

CLASS ACTION SETTLEMENT AGREEMENT

This Agreement (“Agreement” or “Settlement Agreement”) is entered into by and among (i) Plaintiff Spa Thirsty, Inc.; (ii) the Settlement Class (defined below); and (iii) Defendant Hydrafacial LLC dba The Hydrafacial Company (“Defendant”). The Settlement Class and Plaintiff are collectively referred to as the “Plaintiffs” unless otherwise noted. The Plaintiffs and the Defendant are collectively referred to herein as the “Parties.” This Agreement is intended by the Parties to fully, finally, and forever resolve, discharge, and settle the Released Claims (as defined herein), upon and subject to the terms and conditions of this Agreement and subject to the Final Approval Order entered by the Court.

RECITALS

A. On August 24, 2024, Jason Davalos, Sonia Davalos, and Sol Tan Tanning & Spa, LLC filed a Class Action Complaint against Defendant and The Beauty Health Company (together with Defendant, the “Original Defendants”) in the United States District Court for the Southern District of New York (“the Court”). ECF No. 1 in Case No. 1:24-cv-8073-VEC (S.D.N.Y.).

B. On December 30, 2024, the Original Defendants filed a motion to dismiss the Class Action Complaint for lack of subject matter jurisdiction and for failure to state a claim. ECF No. 22.

C. On January 13, 2025, Jason Davalos and Sonia Davalos voluntarily dismissed their individual claims under Federal Rule of Civil Procedure Rule 41(a)(1)(A)(i), leaving unaffected the claims of Sol Tan Tanning & Spa, LLC. ECF No. 32.

D. On January 15, 2025, the parties jointly informed the Court by letter that they agreed to mediate and requested a stay of the action pending the conclusion of their planned mediation. ECF No. 34.

E. On April 29, 2025, the parties attended a mediation before Greg Danilow of Philips ADR Enterprises. The mediation did not result in a settlement. ECF Nos. 36, 38.

F. On June 3, 2025, Sol Tan Tanning & Spa, LLC, along with newly added plaintiffs Glam+Glow Beauty Bar, LLC, Champagne Aesthetics, LLC, Samantha Silva, Touch Of Sam LLC, Susie's Beauties LLC, Jennifer Skuratov, Skyn Alchemy Inc., Glam Essence Med Spa, LLC, La Chic Boheme Collective LLC, Lashes, Skin & Waxing With Allyson, LLC, Crystal Loyer, Elite Skin & Body, LLC, The Glow Aesthetics 808, LLC, Dyane Thyfault, and Clean Slate Esthetics, LLC filed a First Amended Class Action Complaint against the Original Defendants. ECF No. 42.

G. On July 23, 2025, the Original Defendants filed a motion to dismiss in part the First Amended Complaint. ECF No. 44.

H. On December 22, 2025, the Court granted in part and denied in part the Original Defendants' motion to dismiss the First Amended Complaint. ECF No. 64. The Court's Order dismissed with prejudice all claims against Defendant The Beauty Health Company. It also dismissed with prejudice the breach of contract and breach of implied warranty claims against Defendant Hydrafacial LLC dba The Hydrafacial Company. The Order dismissed with prejudice the breach of express warranty claim against Defendant Hydrafacial LLC dba The Hydrafacial Company to the extent that count asserted a design defect. The Court also dismissed the separate claims brought under New York Business Laws, §§ 349 and 350 but allowed Plaintiff Spa Thirsty, Inc. to seek leave to amend to reassert those claims against Defendant Hydrafacial LLC dba The Hydrafacial Company to address the deficiencies identified in the Court's Order as to those claims. The Order also permitted Spa Thirsty, Inc. to be substituted as the real plaintiff-in-interest instead of the then named-plaintiff Jennifer Skuratov. ECF No. 64.

I. On January 9, 2026, the named plaintiffs sought leave of Court to file a Second Amended Complaint to amend Plaintiff Spa Thirsty, Inc.'s claims under New York General Business Laws, §§ 349 and 350 against Defendant. In the same filing, the named plaintiffs sought reconsideration of the Court's dismissal of the breach of contract claim. ECF No. 66.

J. On January 27, 2026, the Court granted the named Plaintiffs leave to file a Second Amended Complaint that would replead Plaintiff Spa Thirsty, Inc.'s claims under New York General Business Laws, §§ 349 and 350 against Defendant and denied the named plaintiffs' request for reconsideration of the dismissal of the breach of contract claim.

K. On January 30, 2026, Sol Tan Tanning & Spa, LLC, along with named plaintiffs Glam+Glow Beauty Bar, LLC, Champagne Aesthetics, LLC, Samantha Silva, Touch Of Sam LLC, Susie's Beauties LLC, Spa Thirsty, Inc., Skyn Alchemy Inc., Glam Essence Med Spa, LLC, La Chic Boheme Collective LLC, Lashes, Skin & Waxing With Allyson, LLC, Crystal Loyer, Elite Skin & Body, LLC, The Glow Aesthetics 808, LLC, Dyane Thyfault, and Clean Slate Esthetics, LLC filed a Second Amended Class Action Complaint against Defendant Hydrafacial LLC dba The Hydrafacial Company.

L. Shortly after the filing of the Second Amended Class Action Complaint, counsel for the Parties had further discussions about potential resolution by way of settlement of the Action. Those discussions continued over the ensuing weeks, ultimately resulting in an agreement-in-principle to resolve the Action by way of this Settlement to resolve the claims of Plaintiff Spa Thirsty, Inc. on behalf of itself and the Settlement Class (defined below) comprised of New York owners and lessees of the Syndeo machine as well as fifteen (15) separate individual settlements to resolve and settle the individual claims of the remaining non-New York plaintiffs named in the Second Amended Class Action Complaint.

M. On February 27, 2026, the Parties jointly filed a Letter Motion seeking to stay the Action pending their finalization and documentation of their settlements. ECF No. 75.

N. On March 2, 2026, the Court granted the joint Letter Motion to stay the action and ordered that no later than May 29, 2026, Plaintiff Spa Thirsty, Inc. move for preliminary approval of any class action settlement that had been reached and required Court approval. ECF No. 76

O. By the time the Parties held their settlement discussions that led to this Settlement, they had engaged in extensive discovery, as evidenced by the monthly discovery status updates they jointly filed with the Court. ECF Nos. 57, 63, 65, and 72.

P. At all times, Defendant has denied and continues to deny any wrongdoing whatsoever and has denied and continues to deny that it committed, or threatened or attempted to commit, any wrongful act or violation of law or duty that was alleged or could have been alleged in the Action (defined below). Defendant does not in any way acknowledge, admit to, or concede any of the allegations made in the Action and expressly disclaims and denies any fault or liability, or any charges of wrongdoing that have been or could have been asserted in the Action. Defendant believes that it would have prevailed at trial and in any appeal(s). Nonetheless, taking into account the uncertainty and risks inherent in any litigation and the desire to avoid the expense of further legal fees and costs, Defendant has concluded it is desirable and beneficial that the Action be fully and finally settled and terminated in the manner and upon the terms and conditions set forth in this Agreement. This Agreement is a compromise and the Agreement, any related documents, and any negotiations concerning or resulting in the Agreement shall not be construed as or deemed to be evidence of or an admission or concession of liability or wrongdoing on the part of Defendant or any of the Released Parties (defined below), with respect to any claim of any fault or liability or wrongdoing or damage whatsoever. Accordingly, nothing contained in this Agreement shall be used or construed as an admission of liability, and this Agreement shall not be offered or received

in evidence in any action or proceeding in any court or other forum as an admission or concession of liability or wrongdoing of any nature or for any other purpose other than to enforce the terms of this Agreement.

Q. Plaintiff Spa Thirsty, Inc. believes that the claims asserted in the Action against the Defendant have merit and that Plaintiff would have prevailed at trial and would have prevailed in any appeal. Nonetheless, Plaintiff Spa Thirsty, Inc. and Class Counsel recognize that Defendant has raised factual and legal defenses that present a risk that Plaintiff may not prevail. Plaintiff Spa Thirsty, Inc. and Class Counsel also recognize the expense and delay associated with continued prosecution of the Action against Defendant through trial and any subsequent appeals. Plaintiff Spa Thirsty, Inc. and Class Counsel also have taken into account the uncertain outcome and risks of litigation, especially in complex class actions, as well as the difficulties inherent in such litigation. Therefore, Plaintiff Spa Thirsty, Inc. believes it is desirable that the Released Claims (defined below) be fully and finally compromised, settled, and resolved with prejudice. Based on its evaluation, Class Counsel has concluded that the terms and conditions of this Agreement are fair, reasonable, and adequate to the Settlement Class, and that it is in the best interests of the Settlement Class to settle the claims raised in the Action pursuant to the terms and provisions of this Agreement.

R. The Parties intend this Agreement to bind Plaintiff Spa Thirsty, Inc., Defendant, and members of the Settlement Class who do not opt out of this Agreement.

S. Resolution of the claims of the non-New York remaining fifteen (15) Individual Plaintiffs named in the Second Amended Class Action Complaint is memorialized in separate individual settlement agreements as to those Individual Plaintiffs that, because of their individual nature, do not require Court approval and therefore are not being filed with the Court.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among Plaintiff Spa Thirsty, Inc., the Settlement Class, and each of them, and Defendant, by and through its undersigned counsel, subject to final approval of the Court after a hearing or hearings as provided for in this Settlement Agreement, and for good and valuable consideration of the benefits flowing to the Parties from the Agreement set forth herein, the sufficiency of which is hereby mutually acknowledged, that the Action and the Released Claims shall be finally and fully compromised, settled, and released, and the Action shall be dismissed with prejudice as to Plaintiff Spa Thirsty, Inc., upon and subject to the terms and conditions of this Agreement.

AGREEMENT

1. DEFINITIONS.

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

1.1 “Action” means *Sol Tan Tanning & Spa, LLC et al. v. Hydrafacial LLC dba The Hydrafacial Company*, Case No. 1:24-cv-08073-VEC, pending in the U.S. District Court for the Southern District of New York.

1.2 “Alternate Judgment” means a form of Final Judgment that may be entered by the Court herein but in a form other than the form of judgment provided for in this Agreement and where none of the Parties elects to terminate this Agreement by reason of such variance.

1.3 “Cash Award” means the cash compensation, payable by the Settlement Administrator from the Settlement Fund, that each Settlement Class Member shall be entitled to receive as calculated from the Available Settlement Fund.

1.4 “Class Counsel” means The Katriel Law Firm, P.C. and The Kalfayan Law Firm, APC.

1.5 “Class Representative” means Spa Thirsty, Inc.

1.6 “Court” means the U.S. District Court for the Southern District of New York, the Honorable Valerie E. Caproni presiding, or any judge who shall succeed Judge Caproni as the Judge in this Action.

1.7 “Defendant” means Hydrafacial LLC dba The Hydrafacial Company.

1.8 “Defendant’s Counsel” means Reed Smith LLP.

1.9 “Effective Date” means the date ten (10) days after which all of the events and conditions specified in Paragraph 9.1 have been met and have occurred.

1.10 “Escrow Account” means the separate, interest-bearing escrow account to be established by the Settlement Administrator under terms acceptable to all Parties at a depository institution insured by the Federal Deposit Insurance Corporation. The Settlement Fund shall be deposited by Defendant into the Escrow Account in accordance with the terms of this Agreement, and the money in the Escrow Account shall be invested in the following types of accounts and/or instruments and no other: (i) demand deposit accounts and/or (ii) time deposit accounts and certificates of deposit, in either case with maturities of forty-five (45) days or less. The costs of establishing and maintaining the Escrow Account shall be paid from the Settlement Fund.

1.11 “Fee & Cost Award” means the amount of attorneys’ fees and reimbursement of expenses awarded by the Court to Class Counsel, which will be paid out of the Settlement Fund.

1.12 “Final” means one business day following the latest of the following events: (i) if any Objections to the Settlement are filed, the date upon which the time expires for filing or noticing any appeal of the Court’s Final Judgment approving the Settlement Agreement; (ii) if any Objections to the Settlement are filed and if there is an appeal or are appeals from the party or parties that filed an Objection, the date of resolution in a manner that finally affirms and leaves in place a Final Judgment without any material modification, of all proceedings arising out of the appeal or appeals (including, but not limited to, the expiration of all deadlines for motions for

reconsideration or petitions for review and/or certiorari, all proceedings ordered on remand, and all proceedings arising out of any subsequent appeal or appeals following decisions on remand); (iii) if any Objections to the Settlement are filed and if there is an appeal or are appeals from the parties that filed an Objection, the date of final dismissal of any appeal or the final dismissal of any proceeding on certiorari; or (iv) if there are no Objections filed before the Court enters Final Judgment, one Court day following entry of the Final Judgment.

1.13 “Final Approval Hearing” means the hearing where the Court will consider whether to enter Final Judgment approving the Settlement Agreement, the Fee & Cost Award, and a Service Award to the Class Representatives.

1.14 “Final Judgment” means the Final Judgment and Order to be entered by the Court approving the Agreement after the Final Approval Hearing.

1.15 “Individual Plaintiffs” means all plaintiffs named in the Second Amended Class Action Complaint other than Plaintiff Spa Thirsty, Inc.; namely, Sol Tan Tanning & Spa, LLC, Glam+Glow Beauty Bar, LLC, Champagne Aesthetics, LLC, Samantha Silva, Touch Of Sam LLC, Susie's Beauties LLC, Skyn Alchemy Inc., Glam Essence Med Spa, LLC, La Chic Boheme Collective LLC, Lashes, Skin & Waxing With Allyson, LLC, Crystal Loyer, Elite Skin & Body, LLC, The Glow Aesthetics 808, LLC, Dyane Thyfault, and Clean Slate Esthetics, LLC.

1.16 “Notice” means the notice of this proposed Class Action Settlement Agreement and Final Approval Hearing, which is to be made to all who may be members of the Settlement Class substantially in the manner set forth in this Agreement as described in Paragraphs 4.1 and 4.2 below, which is approved by the Court and consistent with the requirements of Due Process and Federal Rule of Civil Procedure 23, and is substantially in the form of Exhibits B, C, and D hereto.

1.17 “Notice Date” means the date by which the Notice set forth in Paragraph 4.1 is complete, which shall be no later than twenty-eight (28) days after Preliminary Approval.

1.18 “Objection/Opt-Out Deadline” means the date by which a written objection to this Settlement Agreement or a request to opt out of this Agreement (i.e., to exclude oneself from the terms of this Agreement) submitted by a Settlement Class Member in the Settlement Class must be made, which shall be designated as a date stated in the Notice and no earlier than sixty (60) days after the Notice Date, or such other date as ordered by the Court. Class Counsel shall file papers supporting the Fee & Cost Award with the Court and post such papers to the Settlement Website listed in Paragraph 4.1(d) no later than fourteen (14) days before the Objection/Opt-Out Deadline.

1.19 “Settlement Class Potential Member” means any person or entity meeting the requirements of the Settlement Class, regardless of whether they ultimately opt out of this Agreement.

1.20 “Plaintiff” means Spa Thirsty, Inc.

1.21 “Preliminary Approval” means the Court’s preliminary approval of this Settlement Agreement and of the form and manner of the Notice.

1.22 “Preliminary Approval Order” means the Court order preliminarily approving the Settlement Agreement and directing notice thereof to Settlement Class Potential Members. A proposed order will be agreed upon by the Parties and submitted to the Court in conjunction with Plaintiff’s motion for Preliminary Approval of the Agreement.

1.23 “Released Claims” means any and all actual or potential causes of action, suits, claims, liens, demands, judgments, costs, damages, obligations, and all other legal responsibilities in any form or nature, including but not limited to, all claims relating to or arising out of any state, local, or federal statute, ordinance, regulation, or claim at common law or in equity, whether past,

present, or future, known or Unknown Claims, asserted or unasserted, arising out of or in any way allegedly related to the claims in this Action for any defects or non-conformities with respect to the Syndeo machines of any Settlement Class Member, including but not limited to all claims of every nature and description whatsoever, as to the Released Parties arising from the actual or alleged facts, transactions, events, matters, occurrences, acts, disclosures, statements, representations, omissions, or failures to act that were brought or could have been brought in the Action.

1.24 “Released Parties” means Hydrafacial LLC dba The Hydrafacial Company, as well as any and all of the Defendant’s current, former, and future predecessors, successors, affiliates, assigns, divisions, members, representatives, parents, subsidiaries or related corporate entities, and for each, all of their respective current, future, and former employees, staff, officers, directors, assigns, agents, trustees, administrators, executors, insurers, reinsurers, and attorneys (whether in their official or individual capacities) Each of the Released Parties is a **“Released Party.”**

1.25 “Releasing Parties” means Plaintiff, those Settlement Class Members who do not timely opt out of the Settlement Class and all of their respective current, former, and future predecessors, successors, affiliates, assigns, divisions, members, representatives, parents, subsidiaries or related corporate entities, and for each, all of their respective current, future, and former employees, staff, officers, directors, assigns, agents, trustees, administrators, executors, insurers, reinsurers, and attorneys (whether in their official or individual capacities).

1.26 “Service Award” means the payment the Court may award the Plaintiff for service as a Class Representative, which is in addition to any Settlement Class Member Benefit due to Plaintiff as a Settlement Class Member. The Service Award shall be paid out of the Settlement Fund.

1.27 “Settlement” means the Parties’ agreement as set forth herein (including monetary terms and release of claims and parties) that is subject to the Court’s approval.

1.28 “Settlement Administrator” means any reputable administration company that has been selected jointly by the Parties and approved by the Court to perform the duties set forth in this Agreement, including but not limited to serving as escrow agent for the Settlement Fund, overseeing the distribution and publication of Notice, handling all approved payments out of the Settlement Fund, and handling the determination, payment and filing of forms related to all federal, state and/or local taxes of any kind (including any interest or penalties thereon) that may be owed on any income earned by the Settlement Fund. Class Counsel’s assent to this Agreement shall constitute consent on behalf of each and every member of the Settlement Class as defined herein to disclose to Class Counsel, Defendant’s Counsel, and the Settlement Administrator all information required by the Settlement Administrator to perform the duties and functions ascribed to it herein.

1.29 “Settlement Administration Expenses” means all fees charged by the Settlement Administrator and expenses incurred by the Settlement Administrator in connection with its administration of this Settlement, including but not limited to fees and expenses incurred in providing Notice, responding to inquiries from members of the Settlement Class, ascertaining amounts of and paying Cash Awards from the Settlement Fund, handling any unclaimed funds, and related services, paying taxes and tax expenses related to the Settlement Fund (including all federal, state or local taxes of any kind and interest or penalties thereon, as well as expenses incurred in connection with determining the amount of and paying any taxes owed and expenses related to any tax attorneys and accountants).

1.30 “Settlement Class” means all persons or entities who purchased, leased, or otherwise acquired a Syndeo within the borders of New York State by the date the Court preliminarily approves the Settlement Agreement.

1.31 “Settlement Class Member” means a person or entity who falls within the definition of the Settlement Class as set forth above and who has not chosen to opt out of the Agreement.

1.32 “Settlement Fund” means the non-reversionary fund that shall be established by or on behalf of Defendant in the total amount of nine hundred twenty-five thousand dollars (\$925,000.00 USD) to be deposited into the Escrow Account, according to the schedule set forth herein, plus all interest earned thereon. From the Settlement Fund, the Settlement Administrator shall pay all Cash Awards to Settlement Class Members, Settlement Administration Expenses, any Service Award to the Class Representatives, any Fee & Cost Award to Class Counsel, and any other costs, fees or expenses approved by the Court. The **“Available Settlement Fund”** is the amount remaining in the Settlement Fund after payment of any Fee & Cost Award to Class Counsel, Settlement Administration Expenses (including an allowance for anticipated fees and expenses to be incurred after issuance of Cash Awards), any Service Award to the Class Representatives, and any other costs, fees or expenses approved by the Court. The Settlement Fund shall be kept in the Escrow Account with permissions granted to the Settlement Administrator to access said funds until such time as the listed payments are made. The Settlement Fund includes all interest that shall accrue on the sums deposited in the Escrow Account. The Settlement Administrator shall be responsible for all tax filings with respect to any earnings on the Settlement Fund and the payment of all taxes that may be due on such earnings. The nine hundred twenty-five thousand dollars (\$925,000.00 USD) paid by Defendant into the Settlement Fund represents the total extent of Defendant’s monetary obligations under this Agreement. The

payment of the nine hundred twenty-five thousand dollars (\$925,000.00 USD) into the Settlement Fund by Defendant fully discharges all of the Defendant's and the other Released Parties' monetary obligations (if any) in connection with the Settlement, meaning that no Released Party shall have any other obligation to make any payment into the Escrow Account or to any Class Member, or any other person, under this Agreement. In no event shall Defendant's total monetary obligation with respect to this Agreement exceed nine hundred twenty-five thousand dollars (\$925,000.00 USD), and in no event shall the Settlement Fund or any portion thereof revert to Defendant.

1.33 "Settlement Website" means the website the Settlement Administrator will establish for the purposes set forth in Paragraph 4.1(d).

1.34 "Unknown Claims" means claims that could have been raised in the Action and that any or all of the Releasing Parties do not know or do not suspect to exist, which, if known by him or her, might affect his or her agreement to release the Released Parties or the Released Claims or might affect his or her decision to agree, object or not to object to the Settlement. The Releasing Parties acknowledge that they may discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of this release, but that it is their intention to finally and forever settle and release the Released Claims, notwithstanding any Unknown Claims they may have, as that term is defined in this Paragraph.

2. SETTLEMENT RELIEF.

2.1 Payments to the Settlement Class Members.

(a) Within fourteen (14) days after the Effective Date, Defendant shall pay or cause to be paid into the Escrow Account the amount of the Settlement Fund (\$925,000.00) specified in Paragraph 1.32 of this Agreement less any amount already deposited by Defendant into the Escrow Account under the terms of Paragraph 4.6 of this Agreement.

(b) Each Settlement Class Member will receive a Cash Award from the Available Settlement Fund. A Settlement Class Member is not required to submit a claim form or an Election Form in order to receive a Cash Award. All Cash Awards will be of equal amounts. The amount of the Cash Award will be calculated by dividing the Available Settlement Fund by the number of Settlement Class Members as of the Effective Date, as determined by the Settlement Administrator based on the Potential Settlement Class List provided by Defendant.

2.2 Payments of Cash Awards to Settlement Class Members. The Notice will give its recipients within the Settlement Class the ability to choose via the Election Form whether to receive a Cash Award by check or electronic payment. Settlement Class Members choosing to submit an Election Form must do so no later than sixty (60) days after the Notice Date. In the event a Settlement Class Member does not submit an Election Form, the Settlement Class Member will receive a Cash Award in the form of a check sent to the Settlement Class Member's last known address.

2.3 Election Forms must be timely submitted. Settlement Class Members must submit an Election Form no later than sixty (60) days after the Notice Date to be considered.

2.4 Payments of the Cash Award to Settlement Class Members shall be made by the Settlement Administrator within sixty (60) days after the Effective Date.

2.5 All Cash Awards issued to Settlement Class Members via check will state on the face of the check that the check will expire and become null and void unless cashed within one hundred eighty (180) days after the date of its issuance. It is the intent of the Parties that the entirety of the Available Settlement Fund be paid the Settlement Class Members. To the extent that a check issued to a Settlement Class Member is returned to the Settlement Administrator as undeliverable or not cashed within one hundred eighty (180) days after the date of issuance, or to the extent there are any remaining funds in the Settlement Fund after distribution of all Cash

Awards and Settlement Administration Expenses, such funds shall be paid by the Settlement Administrator within sixty (60) days after the one hundred eighty (180) day period has expired, to a *cy pres* recipient approved by the Court after joint submittals by the Parties for such an approval.

3. RELEASE.

3.1 The obligations incurred pursuant to this Settlement Agreement shall be a full and final disposition of Settlement Class Members' and Releasing Parties' claims in the Action against Defendant and all Released Parties. This Settlement, Settlement Agreement, and Release shall have effect only as to the Settlement Class Members and shall have no legal effect as to any claims asserted by those who are not members of the Settlement Class.

3.2 Upon the Effective Date, the Releasing Parties, and each of them, shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims against the Released Parties, and each of them.

4. NOTICE TO THE CLASS.

4.1 The Notice Plan shall consist of the following:

(a) *Potential Settlement Class List.* No later than fourteen (14) days from the full execution of this Settlement Agreement, Defendant shall use reasonable efforts to produce an updated electronic list from its records that includes the names, last known postal addresses, and email addresses belonging to Settlement Class Potential Members to the extent available. Such electronic record shall be called the "**Settlement Potential Class List**," and shall be provided to the Settlement Administrator for the purposes of giving Notice to the Settlement Class Potential Members, verifying whether a Settlement Class Potential Member can qualify as a member of the Settlement Class, for calculating the Cash Awards to Settlement Class Members, and shall not be used for any other purpose.

(b) *Direct Notice via Email.* No later than twenty-one (21) days from entry of the Preliminary Approval Order, the Settlement Administrator shall send Notice via email substantially in the form attached as Exhibit A to all Settlement Class Potential Member on the Settlement Potential Class List for whom a valid email address is included in the Settlement Potential Class List. In the event the Settlement Administrator becomes aware that the transmission of any email Notice has failed to reach the intended recipient, the Settlement Administrator shall attempt to correct any issues that may have caused the email transmission to fail and make a second attempt to transmit Notice via email.

(c) *Direct Notice via U.S. Mail.* No later than the twenty-eight (28) days from entry of the Preliminary Approval Order, the Settlement Administrator shall send Notice substantially in the form attached as Exhibit B via First Class U.S. Mail to all Settlement Class Potential Members on the Settlement Potential Class List for whom a valid email address is not included in the Settlement Potential Class List or for whom the Settlement Administrator becomes aware that the transmission of email Notice has failed to reach the intended recipient twice.

(d) *Settlement Website.* Within fourteen (14) days from entry of the Preliminary Approval Order, Settlement Administrator shall provide Notice on a publicly accessible and viewable website, which shall be administered and maintained by the Settlement Administrator and which shall provide the Settlement Class the ability to submit Election Forms and to update mailing addresses. Copies of this Agreement, the Email (“long-form”) Notice, the operative complaint, the motions for preliminary and final approval and other pertinent documents, Court filings, and orders pertaining to the Agreement (including the motion for attorneys’ Fee & Cost Award upon its filing), shall be provided on the Settlement Website. The Notice provided on the Settlement Website shall be substantially in the form of Exhibit C hereto.

(e) *Additional Notice.* If the Notice Plan described in Paragraphs 4.1(b) and 4.1(c) does not reach at least 75% of the Settlement Class, or is not approved by the Court as complying with all Due Process requirements, the Parties, in conjunction with the Settlement Administrator, shall develop and seek approval by the Court of such additional Notice as is necessary to either reach at least 75% of the Settlement Class or satisfy the Court that all Due Process requirements are satisfied. Such additional Notice, if necessary, shall be funded from the Settlement Fund with no additional financial contribution by Defendant.

4.2 The Notice shall advise the Settlement Class of their rights, including the right to opt out of, comment upon, and/or object to the Agreement or any of its terms. The Notice shall specify that any objection to the Agreement, and any papers submitted in support of said objection, shall be considered by the Court at the Final Approval Hearing only if the Settlement Class Potential Member making the objection files that objection on or before the Objection/ exclusion Deadline approved by the Court and specified in the Notice, and at the same time (a) files copies of such papers he or she proposes to be submitted at the Final Approval Hearing with the Clerk of the Court, or alternatively, if the objection is from a Settlement Class Potential Member represented by counsel, files any objection through the Court's electronic filing system, and (b) sends copies of such papers by mail, hand, or overnight delivery service (or by operation of the Court's electronic filings system) to Class Counsel and Defendant's Counsel.

4.3 Any Settlement Class Member who intends to object to this Agreement must file the objection with the Court, which must be personally signed by the objector, and must include: (1) the objector's name and address; (2) an explanation of the basis upon which the objector claims to be a Settlement Class Member; (3) all grounds for the objection, including all citations to legal authority and evidence supporting the objection; (4) the name and contact information of any and all attorneys representing, advising, or in any way assisting the objector in connection with the

preparation or submission of the objection or who may profit from the pursuit of the objection (the “**Objecting Attorneys**”); (5) a statement indicating whether the objector intends to appear at the Final Approval Hearing (either personally or through counsel who files an appearance with the Court in accordance with the Local Rules) and (6) in the event the Objector is not a natural person, statement sufficiently showing that the person submitting and signing the Objection on behalf of the objector has the legal power and authority to do so. Settlement Class Members who file objections are still entitled to receive benefits under the Settlement and are bound by the Settlement if it is approved.

4.4 If a Settlement Class Member or any of the Objecting Attorneys has objected to any other class action settlement where the objector or the Objecting Attorneys asked for or received any payment in exchange for dismissal of the objection, or any related appeal, without any modification to the settlement, then the objection must include a statement identifying each such case by full case caption and amount of payment received.

4.5 Anyone in the Settlement Class may request to opt out of the Agreement and, therefore, of the Settlement Class by sending a written request postmarked to the Settlement Administrator on or before the Objection/Opt-Out Deadline approved by the Court and specified in the Notice. To exercise the right to opt out, a Settlement Class Potential Member in the Settlement Class must timely send a written request to opt out to the Settlement Administrator providing his/her/its name and address, a signature, the name and number of the Action (*Sol Tan Tanning & Spa, LLC et al. v. Hydrafacial LLC dba The Hydrafacial Company and The Beauty Health Company*, Case No. 1:24-cv-08073-VEC in the U.S. District Court for the Southern District of New York), and a statement that the Settlement Class Potential Member wishes to opt out of (*i.e.*, be excluded from) the Settlement Class. To be valid, a request to opt out must be postmarked or received by the date specified in the Notice. A request to opt out that does not meet all of these

requirements, or does not contain the foregoing required information, or that is sent to an address other than that designated in the Notice, or that is not postmarked within the time specified, shall be invalid, and any Settlement Class Potential Member serving such an invalid opt out request shall be a Settlement Class Member and shall be bound as a Settlement Class Member by this Agreement, if approved. Any Settlement Class Potential Member who validly elects to opt out from this Agreement shall not: (i) be bound by any orders or the Final Judgment; (ii) be entitled to relief under this Agreement; (iii) gain any rights by virtue of this Agreement; or (iv) be entitled to object to any aspect of this Agreement. The request to opt out must be personally signed by each member of the Settlement Class requesting to opt out. So-called “mass” or “class” requests to opt out shall not be allowed. A member of the Settlement Class is not entitled to submit both a request to opt out and an objection. If a Settlement Class Potential Member submits both request to opt out and an objection, the Settlement Administrator will send a letter (and email if an email address is available) that explains that the Settlement Class Potential Member may not make both a request to opt out and an objection and that asks the Settlement Class Potential Member to make a final decision whether to opt out from the Settlement Class or to object to the Agreement and to inform the Settlement Administrator of that decision within ten (10) days from the date of the postmark on the letter from the Settlement Administrator. If the Settlement Class Potential Member does not respond to that communication by letter postmarked or email sent within ten (10) days after the Settlement Administrator’s letter was postmarked (or by the Objection/Opt-Out Deadline, whichever is later), the Settlement Class Potential Member will be deemed to have chosen to opt out from the Settlement Class, and the Settlement Class Potential Member’s objection will not be considered, subject to the Court’s discretion. A list of Settlement Class Potential Members who have validly opted out shall be provided to and approved by the Court in connection with the motion for final approval of the Agreement.

4.6 No later than ten (10) days from entry of the Preliminary Approval Order, Defendant shall deposit \$10,000 into the Escrow Account to be used to pay the costs and fees of the Settlement Administrator to disseminate the Court-approved Notices to the Settlement Class. This \$10,000 shall be deducted from the total Settlement Fund amount of nine-hundred twenty-five thousand dollars (\$925,000) that Defendant would be obligated to deposit into the Escrow Account following the entry of Preliminary Approval Order under the terms of Paragraph 2.1(a).

The Final Approval Hearing shall be no earlier than ninety (90) days after the Notice Date.

4.7 Any Settlement Class Potential Member who does not, in accordance with the terms and conditions of this Agreement, opt out from the Settlement Class will become a Settlement Class Member and will be bound by all of the terms of this Agreement, including the terms of the Final Judgment to be entered in the Action and the Releases provided for in the Agreement, and will be barred from bringing or maintaining any action of any kind whatsoever in any forum anywhere against any of the Released Parties concerning the Released Claims as set forth in Paragraphs 3.1-3.2.

4.8 All Notice costs incurred by the Settlement Administrator in performing its duties under this section shall be paid from the Settlement Fund.

5. SETTLEMENT ADMINISTRATION.

5.1 The Settlement Administrator shall, under the supervision of the Court, administer the relief provided by this Agreement in a rational, responsive, cost effective, and timely manner. The Settlement Administrator shall maintain reasonably detailed records of its activities under this Agreement. The Settlement Administrator shall maintain all such records as are required by applicable law in accordance with its normal business practices, and such records will be made available to Class Counsel and Defendant's Counsel upon request. The Settlement Administrator shall also provide such reports and other information to the Court as the Court may require. The

Settlement Administrator shall provide Class Counsel and Defendant's Counsel with regular reports at weekly intervals containing information concerning Notice, administration, and implementation of the Agreement. Should the Court request, the Parties shall submit a timely report to the Court summarizing the work performed by the Settlement Administrator, including a report of all amounts from the Settlement Fund paid to Settlement Class Members. Without limiting the foregoing, the Settlement Administrator shall:

(a) Provide Class Counsel and Defendant's Counsel with drafts of all administration related documents, including but not limited to notices to attorneys general, class notices or communications with the Settlement Class or with Settlement Class Members, telephone scripts, website postings or language or other communications with the Settlement Class or Settlement Class Members, at least seven (7) days before the Settlement Administrator is required to or intends to publish or use such communications, unless Class Counsel and Defendant's Counsel agree to waive this requirement in writing on a case by case basis; and

(b) Receive objections and requests to opt out from the Settlement Class and other requests and promptly provide to Class Counsel and Defendant's Counsel copies thereof. If the Settlement Administrator receives any objections, opt out forms, or other requests after the deadline for the submission of such forms and requests, the Settlement Administrator shall promptly provide copies thereof to Class Counsel and Defendant's Counsel.

5.2 In the exercise of its duties as outlined in this Agreement, the Settlement Administrator shall have the right to reasonably request additional information from Class Counsel or any actual or purported Settlement Class Member.

5.3 Defendant, the Released Parties, and Defendant's Counsel shall have no responsibility for, interest in, or liability whatsoever with respect to: (i) any act, omission, or determination by Class Counsel, or the Settlement Administrator, or any of their respective

designees or agents, in connection with the administration of the Settlement or otherwise; (ii) the management, investment, or distribution of the Settlement Fund; (iii) the allocation of Settlement Funds to Settlement Class Members or the implementation, administration, or interpretation thereof; (iv) the determination, administration, calculation, or payment of any claims asserted against the Settlement Fund; (v) any losses suffered by, or fluctuations in value of, the Settlement Fund; or (vi) the payment or withholding of any taxes, tax expenses, or costs incurred in connection with the taxation of the Settlement Fund or the filing of any federal, state, or local returns.

5.4 The Parties agree that the Settlement Fund is intended to be a “Qualified Settlement Fund” within the meaning of Treasury Regulation Section 1.468B-1 and that the Settlement Administrator, as administrator of the Qualified Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall be solely responsible for filing tax returns for the Settlement Fund and paying from the Settlement Fund any taxes owed with respect to the Settlement Fund, without further order of the Court. In addition, Class Counsel shall timely make, or cause to be made, such elections as necessary or advisable to carry out the provisions of this paragraph, including the “relation-back election” (as defined in Treas. Reg. § 1.468B-1) back to the earliest permitted date. Such election shall be made in compliance with the procedures and requirements contained in such regulations. Defendant, other Released Parties, and Defendant’s Counsel shall have no liability or responsibility of any sort for filing any tax returns or paying any taxes with respect to the Settlement Fund.

5.5 All settlement administration costs incurred by the Settlement Administrator in performing its duties under this section shall be paid from the Settlement Fund.

6. TERMINATION OF AGREEMENT.

6.1 Subject to Paragraphs 9.1-9.3 below, Defendant or the Class Representative on behalf of the Settlement Class, shall have the right to terminate this Agreement by providing

written notice of the election to do so (“**Termination Notice**”) to all other Parties hereto within twenty-one (21) days of any of the following events: (i) the Court’s refusal to grant Preliminary Approval of this Agreement in any material respect; (ii) the Court’s refusal to grant final approval of this Agreement in any material respect; (iii) the Court’s refusal to enter the Final Judgment in this Action in any material respect; (iv) the date upon which the Final Judgment is modified or reversed in any material respect by any appellate court; or (v) the date upon which an Alternate Judgment, as defined in Paragraph 1.2 of this Agreement is modified or reversed in any material respect by any appellate court.

6.2 In the event that more than 10% of the Settlement Class exercise the right to opt out of the Agreement, Defendant will have the right to declare the Agreement void in its entirety upon notice to Class Counsel within ten (10) days of the Settlement Administrator providing a report showing that more than 10% of Settlement Class has opted-out of the Agreement.

6.3 Should the Agreement terminate, the Settlement Fund, minus any notice or administration expenses already paid or incurred, will be returned to Defendant.

7. PRELIMINARY APPROVAL ORDER AND FINAL APPROVAL ORDER.

7.1 Within fourteen (14) days after the execution of this Settlement Agreement, Class Counsel shall submit this Agreement together with its exhibits to the Court and shall move the Court for Preliminary Approval of the settlement set forth in this Agreement, which shall, among other things, preliminarily approve the terms of the Agreement as being within the range of fair, adequate, and reasonable; appoint Settlement Class Counsel, the Settlement Class Representatives, and the Settlement Administrator; approve the Notice for dissemination substantially in the form of Exhibits A, B, and C hereto; and enter a Preliminary Approval Order, which order shall set a Final Approval Hearing date. The Preliminary Approval Order shall also authorize the Parties, without further approval from the Court, to agree to and adopt such amendments, modifications,

and expansions of the Agreement and its implementing documents (including all exhibits to this Agreement) so long as they are consistent in all material respects with the terms of this Agreement and do not limit or impair the rights of the Settlement Class or expand the obligations of Defendant.

7.2 At the time of the submission of this Agreement to the Court as described above, Class Counsel shall request that, after Notice is given, the Court hold a Final Approval Hearing and approve the settlement of the Action as set forth herein.

7.3 After Notice is given, Plaintiffs shall seek, and Defendant will not oppose, a request to obtain from the Court a Final Judgment, which will (among other things):

(a) find that the Court has personal jurisdiction over all Settlement Class Members and that the Court has subject matter jurisdiction to approve this Agreement, including all exhibits thereto;

(b) approve this Agreement and the proposed settlement as fair, reasonable, and adequate as to, and in the best interests of, the Settlement Class Members; direct the Parties and their counsel to implement and consummate the Agreement according to its terms and provisions; and declare this Agreement to be binding on, and have *res judicata* and preclusive effect in all pending and future lawsuits or other proceedings maintained by or on behalf of Plaintiff and Releasing Parties;

(c) find that the Notice implemented pursuant to the Agreement (1) constitutes the best practicable notice under the circumstances; (2) constitutes notice that is reasonably calculated, under the circumstances, to apprise the Settlement Class of the Agreement, the Settlement Class's right to object to or opt out of the proposed Agreement, and the Settlement Class's right to appear at the Final Approval Hearing; (3) is reasonable and constitutes due, adequate, and sufficient notice to all persons entitled to receive Notice; and (4) meets all applicable

requirements of the Federal Rules of Civil Procedure, the Due Process Clause of the United States Constitution, and the rules of the Court;

(d) find that the Class Representative and Class Counsel adequately represent the Settlement Class for purposes of entering into and implementing this Agreement;

(e) dismiss the Action (including all individual claims and Settlement Class claims presented thereby) on the merits and with prejudice with respect to all Settlement Class Members, without fees or costs to any party except as provided in this Agreement;

(f) incorporate the Release set forth above, make the Release effective and forever binding as of the date of the Effective Date, and forever discharge the Released Parties as set forth herein;

(g) permanently bar and enjoin all Settlement Class Members from filing, commencing, prosecuting, intervening in, or participating (as class members or otherwise) in any lawsuit, arbitration, mediation, or other action in any jurisdiction anywhere that is based in whole or in part on the Released Claims;

(h) without affecting the finality of the Final Judgment for purposes of appeal, retain jurisdiction as to all matters relating to administration, consummation, enforcement, and interpretation of the Agreement and the Final Judgment, and for any other necessary purpose; and

(i) incorporate any other provisions not materially inconsistent with this Agreement, as the Court deems necessary and just.

8. CLASS AND PLAINTIFFS COUNSEL'S ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES; SERVICE AWARDS.

8.1 The amount of the Fee & Cost Award shall be determined by the Court based on petition from Class Counsel and Plaintiffs' Counsel. Class Counsel agree to limit their request for attorneys' fees to no more than thirty percent (30%) of the Settlement Fund (*i.e.*, \$277,500), plus

actual costs and/or expenses, and Defendant and Defendant's Counsel agree not to oppose such a request. Payment of the Fee & Cost Award shall be made from the Settlement Fund, and, should the Court award less than the amount(s) sought by Class Counsel and Plaintiffs' Counsel, the difference in the amount(s) sought and the amount(s) ultimately awarded pursuant to this Paragraph shall remain in the Settlement Fund. The Parties agree that any award of attorneys' fees, costs, or expenses are committed to the sole discretion of the Court within the limitations set forth in this Paragraph. If the Court chooses, in its sole discretion, to award attorneys' fees and costs and/or a Service Award in any amount(s) lower than the amount(s) sought in the petition to be filed by Class Counsel, this Agreement shall remain fully enforceable and in force. Class Counsel shall file any petition for attorneys' fees, costs and expenses and Class Representative Service Awards no later than fourteen (14) days before the Objection/Opt-Out Deadline, and a copy of the petition shall be posted on the Settlement Website.

8.2 If approved by the Court, the Fee & Cost Award shall be payable by the Settlement Administrator within fourteen (14) days after the Effective Date. Payment of the Fee & Cost Award shall be made from the Settlement Fund by wire transfer to Class Counsel, in accordance with wire instructions to be provided by Class Counsel and completion of necessary forms, including but not limited to completed W-9 forms. Upon payment of the Fee & Cost Award, if and as awarded by the Court in its discretion, Class Counsel shall release and forever discharge the Released Parties from any claims, demands, actions, suits, causes of action, or other liabilities relating to any attorneys' fees, costs or expenses incurred in the Action. Class Counsel agree that any federal, state, municipal, or other taxes, contributions, or withholdings that may be owed or payable by them, or any tax liens that may be imposed, on the sums paid to them pursuant to this Paragraph are their sole and exclusive responsibility, and any amount required to be withheld for tax purposes (if any) will be deducted from those payments.

8.3 In recognition of its efforts on behalf of the Settlement Class, the Class Representative shall request to be paid, subject to the Court's approval, a Service Award in the amount of ten thousand dollars (\$10,000.00) from the Settlement Fund, in addition to any recovery pursuant to this Agreement, which Defendant and Defendant's Counsel shall not oppose. Should the Court award less than this amount, the difference in the amount sought and the amount ultimately awarded pursuant to this Paragraph shall remain in the Settlement Fund. Any Service Award shall be paid from the Settlement Fund (in the form of a check to the Class Representative that is sent directly or in care of Class Counsel), within twenty-one (21) days after the Effective Date. If the Court chooses, in its sole discretion, to make an award to the Class Representative that is lower than the amount sought in the motion to be filed by Class Counsel, or if the Court chooses to make no such award, this Agreement shall remain fully enforceable and in force. In order to receive such payment, the Class Representative must provide, sufficiently in advance of the deadline for the Settlement Administrator to process such payment, a completed W-9 form and such other documentation as may reasonably be required by the Settlement Administrator. The Class Representative agrees that any federal, state, municipal, or other taxes, contributions, or withholdings that may be owed or payable by it, or any tax liens that may be imposed, on any sums paid to them pursuant to this Paragraph are its sole and exclusive responsibility, and any amount required to be withheld for tax purposes (if any) will be deducted from that payment.

9. CONDITIONS OF SETTLEMENT, EFFECT OF DISAPPROVAL, CANCELLATION OR TERMINATION.

9.1 The Effective Date of this Settlement Agreement shall not occur unless and until each of the following events occurs and shall be the date upon which the last (in time) of the following events occurs:

- (a) The Parties, Defendant's Counsel, and Class Counsel have executed this Agreement;

(b) The Court has entered the Preliminary Approval Order;

(c) The Court has entered an order finally approving the Agreement, following Notice to the Settlement Class and a Final Approval Hearing, as provided in the Federal Rules of Civil Procedure, and has entered the Final Judgment, or a judgment consistent with this Agreement in all material respects; and

(d) The Final Judgment has become Final, as defined above, or, in the event that the Court enters an Alternate Judgment, such Alternate Judgment becomes Final.

9.2 If some or all of the conditions specified in Paragraph 9.1 are not met, or in the event that this Agreement is not approved by the Court, or the settlement set forth in this Agreement is terminated or fails to become effective in accordance with the terms of the Agreement, then this Agreement shall be canceled and terminated subject to Paragraph 6 unless Class Counsel and Defendant's Counsel mutually agree in writing to proceed with this Agreement. If any Party is in material breach of the terms hereof, any other Party, provided that such other Party is in substantial compliance with the terms of this Agreement, may terminate this Agreement upon written notice to all of the Parties, except that any attempted termination of this Agreement after the Preliminary Approval Order is entered will not take effect without an order of the Court, and that this Agreement may not be terminated after Final Judgment is entered without an order of the Court vacating the Final Judgment or an order of any appellate court reversing or vacating the Final Judgment. Notwithstanding anything herein, the Parties agree that the Court's failure to approve, in whole or in part, the Fee & Cost Award and/or the Service Award set forth in Paragraph 8 above shall not prevent the Agreement from becoming effective, nor shall it be grounds for termination of the Agreement.

9.3 If this Agreement is terminated or fails to become effective for the reasons set forth in Paragraphs 6.1-6.2 or 9.1-9.2 above, the Parties shall be restored to their respective positions in

the Action as of the date of the signing of this Agreement. In such event, any Final Judgment or other order entered by the Court in accordance with the terms of this Agreement shall be vacated by the Court, and the Parties shall be returned to the *status quo ante* with respect to the Action as if this Agreement had never been entered into.

10. MISCELLANEOUS PROVISIONS.

10.1 The Parties (a) acknowledge that it is their intent to consummate this Agreement; and (b) agree, subject to their fiduciary and other legal and ethical obligations, to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Agreement, to exercise their reasonable best efforts to accomplish the foregoing terms and conditions of this Agreement, to secure final approval, and to defend the Final Judgment through any and all appeals. Class Counsel and Defendant's Counsel agree to cooperate with one another in seeking Court approval of the Agreement, entry of the Preliminary Approval Order, and the Final Judgment, and to promptly agree upon and execute all such other documentation as may be reasonably required to obtain final approval of the Agreement.

10.2 The Parties intend this Agreement to be a final and complete resolution of all disputes between them with respect to the Released Claims by Plaintiffs, the Settlement Class, and each or any of them, on the one hand, against the Released Parties, and each or any of the Released Parties, on the other hand. Accordingly, the Parties agree not to assert in any forum that the Action was brought by Plaintiffs or defended by Defendant, or each or any of them, in bad faith or without a reasonable basis.

10.3 The Parties have relied upon the advice and representation of counsel, selected by them, concerning their respective legal liability for the claims hereby released. The Parties have read and understand fully the above and foregoing Agreement and have been fully advised as to

the legal effect thereof by counsel of their own selection and intend to be legally bound by the same.

10.4 Whether or not the Effective Date occurs or the Agreement is terminated, neither this Agreement nor the settlement contained herein, nor any term, provision or definition therein, nor any act or communication performed or document executed in the course of negotiating, implementing or seeking approval pursuant to or in furtherance of this Agreement or the settlement:

(a) is, may be deemed, or shall be used, offered or received in any civil, criminal or administrative proceeding in any court, administrative agency, arbitral proceeding, or other tribunal against the Released Parties, or each or any of them, as an admission, concession or evidence of, the validity of any Released Claims, the truth of any fact alleged by the Plaintiff, the deficiency of any defense that has been or could have been asserted in the Action, the violation of any law or statute, the definition or scope of any term or provision, the reasonableness of the Settlement Fund or the Fee & Cost Award (except in connection with seeking approval of the settlement in the Action), or of any alleged wrongdoing, liability, negligence, or fault of the Released Parties, or any of them. Defendant, while continuing to deny all allegations of wrongdoing and disclaiming all liability with respect to all claims, and as set forth above, consider it desirable to resolve the Action on the terms stated herein to avoid further expense, inconvenience, and burden, and therefore have determined that this settlement is in Defendant's best interests;

(b) is, may be deemed, or shall be used, offered, or received against any Released Party, as an admission, concession, or evidence of any fault, misrepresentation, or omission with respect to any statement or written document approved or made by the Released Parties, or any of them;

(c) is, may be deemed, or shall be used, offered, or received against the Released Parties, or each or any of them, as an admission or concession with respect to any liability, negligence, fault, or wrongdoing as against any Released Parties, in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal. However, the settlement, this Agreement, and any acts performed and/or documents executed in furtherance of or pursuant to this Agreement and/or settlement may be used in any proceedings as may be necessary to effectuate the provisions of this Agreement. Further, if this Agreement is approved by the Court, any Party or any of the Released Parties may file this Agreement and/or the Final Judgment in any action that may be brought against such Party or Released Parties in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim;

(d) is, may be deemed, or shall be construed against Plaintiffs, the Settlement Class, the Releasing Parties, or each or any of them, or against the Released Parties, or each or any of them, as an admission or concession that the consideration to be given hereunder represents an amount equal to, less than, or greater than that amount that could have or would have been recovered after trial; and

(e) is, may be deemed, or shall be construed as or received in evidence as an admission or concession against Plaintiff, the Settlement Class, the Releasing Parties, or each and any of them, or against the Released Parties, or each or any of them, that any of Plaintiff's claims are with or without merit or that damages recoverable in the Action would have exceeded or would have been less than any particular amount.

10.5 No person shall have any claim against the Parties, Class Representative, Class Counsel, Defense Counsel, the Settlement Administrator, any other agent designated by Class

Counsel, or the Released Parties and/or their counsel, arising from distributions made substantially in accordance with this Agreement. The Parties and their respective counsel, and all other Released Parties shall have no liability whatsoever for the investment or distribution of the Settlement Fund or the determination, administration, calculation, or payment of any claim or nonperformance of the Settlement Administrator, the payment or withholding of taxes (including interest and penalties) owed by the Settlement Fund, or any losses incurred in connection therewith.

10.6 The headings used herein are used for the purpose of convenience only and are not meant to have legal effect.

10.7 The waiver by one Party of any breach of this Agreement by any other Party shall not be deemed as a waiver of any other prior or subsequent breaches of this Agreement.

10.8 All of the exhibits to this Agreement are material and integral parts thereof and are fully incorporated herein by this reference.

10.9 This Agreement and its exhibits set forth the entire agreement and understanding of the Parties with respect to the matters set forth herein, and supersede all prior negotiations, agreements, arrangements, and undertakings with respect to the matters set forth herein. This Agreement is executed without reliance on any covenant, agreement, representation, or warranty by any Party or any Party's representative other than those expressly set forth in this Agreement. No representations, warranties, or inducements have been made to any Party concerning this Agreement or its exhibits other than the representations, warranties, and covenants contained and memorialized in such documents. This Agreement may be amended or modified only by a written instrument signed by or on behalf of all Parties or their respective successors-in-interest.

10.10 Except as otherwise provided herein, each Party shall bear its own costs.

10.11 Plaintiff represents and warrants that it has not assigned any claim or right or interest therein as against the Released Parties to any other person or Party and that it is fully entitled to release the same.

10.12 Each counsel or other person executing this Agreement, any of its exhibits, or any related settlement documents on behalf of any Party hereto, hereby warrants and represents that such person has the full authority to do so and has the authority to take appropriate action required or permitted to be taken pursuant to the Agreement to effectuate its terms.

10.13 This Agreement may be executed in one or more counterparts. Signature by digital means, facsimile, or in PDF format will constitute sufficient execution of this Agreement. All executed counterparts and each of them shall be deemed to be one and the same instrument. A complete set of original executed counterparts shall be filed with the Court if the Court so requests.

10.14 This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto and the Released Parties.

10.15 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of this Agreement, and all Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the settlement embodied in this Agreement. As part of the agreement to render services in connection with this Agreement, the Settlement Administrator consents to the jurisdiction of the Court for this purpose. The Court shall retain jurisdiction over the enforcement of the Court's injunction barring and enjoining all Releasing Parties from asserting any of the Released Claims and from pursuing any Released Claims against the Released Parties at any time and in any jurisdiction. Any disputes between the Parties concerning matters contained in this Agreement shall, if they cannot be resolved by negotiation and agreement, be submitted to the Court for resolution.

10.16 This Agreement shall be governed by and construed in accordance with the substantive laws of the State of New York without giving effect to the State of New York's conflict of laws provisions.

10.17 This Agreement is deemed to have been prepared by counsel for all Parties and as a result of arm's-length negotiations among the Parties. Because all Parties have contributed substantially and materially to the preparation of this Agreement, it shall not be construed more strictly against one Party than another.

10.18 Where this Agreement requires notice to the Parties, such notice shall be sent to the undersigned counsel:

1. Roy A. Katriel, The Katriel Law Firm, P.C., 2262 Carmel Valley Rd. Suite 201, Del Mar, CA 92014;
2. Ralph B. Kalfayan, The Kalfayan Firm, A.P.C., 2262 Carmel Valley Road, Suite 200, Del Mar, CA 92014;
3. John C. Scalzo and Zachary B. Kaye, Reed Smith LLP, 599 Lexington Ave., New York, NY 10022, Floor 22

10.19 To the extent permitted by ethics rules, the Parties and their counsel and any other person involved in this Agreement shall keep confidential all settlement communications, including communications regarding the negotiation and drafting of this Agreement. This paragraph shall not be construed to limit or impede the Notice requirements contained in this Agreement, nor shall this paragraph be construed to prevent Class Counsel or Defendant's Counsel from notifying or explaining that the Action has settled or limit the representations that the Parties or their counsel may make to the Court to assist in the Court's evaluation of the Agreement, Preliminary Approval, Final Approval, and any objection to the Agreement's terms. Defendant may also provide information about the Agreement to their attorneys, employees, accountants, members, partners, insurers, brokers, agents, and other persons as required by applicable laws and regulations. This paragraph shall not be construed to limit the rights of the Parties or the Released

Parties to enforce this Agreement in Court. This paragraph shall not be construed to limit the rights of the Parties or the Released Parties to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim as permitted by Paragraphs 10.4(c) and 10.15.

10.20 Any documents or nonpublic information provided by Defendant to Class Counsel, Plaintiffs, or Plaintiffs' Counsel must be destroyed within twenty-eight (28) days of the Settlement Administrator completing the issuance of all Cash Awards, except insofar as Class Counsel shall have the right to retain any work product and, in the case of pleadings submitted to the Court, any exhibits to such pleadings.

10.21 Defendant may communicate with the Settlement Class in the ordinary course of its operations. Defendant will refer inquiries from the Settlement Class regarding this Agreement and administration of the settlement to the Settlement Administrator or Class Counsel.

10.22 As used in this Agreement, the masculine, feminine or neuter gender, and the singular or plural number, shall each be deemed to include the others whenever the context so indicates.

IT IS SO AGREED TO BY THE PARTIES:

Dated: _____

SPA THIRSTY, INC.

By: _____
Plaintiff, individually and as representative of the
Settlement Class

Name: _____

Title: _____

Dated: _____

**HYDRAFACIAL LLC DBA THE HYDRAFACIAL
COMPANY**

By: _____

Name: _____

Title: _____

AGREED AS TO ALL OBLIGATIONS OF CLASS COUNSEL:

Dated: _____

THE KATRIEL LAW FIRM, P.C.

By: _____
Roy A. Katriel, Esq. (pro hac vice)
2262 Carmel Valley Road, Suite 201
Del Mar, CA 92014
Tel: (619) 363-3333
rak@katriellaw.com

Dated: _____

THE KALFAYAN FIRM, A.P.C.

By: _____
Ralph B. Kalfayan, Esq. (pro hac vice)
2262 Carmel Valley Road, Suite 200
Del Mar, CA 92014
Tel: (619) 232-0331
ralph@rbk-law.com

AGREED AS TO ALL OBLIGATIONS OF DEFENDANT'S COUNSEL:

Dated: _____

REED SMITH LLP (NYC)

By: _____
John C. Scalzo (N.Y. Bar No. JS-2804)
599 Lexington Avenue
New York, NY 10022
Tel. (212) 521-5400
jscalzo@reedsmith.com

Attorneys for Defendant