of this Class Action Settlement
24 Agreement or the Settlement is or may be deemed to be or may be used as an admission of, or
25 evidence of, the validity of any Released Claims, or of any wrongdoing or liability of Defendant; or
26 is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission
27 of Defendant in any civil, criminal, or administrative proceeding in any court, administrative
28 agency or other tribunal. Any party to the Actions may file this Class Action Settlement Agreement

1 and/or the Judgment in any action that may be brought against it in order to support any defense or
2 counterclaim, including without limitation those based on principles of res judicata, collateral
3 estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim
4 preclusion or issue preclusion or similar defense or counterclaim.

5 11.4. Class Representatives and Class Counsel warrant and represent to Defendant that
6 they have no present intention of initiating any other claims or proceedings against Defendant, or
7 any of its affiliates, or any entity for the manufacture, distribution, or sale of the Covered Products
8 or any other product that is marketed or labeled using the "Simple Green" brand name, except for
9 the claims hereby settled. Class Representatives and Class Counsel warrant and represent to
10 Defendant that they have no present knowledge and are not presently aware of any factual or legal
11 basis for any such additional claims or proceedings, other than claims or proceedings that may
12 already be pending against Defendant.

13 11.5. All agreements made and orders entered during the course of the Actions relating to
14 the confidentiality of information will survive this Class Action Settlement Agreement.

15 11.6. Any and all Exhibits to this Class Action Settlement Agreement are material and
16 integral parts hereof and are fully incorporated herein by this reference.

17 11.7. This Class Action Settlement Agreement may be amended or modified only by a
18 written instrument signed by or on behalf of all Parties or their respective successors-in-interest.

19 11.8. This Class Action Settlement Agreement and any Exhibits attached hereto constitute
20 the entire agreement among the Parties and supersede any prior written or oral agreements on the
21 subject of settlement of either or both of the Actions, and no representations, warranties, or
22 inducements have been made to any Party concerning this Class Action Settlement Agreement or
23 its Exhibits other than the representations, warranties, and covenants covered and memorialized in
24 such documents. Except as otherwise provided herein, the Parties will bear their own respective
25 costs.

26 11.9. Class Counsel, on behalf of the Settlement Class, are expressly authorized by the
27 Class Representative to take all appropriate actions required or permitted to be taken by the
28 Settlement Class pursuant to this Class Action Settlement Agreement to effectuate its terms, and

1 are expressly authorized to enter into any modifications or amendments to this Class Action
2 Settlement Agreement on behalf of the Settlement Class that Class Counsel deem appropriate.

3 11.10. Each counsel or other Person executing this Class Action Settlement Agreement or
4 any of its Exhibits on behalf of any Party hereby warrants that such Person has the full authority to
5 do so.

6 11.11. This Class Action Settlement Agreement may be executed in one or more
7 counterparts. All executed counterparts and each of them will be deemed to be one and the same
8 instrument. The parties further agree that signatures provided by portable document format (PDF)
9 or other electronic transmission shall have the same force and effect as original signatures.

10 11.12. This Class Action Settlement Agreement will be binding upon, and inure to the
11 benefit of, the successors and assigns of the Settling Parties.

12 11.13. Except as provided herein, the Court will retain jurisdiction with respect to
13 implementation and enforcement of the terms of this Class Action Settlement Agreement, and all
14 parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing
15 the Settlement.

16 11.14. None of the Settling Parties, or their respective counsel, will be deemed the drafter of
17 this Class Action Settlement Agreement or its Exhibits for purposes of construing the provisions
18 thereof. The language in all parts of this Class Action Settlement Agreement and its Exhibits will
19 be interpreted according to its plain meaning, and will not be interpreted for or against any of the
20 Settling Parties as the drafter thereof.

21 11.15. This Class Action Settlement Agreement and any Exhibits hereto will be construed
22 and enforced in accordance with, and governed by, the internal, substantive laws of the State of
23 California without giving effect to that State's choice-of-law principles.

24 11.16. The time periods and/or dates described in this Settlement Agreement with respect
25 to the giving of notices and hearings are subject to approval and change by the Court or by the
26 written agreement of Class Counsel and Defendant's Counsel, without notice to Class Members.
27 The Parties reserve the right, by agreement and subject to the Court's approval, to grant any
28

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1 reasonable extension of time that might be needed to carry out any of the provisions of this
2 Settlement Agreement.

3 11.17. If the date for performance of any act required by or under this Settlement
4 Agreement falls on a Saturday, Sunday, or court holiday, that act may be performed on the next
5 business day with the same effect as if it had been performed on the day or within the period of
6 time specified by or under this Settlement Agreement.

7 11.18. Except as otherwise provided herein, all notices, requests, demands, and other
8 communications required or permitted to be given pursuant to this Class Action Settlement
9 Agreement shall be in writing and shall be delivered either by email with a copy by U.S. mail or by
10 overnight mail to the undersigned counsel for the Parties at their respective addresses.

11 11.19. To the extent Class Counsel wish to issue any general or public communication
12 about the settlement, any such public statement shall be limited to publicly available information
13 and documents filed in the Actions and/or in a form mutually agreed upon by Class Counsel and
14 Defendant's Counsel.

15
16 DATED: February 18, 2021

DocuSigned by:
Christopher O'Brien
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Christopher O'Brien

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18 DATED: February 20, 2021

DocuSigned by:
Tiffany Kipikasha
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Tiffany Kipikasha

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21 DATED: February 18, 2021

DocuSigned by:
Michelle Moran
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Michelle Moran

22
23 DATED: February __, 2021

Sunshine Makers, Inc.
By:
Its:

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9255 Sunset Blvd., Suite 804
Los Angeles, CA 90069

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15
16 DATED: February __, 2021

Christopher O'Brien

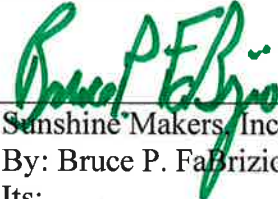
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18 DATED: February __, 2021

Tiffany Kipikasha

19
20 DATED: February __, 2021

Michelle Moran

21
22 DATED: February ²²__, 2021

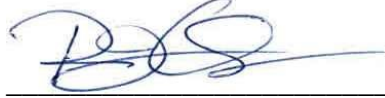


Sunshine Makers, Inc.
By: Bruce P. Fabrizio
Its:

1 **APPROVED AS TO FORM:**

2 DATED: March 16, 2021

CLARKSON LAW FIRM, P.C.

3 

4 _____
5 Ryan J. Clarkson, Esq.
6 Katherine A. Bruce, Esq.
7 Lauren E. Anderson, Esq.

8 DATED: February __, 2021

MOON LAW APC

9 _____
10 Christopher D. Moon, Esq.
11 Kevin O. Moon, Esq.

12 *Attorneys for Plaintiffs*

13 DATED: February __, 2021

DIEPENBROCK ELKIN DAUER
MCCANDLESS LLP

14 _____
15 Eileen M. Diepenbrock, Esq.
16 Jennifer L. Dauer, Esq.

17 *Attorneys for Defendant Sunshine Makers, Inc.*

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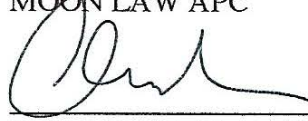
APPROVED AS TO FORM:

DATED: February __, 2021

CLARKSON LAW FIRM, P.C.

Ryan J. Clarkson, Esq.
Katherine A. Bruce, Esq.
Lauren E. Anderson, Esq.

DATED: February 7, 2021

MOON LAW APC


Christopher D. Moon, Esq.
Kevin O. Moon, Esq.

Attorneys for Plaintiffs

DATED: February __, 2021

DIEPENBROCK ELKIN DAUER
MCCANDLESS LLP

Eileen M. Diepenbrock, Esq.
Jennifer L. Dauer, Esq.

Attorneys for Defendant Sunshine Makers, Inc.

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APPROVED AS TO FORM:

DATED: February __, 2021

CLARKSON LAW FIRM, P.C.

Ryan J. Clarkson, Esq.
Katherine A. Bruce, Esq.
Lauren E. Anderson, Esq.

DATED: February __, 2021

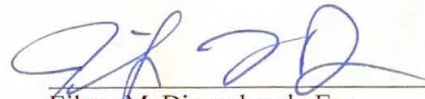
MOON LAW APC

Christopher D. Moon, Esq.
Kevin O. Moon, Esq.

Attorneys for Plaintiffs

DATED: February 23, 2021

DIEPENBROCK ELKIN DAUER
MCCANDLESS LLP



Eileen M. Diepenbrock, Esq.
Jennifer L. Dauer, Esq.

Attorneys for Defendant Sunshine Makers, Inc.

CLASS NOTICE AND ADMINISTRATION

1. The key purpose of this document is to provide the Court with Digital Settlement Group's qualifications and experience regarding this Class Action Notice Plan and to provide additional details and background on what will be executed per the Service Agreement.
2. As the Class Action Settlement Administrator for the Settlement, our duties and responsibilities for administering the Settlement includes the following (1) arranging for the distribution of the Class Notice and Claim Forms to Settlement Class Members; (2) arranging for publication of the Publication Notice; (3) answering written inquiries from Settlement Class Members and/or forwarding such inquiries to Class Counsel or their designee; (4) receiving and maintaining on behalf of the Court and the Parties any Settlement Class Member correspondence regarding requests for exclusion to the Settlement; (5) establishing the Settlement Website that posts notices, Claim Forms and other related documents; (6) establishing a toll-free telephone number; (7) receiving and processing claims; (8) submitting a declaration attesting to the dissemination of the Class Notice and the number of claims received; (9) providing weekly reporting to Counsel throughout the noticing and claims process to allow for thorough oversight.

EXPERIENCE

3. Digital Settlement Group has served as a court-approved notice provider in dozens of state and federal court class actions and has worked in the class action category for over ten years and provided expertise in Internet notice to some of the largest class action administration companies in the industry, including the following class actions: *Keller v. Gaspari Nutrition*, No. CV11-06158 (C.D. Cal.); *Taromina, v. Gaspari Nutrition*, No. CV12-05424 (C.D. Cal.); *Wike v. HCG Platinum, LLC*, No. BC451080 (Los Angeles County Superior Court). More recently, we managed notice and administration for *Garcia v. Iovate Health Sciences USA Inc.* (Santa Barbara County Superior Court) (National indirect purchaser class of a consumer product at retail); *Iglesias v. Ferrara Candy Company*, No. 3:17-cv-00849-VC (N.D. Cal.) (National purchaser class of opaque theater candy box products at retail); and *Mateski, et al. v. Just Born, Inc.*, Case No. CIVDS1926742, (San Bernardino County Superior Court) (National purchaser class of opaque theater candy box products at retail).
4. In approving *In Re: Wellnx Marketing & Sales Practices* (a national, 18-state multidistrict class action litigation with a substantial indirect purchaser class), the Court noted: "the effort to provide notice to the class went well beyond what due process would require at its minimum. In fact, it was both an intelligent and effusive, if I can use that word, notification process, which has given me new some ideas for similar cases in the future for the proper way of giving notice in a case like this where it is hard to otherwise ascertain the

identity of the class members.”

5. Additionally, Digital Settlement Group has over twenty years of marketing experience with a specialty in television and Internet advertising, including managing the official online sites for 20th Century Fox on behalf of News Corporation from 1993 to 1996. Our founders have served as a marketing consultant to a variety of consumer product companies, where responsibilities included creative directing national marketing campaigns and producing and directing national television commercials (which have been featured in trade magazines, like *Advertising Age*, and generated hundreds of millions of dollars in retail revenue). Digital Settlement Group personally managed tens of millions of dollars in Internet advertising for consumer products. Due to the extensive Internet marketing experience, our area of specialty is providing class notice in cases where the identities of individual Class Members are not known, including classes comprised of purchasers of consumer products. *See Arreguin v. Telebrands*, No. CIVRS1307798 (San Bernardino County Superior Court) (Indirect purchaser class of nationwide Pocket Hose consumer product.); and *Eggatz et al v. The Kellogg Company et al*, No. 1:12-cv-21678 (S.D. Fla.) (Indirect purchaser class of nationwide Kashi products with no direct mail component.)

OVERVIEW OF THE NOTICE PLAN

6. This Litigation¹ involves products sold predominantly at retail, so the identity of purchasing Class Members is not readily known. In such cases, Internet and publication notice are the best ways to inform Class Members about the Settlement. Digital Settlement Group relies heavily on recommendations from the Federal Judicial Center’s Judges’ Class Action Notice and Claims Process Checklist and Plain Language Guide (“Claims Guide”) in designing its notice plans.

7. DSG developed a comprehensive notice program consisting of efficient media vehicles with the objective of reaching a substantial portion of Class Members. A detailed breakout of the notice plan is outlined in the Service Agreement. DSG believes this provides the best practicable methods to reach potential class members and has seen successful results in similar plans with similar class members.

8. Before any of the notices begin, DSG will review all materials and work with Counsel to help comply with Claims Guide recommendations and timelines. All the advertisements will direct potential Class Members to the Settlement Website, where they will be able to download all important documents, review frequently asked questions, and file a claim either online and/or via postal as stated in the agreement. Administration will notify claimants of any missing or invalid claim information after the Approval Hearing. The print advertisements will also have address and phone information in case individuals cannot access a

¹All defined terms contained herein shall have the same meanings as set forth in the Settlement Agreement and Release between the parties.

computer. A toll-free number with an Interactive Voice Response (“IVR”) system will also be available to answer potential questions.

9. One of the concerns noted in the Claims Guide is that claims administrators are “often accountants by training and may lack personal knowledge or the training to conduct reach analyses.” Digital Settlement Group, however, has extensive expertise in marketing and media-planning that is essential to conducting reach analysis that has been approved by Courts in similar cases with a large indirect purchaser class.

10. The notice plan is supported by “unbiased evidence supporting the plan’s adequacy” as recommended by the Claims Guide. DSG uses data from industry-standard reporting tools GfK MRI and comScore. GfK MRI is part of the GfK Group, the fourth largest market research organization worldwide. They are a leader in supplying the audience data for almost all national print campaigns in the country and their Survey of the American Consumer produces one of the country's largest and most current database of consumer behavior, media usage and consumer motivations. comScore is the leading cross-platform measurement company that provides independent data, metrics, products and services to clients in the media, advertising and marketing industries. They provide digital media analytics that help advertisers understand the composition, reach, and frequency of consumer media audiences. The accuracy of reporting from both GfK MRI and comScore has been approved by Courts in previous notice plans we’ve developed.

11. Our notice programs create the best practicable plan because they are designed in the same way a company would design an advertising campaign to sell that very same product. Specifically, we use industry standard advertising tools to identify media properties where purchasers of household cleaning products were most likely to be located. In addition, the methods used have been approved in multiple cases with a substantial indirect purchaser class (*see Arreguin and Eggnatz*).

SETTLEMENT WEBSITE

12. Digital Settlement Group will create and maintain a dedicated web site for the Class Members to learn about the Settlement. It will feature the ability to download all relevant documents (in industry standard PDF format), including Claim Forms, Important Dates, Frequently Asked Questions, Long Form Notice, and the Short Form notice. The site will be designed for broad compatibility with browsers and platforms using best practices.

13. All traffic to the site will be monitored with proprietary fraud detection systems, similar to those used on e-commerce platforms, to help ensure legitimate Class Members receive the maximum benefit. A third-party monitoring service will check the site at regular intervals to ensure the site is functioning properly and, if required, provide an independent report on the total up-time of the site. The Settlement Web Site will be

updated in a timely manner, based upon the Court-approved schedule. For example, when the deadline for filing a claim has passed, that option will be removed from the site.

CONSUMER PUBLICATION

14. The print publication was selected for its efficiency and reach with the targeted class. While the Internet has a high saturation of consumer product customers (and continues to grow), a targeted print publication element has been proposed to ensure potential class members with limited Internet access or usage are not neglected. To develop the print notice, both proprietary data from previous notice plans and GfK MRI was used to evaluate the reach to the class. As noted earlier, the goal of the campaign is to reach the defined class. In addition to raw data, an extensive marketing analysis was performed to ensure publications targeted this class. By targeting a widely read publication with a high index the print publication portion is designed to effectively supplement the Internet notice portion of the plan and help provide additional reach especially to consumers that are less likely to be online.

15. The print publication selected is *Real Simple*. This publication is more likely than average to have “household cleaner consumers” as readers and has a circulation of 1,975,000. The publication will be presented in 1/3 page vertical format.

16. DSG will also release a press release, with language to be agreed upon by Counsel, through PR Newswire. PR Newswire is the industry’s largest content distribution network reaching more than 4,000 US websites, nearly 3,000 media outlets, and more than 550 news content systems. The network also includes PR Newswire for Journalists, an exclusive, media-only community with over 20,000 daily unique visitors.

INTERNET ADVERTISEMENTS

17. The Internet is an extremely powerful tool for reaching potential class members and driving them to the settlement website. According to Pew Research (2019), 90% of all adults in the United States use the Internet, up from 79% in 2010. Over a decade of Internet marketing experience has been leveraged to design the most effective plan.

18. DSG will target Class Members with impressions on the *ComScore Ranked Tier 1 websites* over the course of 30 days, as defined in the agreement. An impression is defined as when the internet ad is shown or loaded on a Website. The sites selected for the Internet notice reach at least 70% or higher of the Internet population and are the most popular on the United States Internet, based upon comScore data. This notice plan will deliver impressions using interest, and/or behavioral targeting. Whenever possible and cost effective, behavioral and “transactional targeting” from the site, networks or 3rd party sources will be used to deliver advertisements to users who have purchased the product or shown interest in a specific product or category.

Digital Settlement Group will also use targeted native ads to help provide information to those individuals that may not fall into the other targeted segments. Unlike traditional media (like print publications), this allows a notice plan to target potential class members more accurately with significantly fewer “wasted” impressions.

19. In addition, targeted “search terms” advertisements on popular search engines and networks will be incorporated into the plan. Per the *Claims Guide*, this is to help satisfy “extra effort” where the class is “highly concentrated.” Whenever possible and cost effective, settlement notice advertisements will be targeted based on past user behavior. In addition, contextual, in-market, topic and affinity targeting are used to ensure the most relevant audience is reached. This type of advertising targets the right potential class members at the right time.

20. The Internet notice program will consist of over 55 million targeted Internet impressions on Tier 1 properties (e.g., Verizon, Google, Facebook), using third-party tools to verify reach and frequency. Behaviors, interests, and topics will be used to target the notice in the most efficient manner. For example, targeting will include adults in the United States who are known to have purchased “household cleaning products.”

21. The notice advertisements are designed to “command class members’ attention” and “are written in a clear, concise and easily understood language.”² Clicking on the links will direct the Class Member to the Settlement Website where they will have quick access to a printable and online Claim Form. Examples of the Internet advertisements can be seen in Exhibit 1. Digital Settlement Group will submit weekly reports with detailed statistics to Counsel and adjust the notice plan on an as needed basis.

SUMMARY

22. The notice plan has been designed to reach the largest target audience in a cost-efficient and timely manner. Furthermore, the notice plan provides the best notice practicable, with similar reach to other Court-approved notice plans in the same product category. It has been designed to reach at least 70% of the class, allowing for duplication across medium and utilizing third-party-reporting tools that have been accepted in similar cases.

23. Based on Digital Settlement Group’s class action notice planning experience, described above in Paragraphs above the methods utilized in this Notice Program will be consistent with other effective class action settlement notice plans that our team has developed. And it is my professional opinion that the Class Action

² See *Claims Guide* at 1, 5.

Notice Plan will provide the best notice practicable and meets the desire to actually inform. Furthermore, it provides the same reach and frequency evidence that Courts have approved in previous settlements.

EXHIBIT B

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

CHRISTOPHER O'BRIEN and TIFFANY
KIPIKASHA, individually and on behalf of
all others similarly situated,

Plaintiff,

vs.

SUNSHINE MAKERS, INC., a California
corporation,

Defendant.

Case No. CIVSB2027994

**UNDERTAKING RE ATTORNEYS'
FEES AND COSTS**

Honorable Judge David Cohn

Department S-26

Complaint Filed: December 18, 2020

WHEREAS, Ryan J. Clarkson, individually, and Clarkson Law Firm, P.C. desire to give an undertaking (the "Undertaking") for repayment of the award of attorneys' fees and costs, as required by the Settlement Agreement agreed to by the Parties in the above-captioned matter, and approved by the Court, and

WHEREAS, the provision of this Undertaking by Ryan Clarkson and Clarkson Law Firm, P.C. was negotiated and agreed upon between Defendant, Plaintiff and Class Counsel as part of the negotiations of the Settlement Agreement, and is a material term of the Settlement Agreement;

NOW, THEREFORE, Clarkson Law Firm, P.C., and Ryan J. Clarkson, on behalf of himself as an individual and as agent for Clarkson Law Firm, P.C., hereby submits himself and his law firm to the jurisdiction of the Court, and Moon Law APC submits itself to the jurisdiction of the Court, for the purpose of enforcing the provisions of the Settlement Agreement and this Undertaking.

Capitalized terms used herein without definition have the meanings given to them in the Settlement Agreement.

By receiving any payments pursuant to the Settlement Agreement, Clarkson Law Firm, P.C. and Moon Law APC and their shareholders, members, and/or partners submit to the

CLARKSON LAW FIRM, P.C.
9255 Sunset Blvd., Suite 804
Los Angeles, CA 90069

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Los Angeles, CA 90069

1 jurisdiction of the Superior Court of California for the County of Santa Bernardino for the
2 enforcement of and any and all disputes relating to or arising out of the reimbursement obligation
3 set forth herein and in the Settlement Agreement.

4 As set forth in Section 9.1 of the Settlement Agreement, Sunshine Makers will pay Class
5 Counsel the attorneys’ fees approved by the Court, up to a maximum of one-third of the
6 Settlement Fund, plus costs and expenses, within thirty (30) days after the Court’s Final Approval
7 Order and Judgment approving the Settlement and fee award.

8 If the Final Approval Order and Judgment or any part of it is vacated, overturned,
9 reversed, or rendered void as a result of an appeal, or the Settlement Agreement is voided,
10 rescinded, or otherwise terminated for any other reason, then, within thirty (30) days of such
11 event, Class Counsel shall repay to Defendant the attorneys’ fees, costs, and other payments
12 received by Class Counsel under the Settlement Agreement, including any accrued interest at the
13 rate of five percent (5%) per annum, in the amounts and according to the procedures set forth
14 herein.

15 If the Final Approval Order and Judgment is not reversed on appeal, in whole or in part,
16 but the attorneys’ fees and costs awarded by the Court are vacated or modified on appeal, Class
17 Counsel shall, within thirty (30) days of such event, repay to Defendant the attorneys’ fees and
18 costs in the amount vacated or modified, including any accrued interest.

19 By this Undertaking, Clarkson Law Firm, P.C. and Ryan J. Clarkson, Esq. individually,
20 hereby confirm that they are jointly and severally liable for Class Counsel’s obligations to return
21 such payments pursuant to this Undertaking and Paragraph 9.1. of the underlying Settlement
22 Agreement.

23 This Undertaking and all obligations set forth herein shall expire upon finality of all direct
24 appeals of the Final Order and Judgment.

25 In the event Class Counsel fails to repay to Defendant any attorneys’ fees, costs and
26 interest that are owed pursuant to this Undertaking, Clarkson Law Firm, P.C. and Ryan J.
27 Clarkson, Esq. individually agree that the Court may, upon application of Defendant, and notice
28 to Class Counsel, summarily issue orders, including but not limited to judgments and attachment

CLARKSON LAW FIRM, P.C.
9255 Sunset Blvd., Suite 804
Los Angeles, CA 90069

1 orders against Clarkson Law Firm, P.C., including without limitation its successors and assigns,
2 and Ryan J. Clarkson, Esq. individually for the unpaid sum. Clarkson Law Firm, P.C., including
3 without limitation its successors and assigns, and Ryan J. Clarkson shall be jointly and severally
4 liable for any attorneys' fees and costs incurred to obtain such an order.

5 In the event that Clarkson Law Firm, P.C. and/or Ryan J. Clarkson have not paid in full
6 all amounts owed to Defendants, including without limitation interest and attorneys' fees and
7 costs due, within thirty (30) days of the entry of an order or judgment directing such payment,
8 then Moon Law APC agrees that, upon application of Defendant, and notice to Class Counsel,
9 the Court may summarily issue orders, including but not limited to judgments and attachment
10 orders against Moon Law APC or its successors or assigns for the unpaid sum, including without
11 limitation any attorneys' fees and costs incurred to obtain such an order and any order obtained
12 against Clarkson Law Firm, P.C. and/or Ryan J. Clarkson.

13 Clarkson Law Firm, P.C. represents that, as of the date of this Undertaking, it has no intent
14 to cease operating, merge, dissolve, or otherwise materially change its business structure or
15 operations during the time this Undertaking is anticipated to remain effective. Should Clarkson
16 Law Firm, P.C. change its business name or structure (including without limitation by merger or
17 division into separate firms) while this Undertaking remains in place, then Clarkson Law Firm,
18 P.C. agrees that any successor entity shall remain fully liable under this Undertaking, and
19 Clarkson Law Firm, P.C. shall take all actions necessary to ensure that any successor entity is
20 aware of and remains liable under this Undertaking.

21 The undersigned represents and warrants that they have actual and apparent authority to
22 enter into this undertaking on behalf of themselves and their law firms.

23 The undersigned declares under penalty of perjury under the laws of the State of
24 California and the United States that he has read and understands the foregoing and that it is true
25 and correct.

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27
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1 DATED: February __, 2021

CLARKSON LAW FIRM, P.C.

2

3

Ryan J. Clarkson, Esq., individually and on
behalf of Clarkson Law Firm, P.C.

4

5 DATED: February __, 2021

MOON LAW APC

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Christopher D. Moon, Esq., individually and
on behalf of Moon Law APC

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Attorneys for Plaintiffs

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CLARKSON LAW FIRM, P.C.
9255 Sunset Blvd., Suite 804
Los Angeles, CA 90069

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

Settlement Proof of Claim Form

If you purchased one or more of the following products: (1) Simple Green All-Purpose Cleaner; (2) Simple Green All-Purpose Cleaner (Fresh); (3) Simple Green All-Purpose Cleaner (Lemon); (4) Simple Green All-Purpose Cleaner (Lavender); (5) Simple Green Oxy Solve Total Outdoor Cleaner; (6) Simple Green Oxy Solve House and Siding Cleaner; (7) Simple Green Oxy Solve Concrete and Driveway Cleaner; (8) Simple Green Oxy Solve Deck and Fence Cleaner; (9) Simple Green Wash & Wax; (10) Simple Green All-Purpose Wipes; (11) Simple Green All-Purpose Wipes (Lemon); (12) Simple Green Multi-Purpose Foaming Cleaner; (13) Simple Green Carpet Cleaner; (14) Simple Green Marine All-Purpose Boat Cleaner; (15) Simple Green Heavy Duty BBQ & Grill Cleaner; (16) Simple Green Heavy Duty BBQ & Grill Cleaner (Aerosol); (17) Simple Green Oxy Dog Stain & Odor Oxidizer; (18) Simple Green Bio Dog; (19) Simple Green Advanced Dog Bio Boost Stain & Odor Remover; (20) Simple Green Cat Pet Stain & Odor Remover; or (21) Simple Green Outdoor Odor Eliminator, in any size and packaging type (the "Class Products"), you may be eligible to participate in the benefits of the proposed settlement in *O'Brien v. Sunshine Makers, Inc.* To participate, you must fill this claim form out completely and either (i) mail it to the address given below, or (ii) submit it online through the Settlement website below. This Claim form must be postmarked or electronically filed no later than [REDACTED], 2021. If you provide incomplete or inaccurate information, your claim may be denied.

- Please read the full notice of this settlement (available at www.SimpleGreenNonToxicSettlement.com) before filling out this Form.
- To be eligible to receive any benefits from the settlement obtained in this class action lawsuit, you must complete or submit your claim form online or by mail:
ONLINE: Visit www.SimpleGreenNonToxicSettlement.com and submit your claim online; or
MAIL: Simple Green Non-Toxic Settlement Claims Administrator, 8001 Broadway, Suite 200, Merrillville, IN 46410.
- Keep a copy of your completed Claim Form for your records. Any documents you submit with your Claim Form cannot be returned.
- If your claim is rejected for any reason, the Claims Administrator will notify you of the rejection and the reasons for such rejection.

PART A: CLAIMANT INFORMATION

FIRST NAME	LAST NAME	
STREET ADDRESS		
STREET ADDRESS 2		
CITY	STATE	ZIP CODE
EMAIL ADDRESS	PHONE NUMBER	

PART B: PURCHASE INFORMATION

- To be eligible for a payment you must not have previously received a refund for your purchase of the Class Product.
- To qualify for a cash award, you must have purchased one or more Class Products.
 - a. If you provide a copy of a receipt or receipts memorializing the purchase of the Class Products ("Proof of Purchase"), you will receive a refund of \$3.00 for each Class Product purchased up to the total amount of units purchased that are submitted with Proof of Purchase.
 - b. If you do not provide a valid receipt memorializing the purchase of the Class Products, but complete this Claim Form under penalty of perjury, you will receive a refund of \$3.00 per Class Product purchased, up to ten (10) Class Products purchased, for a total refund of up to \$30.00.
 - c. If there is still money left over in the Claim Fund, your refund will be increased on a pro rata basis with the refunds of other Settlement Class Members until the Claim Fund is spent. If there is not enough money in the Claim Fund to pay the amounts listed

above to all Settlement Class Members, your refund will be decreased on a pro rata basis with the refunds of other Settlement Class Members.

- Please fill out the chart below identifying the purchase transaction(s) for which you are making a claim:

TOTAL NUMBER OF CLASS PRODUCTS

Write the **total number** of Class Products you purchased in the United States between May 12, 2016 and [redacted], 2021 in the chart below:

Number of Product Purchased	Approximate Date of Purchase

Please choose one of the following:

- (a) Check here if you are uploading or mailing Proof of Purchase documentation with this claim form:

If you are submitting this Claim Form by mail, please mail a copy of your receipt(s) memorializing the purchase of the Class Products along with this Claim Form to Simple Green Non-Toxic Claims Administrator, 8001 Broadway, Suite 200, Merrillville, IN 46410.

- (b) Check here if you are making a claim without a Proof of Purchase.

***Failure to include Proof of Purchase for claims for which a Proof of Purchase is required will result in the reduction of your claims.**

***Submission of false or fraudulent information will result in the claim being rejected in its entirety.**

PART C: ATTESTATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury under the laws of the United States of America that I purchased the products listed between May 12, 2016 and [redacted], 2021 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 and that I may be required to provide additional information to establish that my claim is valid. I also understand that by submitting this claim, I am releasing all Released Claims, as detailed in the Notice of the Proposed Class Action Settlement.

[Signature line]

SIGNATURE

[Date line]

DATE



CLAIM FORM REMINDER CHECKLIST

Before submitting this Claim Form, please make sure you:

- 1 Complete all fields in the Claimant Information section of this Claim Form in Part A.
- 2 Complete Part B, indicating the number of Class Products you purchased and whether you are claiming either enclosing Proof of Purchase, or whether you are claiming a refund without Proof of Purchase for \$3.00 per Class Product purchased for up to 10 Class Products purchased and a total of up to \$30.00 in payment.
- 3 Sign the Attestation under penalty of perjury in Part C. You must sign the Attestation to be eligible to receive benefits.
- 4 Keep a copy of your Claim Form and supporting documentation for your records.
- 5 If you desire an acknowledgment of receipt of your Claim Form, please complete the online Claim Form or mail this Claim Form via Certified Mail, Return Receipt Requested.

6 If you move or your name changes, please email your new address, new name or contact information to info@SimpleGreenNonToxicSettlement.com or mail to the Simple Green Non-Toxic Settlement Claims Administrator, 8001 Broadway, Suite 200, Merrillville, IN 46410., or call toll-free at 1-877-452-8477.

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

If you bought one of the following products: (1) Simple Green All-Purpose Cleaner; (2) Simple Green All-Purpose Cleaner (Fresh); (3) Simple Green All-Purpose Cleaner (Lemon); (4) Simple Green All-Purpose Cleaner (Lavender); (5) Simple Green Oxy Solve Total Outdoor Cleaner; (6) Simple Green Oxy Solve House and Siding Cleaner; (7) Simple Green Oxy Solve Concrete and Driveway Cleaner; (8) Simple Green Oxy Solve Deck and Fence Cleaner; (9) Simple Green Wash & Wax; (10) Simple Green All-Purpose Wipes; (11) Simple Green All-Purpose Wipes (Lemon); (12) Simple Green Multi-Purpose Foaming Cleaner; (13) Simple Green Carpet Cleaner; (14) Simple Green Marine All-Purpose Boat Cleaner; (15) Simple Green Heavy Duty BBQ & Grill Cleaner; (16) Simple Green Heavy Duty BBQ & Grill Cleaner (Aerosol); (17) Simple Green Oxy Dog Stain & Odor Oxidizer; (18) Simple Green Bio Dog; (19) Simple Green Advanced Dog Bio Boost Stain & Odor Remover; (20) Simple Green Cat Pet Stain & Odor Remover; and (21) Simple Green Outdoor Odor Eliminator, in any size or packaging type, between May 12, 2016 and [REDACTED], 2021, then you could be entitled to money from a class action settlement.

A court authorized this notice. This is not a solicitation from a lawyer.

- A settlement has been reached between Sunshine Makers, Inc. (“Defendant”) and Christopher O’Brien and Tiffany Kipikasha (“Class Representatives” or “Plaintiffs”), individually and on behalf of the Settlement Class. The settlement resolves two class-action lawsuits (the other is *Moran v. Sunshine Makers, Inc.*, Case No. 4:20-cv-03242, United States District Court for the Northern District of California) about allegations that Defendant misleadingly advertises, labels, and packages certain Simple Green cleaning products as being “non-toxic,” despite the products allegedly posing a risk of harm to humans, animals, and/or the environment. Defendant denies the allegations, including denying that its products are toxic. The Court did not rule in favor of either side. The parties agreed to the settlement to avoid the expense and risks of continuing the lawsuit.
- You are a class member if you are a resident of the United States who purchased one or more of the following products: (1) Simple Green All-Purpose Cleaner; (2) Simple Green All-Purpose Cleaner (Fresh); (3) Simple Green All-Purpose Cleaner (Lemon); (4) Simple Green All-Purpose Cleaner (Lavender); (5) Simple Green Oxy Solve Total Outdoor Cleaner; (6) Simple Green Oxy Solve House and Siding Cleaner; (7) Simple Green Oxy Solve Concrete and Driveway Cleaner; (8) Simple Green Oxy Solve Deck and Fence Cleaner; (9) Simple Green Wash & Wax; (10) Simple Green All-Purpose Wipes; (11) Simple Green All-Purpose Wipes (Lemon); (12) Simple Green Multi-Purpose Foaming Cleaner; (13) Simple Green Carpet Cleaner; (14) Simple Green Marine All-Purpose Boat Cleaner; (15) Simple Green Heavy Duty BBQ & Grill Cleaner; (16) Simple Green Heavy Duty BBQ & Grill Cleaner (Aerosol); (17) Simple Green Oxy Dog Stain & Odor Oxidizer; (18) Simple Green Bio Dog; (19) Simple Green Advanced Dog Bio Boost Stain & Odor Remover; (20) Simple Green Cat Pet Stain & Odor Remover; and (21) Simple Green Outdoor Odor Eliminator, in any size or packaging type (“Settlement Class Products”), between May 12, 2016 and [REDACTED].
- The settlement provides cash payments based on the number of Settlement Class Products purchased. Class members with proof of purchase may submit a claim for three dollars (\$3.00) per Settlement Class Product purchased. Class members without proof of purchase may submit a claim for three dollars (\$3.00) per Settlement Class Product purchased for up to ten (10) Settlement Class Products purchased, totaling up to thirty dollars (\$30.00). These amounts will be increased proportionally (pro rata) if the total number of claims does not exhaust the available settlement funds.

These amounts will be reduced proportionally (pro rata dilution) if the total number of claims exceeds the available settlement funds.

Please read this Notice carefully and in its entirety. Your rights may be affected by the settlement of this Lawsuit, and you have a choice to make now about how to act:

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
SUBMIT A VALID CLAIM BY [REDACTED], 2021	The only way to get a cash payment, if you qualify.
EXCLUDE YOURSELF FROM THE CLASS BY [REDACTED], 2021	This is the only option that allows you to be part of any other lawsuit against Defendant about the legal claims in this case.

OBJECT TO THE SETTLEMENT BY , 2021	Tell the Court about why you don't like the settlement.
GO TO A HEARING ON , 2021	Ask to speak in Court about the settlement.
DO NOTHING	Get no benefits. Give up rights to be part of any other lawsuit against Defendant about the legal claims in this case.

- These rights and options—**and the deadlines to exercise them**—are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the settlement. Cash payments for valid claims will be issued only if the Court approves the settlement and after the time for appeals has ended and any appeals are resolved. Please be patient.

WHAT THIS NOTICE CONTAINS

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2. What is the lawsuit about?
3. Why is this a class action?
4. Why is there a settlement?

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5. How do I know if I am part of the settlement?
6. I'm still not sure if I'm included in the settlement.

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8. What am I giving up in exchange for the settlement benefits?

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- 21. What happens if I do nothing at all?

GETTING MORE INFORMATIONPAGE 10

- 22. How do I get more information?

BASIC INFORMATION

1. Why was this notice issued?

A Court authorized this notice because you have a right to know about the proposed settlement in this class action lawsuit, and about all of your options, before the Court decides whether to give "final approval" to the settlement. This notice explains the lawsuit, the settlement, and your legal rights.

The case is known as *O'brien vs. Sunshine Makers, Inc., Superior Court of the State of California, County of San Bernardino*, Case No. CIV-SB-2027994 (the "Action"). The persons who sued are called the Plaintiffs. The company they are suing, Sunshine Makers, Inc., is called the Defendant.

2. What is the lawsuit about?

On December 18, 2020, the Plaintiffs filed a legal action on behalf of themselves and all others similarly situated alleging that Defendant violated certain consumer protection laws in advertising, labeling, and packaging of Settlement Class Products, and that Plaintiffs were economically injured by relying on product label claims that the formulas are "non-toxic."

Defendant denies any wrongdoing whatsoever, denies any liability arising out of any of the facts or conduct alleged in the Action, and believes that it has valid defenses to the allegations.

The Court has not decided whether Defendant did anything wrong or whether Plaintiffs' claim is proper, and the settlement does not mean that Defendant violated the law or that Plaintiffs' claims were valid.

3. Why is this a class action?

In a class action one or more people called "Class Representatives" (in this case, Christopher O'brien and Tiffany Kipikasha) sue on behalf of people who have similar claims. All of these people or entities are a "Class" or "Class Members." One court resolves the issues for all Class Members, except for those who exclude themselves from the Class.

4. Why is there a settlement?

Both sides agreed to the settlement to avoid the cost and risk of further litigation and trial. The settlement does *not* mean that any law was broken. Defendant denies all of the legal claims in this case. The Class Representatives and the lawyers representing them think the settlement is best for all Class Members.

WHO IS IN THE SETTLEMENT?

To see if you are affected or if you can get benefits, you first have to determine whether you are a Settlement Class member.

5. How do I know if I am part of the settlement?

You are a member of the Settlement Class if you both purchased for personal use, and not for re-sale, one or more of the following Settlement Class Products: (1) Simple Green All-Purpose Cleaner; (2) Simple Green All-Purpose Cleaner (Fresh); (3) Simple Green All-Purpose Cleaner (Lemon); (4) Simple Green All-Purpose Cleaner (Lavender); (5) Simple Green Oxy Solve Total Outdoor Cleaner; (6) Simple Green Oxy Solve House and Siding Cleaner; (7) Simple Green Oxy Solve Concrete and Driveway Cleaner; (8) Simple Green Oxy Solve Deck and Fence Cleaner; (9) Simple Green Wash & Wax; (10) Simple Green All-Purpose Wipes; (11) Simple Green All-Purpose Wipes (Lemon); (12) Simple Green Multi-Purpose Foaming Cleaner; (13) Simple Green Carpet Cleaner; (14) Simple Green Marine All-Purpose Boat Cleaner; (15) Simple Green Heavy Duty BBQ & Grill Cleaner; (16) Simple Green Heavy Duty BBQ & Grill Cleaner (Aerosol); (17) Simple Green Oxy Dog Stain & Odor Oxidizer; (18) Simple Green Bio Dog; (19) Simple Green Advanced Dog Bio Boost Stain & Odor Remover; (20) Simple Green

Cat Pet Stain & Odor Remover; and (21) Simple Green Outdoor Odor Eliminator, in any size or packaging type, between May 12, 2016 and [REDACTED], 2021. Excluded from the Settlement Class are any officers, directors, or employees of Defendant, and the immediate family member of any such person. Also excluded is any judge presiding over this case.

6. I'm still not sure if I'm included in the settlement.

If you are not sure whether you are included in the Class, call 1-877-452-8477 OR VISIT www.SimpleGreenNonToxicSettlement.com.

THE SETTLEMENT BENEFITS—WHAT YOU GET

7. What does the settlement provide?

The parties have agreed to make available a total Common Fund of four million three hundred and fifty thousand dollars (\$4,350,000) for payment of Valid Claims and other expenses noted below. Class Members who submit a Valid Claim may receive a benefit from the Claim. Class Members who do not have a purchase receipt and who submit a Valid Claim will be entitled to a maximum refund of three dollars (\$3.00) per Settlement Class Product purchased for up to ten (10) Settlement Class Products purchased, totaling up to thirty dollars (\$30.00) in payment. These amounts will be increased proportionally (pro rata) if the total number of claims does not exhaust the available settlement funds. These amounts will be reduced proportionally (pro rata dilution) if the total number of claims exceeds the available settlement funds. Settlement Class Members who submit a Valid Claim without a purchase receipt will not be entitled to any other refunds. Class Members with proof of purchase may submit a claim for three dollars (\$3.00) per Settlement Class Product purchased. Additionally, Defendant has agreed to remove certain representations from the labeling and packaging of the Settlement Class Products.

The parties have further agreed that the costs to administer this Settlement will be paid from the Common Fund, that Class Counsel may request reasonable attorneys' fees not to exceed one-third (1/3) of the Common Fund, plus reimbursement of reasonable costs and expenses upon Court approval, and that the named plaintiffs may apply for an enhancement award of five thousand dollars (\$5,000) each from the Court.

To make a Valid Claim, Class Members must provide purchase receipts documenting proof of purchase, or provide information, signed under penalty of perjury, relating to their purchase of Settlement Class Products, including where the purchase took place, the quantity purchased, and the approximate dates of purchase. Class Members with proof of purchase may submit a claim for three dollars (\$3.00) per Settlement Class Product purchased. Class Members who submit a Valid Claim without purchase receipts will be entitled to a maximum reimbursement of three dollars (\$3.00) per Settlement Class Product purchased for up to ten (10) Settlement Class Products purchased, totaling up to thirty dollars (\$30.00). These amounts will be increased proportionally (pro rata) if the total number of claims does not exhaust the available settlement funds. These amounts will be reduced proportionally (pro rata dilution) if the total number of claims exceeds the available settlement funds. The actual amount recovered by each Settlement Class Member will not be determined until after the time to submit Claims has ended and all Valid Claims have been calculated. Instructions for submitting a Claim are included in Section 9 below.

More details are in a document called the Settlement Agreement, which is available at www.SimpleGreenNonToxicSettlement.com.

8. What am I giving up in exchange for the settlement benefits?

If the settlement becomes final, Class Members will be releasing Defendant and all related people and entities for all the claims described and identified in Section 6 of the Settlement Agreement (called the "Class Released Claims"). The Settlement Agreement is available at www.SimpleGreenNonToxicSettlement.com. The Settlement Agreement describes the Class Released

Claims with specific descriptions, in necessarily accurate legal terminology, so read it carefully. Unless you exclude yourself from the Settlement, you cannot sue the Defendant, continue to sue, or be part of any other lawsuit against the Defendant about the legal issues in this case. It also means that all of the decisions by the Court will bind you. You can talk to one of the lawyers listed below for free or you can, of course, talk to your own lawyer if you have questions about the released claims or what they mean.

HOW TO GET A CASH PAYMENT—SUBMITTING A VALID CLAIM FORM

9. How can I get a cash payment?

To ask for a cash payment you must complete and submit a Valid Claim Form along with the required supporting documentation, if you have it. You can get a Claim Form at www.SimpleGreenNonToxicSettlement.com. You may also submit your claim via the website. The Claim Form describes what you must provide to prove your claim and receive a cash payment and generally requires information, provided by you under penalty of perjury, on where any purchases took place, the quantity of Settlement Class Products purchased, and the approximate dates of purchase. Please read the instructions carefully, fill out the Claim Form, and either submit it online at www.SimpleGreenNonToxicSettlement.com or mail it postmarked no later than, [REDACTED], 2021 to:

Simple Green Non-Toxic Claims Administrator
Digital Settlement Group, LLC
8001 Broadway, Suite 200
Merrillville, IN 46410

The Settlement Administrator may seek additional information to validate the Claim Form and/or disqualify an invalid claim. If you provide incomplete or inaccurate information, your claim may be denied.

10. When will I get my check?

Checks will be mailed to Class Members who send in Valid Claim Forms on time, after the Court grants “final approval” of the settlement, and after the time for appeals has ended and any appeals have been resolved. If the judge approves the settlement after a hearing on [REDACTED], 2021 (see the section “The Court’s Fairness Hearing” below), there may be appeals. Resolving these appeals can take time. Please be patient.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you want to keep the right to sue or continue to sue Defendant over the legal issues in this case, you must take steps to get out of the settlement. This is called asking to be excluded from—sometimes called “opting out” of—the Class.

11. If I exclude myself, can I get anything from the settlement?

If you ask to be excluded, you will not get a cash payment, and you cannot object to the settlement. But you may be part of a different lawsuit against Defendant in the future. You will not be bound by anything that happens in this lawsuit.

12. If I don't exclude myself, can I sue later?

No. Unless you exclude yourself, you give up the right to sue Defendant for the claims that this settlement resolves. You must exclude yourself from *this* Class to start or continue your own lawsuit.

13. How do I get out of the settlement?

To opt out from the settlement, you must send a letter by mail saying that you want to be excluded from *O'Brien et al. v. Sunshine Makers, Inc.*, San Bernardino Superior Court, Case No. CIV-SB-2027994. Be sure to include your name, address, telephone number, the approximate date of purchase, and your signature. You can't ask to be excluded at the website or on the phone. You must mail your opt out request postmarked no later than [REDACTED], 2021 to:

Simple Green Non-Toxic Claims Administrator
Digital Settlement Group, LLC
8001 Broadway, Suite 200
Merrillville, IN 46410

Requests to opt-out that do not include all required information and/or that are not submitted on a timely basis, will be deemed null, void, and ineffective. Settlement Class Members who fail to submit a valid and timely Request for opting out on or before the deadline above shall be bound by all terms of the settlement and any Final Judgment entered in this Litigation if the Settlement is approved by the Court, regardless of whether they ineffectively or untimely requested exclusion from the settlement.

OBJECTING TO THE SETTLEMENT

14. How do I tell the Court I don't like the proposed settlement?

To object to the settlement, you or your attorney must file a written objection to the Court in the Action showing the basis for your objections. Your objection must contain the following information: (i) your name, address, and telephone number, (ii) the name, address, telephone number, and email address of any attorney you have hired with respect to the objection; (iii) the factual basis and legal grounds for your objection, including any documents sufficient to establish your purchase of the Settlement Class Products at issue in this case e.g., receipt, or verification under oath as to the approximate date(s) and location(s) of the purchase(s) of the Settlement Class Products; and (iv) identification of the case name, case number, and court for any prior class action lawsuit in which you or your attorney has objected to a proposed class action settlement, the general nature of such prior objection(s), and the outcome of said prior objection(s). You must also send a copy of your objection to the Court at the following address: Superior Court of California, County of San Bernardino, San Bernardino District – Civil Division, 247 West Third Street, San Bernardino, CA 92415-0210.

You or your lawyer may, but are not required to, appear at the Final Approval Hearing. If you or your lawyer wish to appear at the Final Approval Hearing, you must file with the Court a Notice of Intention to Appear along with your written objection. You must file your written objections by certified mail or in person, along with any other supporting materials to: Superior Court of California, County of San Bernardino, San Bernardino District – Civil Division, 247 West Third Street, San Bernardino, CA 92415-0210. Your written objection must be marked with the Case name and Case Number (*O'Brien et al. v. Sunshine Makers, Inc.*, San Bernardino Superior Court, Case No. CIV-SB-2027994). In addition, you must also send copies of all documents you file with the Court to:

Ryan J. Clarkson
Katherine A. Bruce
Lauren E. Anderson
Clarkson Law Firm, P.C.
9255 Sunset Boulevard, Suite 804
Los Angeles, CA 90069

and

Christopher D. Moon
Kevin O. Moon
Moon Law APC
600 W. Broadway, Suite 700
San Diego, CA 92101

and

Eileen M. Diepenbrock
Jennifer L. Dauer
DIEPENBROCK ELKIN DAUER MCCANDLESS LLP
555 University Avenue, Suite 200
Sacramento, CA 95825

OBJECTION AND OPT-OUT DIFFERENCES

15. What's the difference between objecting and opting out?

Objecting is simply telling the Court that you don't like something about the settlement. You can object only if you stay in the Class. If you stay in the Class, you will be legally bound by all orders and judgments of the Court, and you won't be able to sue, or continue to sue, Sunshine Makers, Inc. as part of any other lawsuit involving the same claims that are in this lawsuit. Opting out is telling the Court that you don't want to be part of the Class. If you opt out, you have no basis to object because the case no longer affects you.

THE LAWYERS REPRESENTING YOU

16. Do I have a lawyer in the case?

The Court has designated the lawyers at Clarkson Law Firm, P.C., 9255 Sunset Boulevard, Suite 804, Los Angeles, CA 90069, and Moon Law APC, 600 West Broadway, Suite 700, San Diego, CA 92101 to represent you as "Class Counsel." You will not be charged for these lawyers. If you want to be represented by another lawyer, you may hire one to appear in Court for you at your own expense.

17. How will the costs of the lawsuit and settlement be paid?

The Settlement Administrator's and Notice Provider's costs and fees associated with administering the Settlement, including all costs associated with the publication of the Notice of Settlement will be paid out of the Common Fund and shall not exceed five hundred thirty thousand dollars (\$530,000), plus postage.

Class Counsel's reasonable attorneys' fees, not to exceed one million, four hundred fifty thousand dollars (\$1,450,000), and costs related to obtaining the settlement consistent with applicable law will also be paid out of the Common Fund, subject to Court approval.

The named plaintiffs will also request that the Court approve a payment to them of up to Five Thousand Dollars (\$5,000) each from the Common Fund, as incentive awards for their participation as the Class Representatives, for taking on the risk of litigation, and for settlement of their individual claims as Class Members in this Action. These amounts are subject to Court approval and the Court may award less than these amounts.

THE COURT'S FAIRNESS HEARING

The Court will hold a hearing to decide whether to approve the settlement. If you have filed an objection on time, you may attend and you may ask to speak, but you don't have to.

18. When and where will the Court decide whether to approve the settlement?

The Court will hold a Fairness Hearing at [REDACTED]:00 [REDACTED].m. on [REDACTED], 2021, at San Bernardino Superior Court, State of California. The hearing may be moved to a different date or time without additional notice, so please check for updates at www.SimpleGreenNonToxicSettlement.com. At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The judge will only listen to people who have filed a written objection. The Court will also decide how much to pay the Class Representatives and the lawyers representing Class Members. After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take.

19. Do I have to come to the hearing?

No. Class Counsel will answer any questions the judge may have. But, you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. If you have sent an objection but do not come to the Court hearing, however, you will not have a right to appeal an approval of the settlement. You may also pay another lawyer to attend on your behalf, but it's not required.

20. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying that it is your "Notice of Intent to Appear" in the *O'brien v. Sunshine Makers, Inc.* litigation. Be sure to include your name, address, telephone number, and your signature as well as the name, address and telephone number of any lawyer representing you (if applicable). Your Notice of Intent to Appear must be postmarked no later than [REDACTED], 2021, and be sent to the addresses listed in Questions 13 and 14. You cannot speak at the hearing if you excluded yourself from the Class.

IF YOU DO NOTHING

21. What happens if I do nothing at all?

If you are a Class Member and do nothing, you will not receive a payment from this settlement. And, unless you exclude yourself, you won't be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendant about the claims in this case, ever again.

GETTING MORE INFORMATION

22. How do I get more information?

This notice summarizes the proposed settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement, download a Claim Form, and review additional case information at www.SimpleGreenNonToxicSettlement.com. You may also call toll-free 1-877-452-8477.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.

DATED: [REDACTED], 2021

BY ORDER OF THE SAN BERNARDINO SUPERIOR COURT, STATE OF CALIFORNIA

