

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

STEVE HESSE, *et al.*,  
  
Plaintiffs,

v.

GODIVA CHOCOLATIER, INC., *et al.*,  
  
Defendants.

CASE NO.: 1:19-cv-00972-AJN

**SETTLEMENT AGREEMENT**

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This settlement agreement (“Settlement” or “Settlement Agreement”) is entered into by Plaintiffs Steve Hesse and Adam Buxbaum (“Plaintiffs” or “Class Representatives”), individually and on behalf of the Settlement Class (defined herein), and by Defendant Godiva Chocolatier, Inc. (“Godiva”) (collectively with the Plaintiffs, the “Parties”), in the above-captioned action. This Settlement Agreement is intended by the Parties to fully and finally resolve, discharge, and settle the Released Claims, as defined herein, subject to the terms and conditions set forth below, and the approval of the District Court.

**RECITALS**

1. On January 31, 2019, Plaintiff Steve Hesse commenced a proposed class action in the Southern District of New York against Godiva in *Hesse v. Godiva Chocolatier, Inc.* No. 1:19-cv-00972-AJN, in connection with Godiva’s marketing and sale of its chocolate products (the “Hesse Action”).
2. On January 31, 2019, Plaintiff Adam Buxbaum also commenced a proposed class action in the Northern District of California against Godiva in *Buxbaum v. Godiva Chocolatier,*

*Inc.*, No. 3:19-cv-00558-DMR, in connection with Godiva’s marketing and sale of its chocolate products (the “Buxbaum Action”).

3. On March 4, 2019, for purposes of judicial efficiency, the Buxbaum Action was voluntarily dismissed without prejudice.
4. On March 5, 2019, Plaintiffs filed a First Amended Class Action Complaint against Godiva (the “Action”).
5. On April 19, 2019, Godiva filed a Motion to Dismiss the First Amended Class Action Complaint.
6. On May 20, 2019, Plaintiffs opposed the Motion to Dismiss.
7. On June 3, 2019, Godiva filed a reply in support of its Motion to Dismiss.
8. On May 29, 2020, the Court granted in part and denied in part the Motion to Dismiss.
9. On June 12, 2020, Godiva filed an Answer to the First Amended Class Action Complaint.
10. The Parties have engaged in substantial discovery, including multiple rounds of interrogatories, document requests, and requests for admission, and extensive document review. Plaintiffs have also consulted experts in fields of statistics and economics and the chocolate industry with respect to their claims.
11. The Parties have also engaged in extensive arm’s length settlement negotiations spanning two mediation sessions. On March 2, 2021, the Parties participated in a day-long mediation session with Jill Sperber of Judicate West. The Parties did not reach settlement during this mediation.
12. On April 1, 2021, the Parties participated in a second mediation session with Ms. Sperber. The Parties were still unable to reach settlement during this mediation, although they

agreed to continue to negotiate the material terms of the Settlement under the auspices of Ms. Sperber.

13. In the subsequent weeks, the Parties continued to engage in settlement negotiations regarding additional terms of a settlement, culminating in the execution of a Memorandum of Understanding on May 1, 2021. Only after reaching agreement on the substantive terms of relief for the Class did Class Counsel engage in any discussion regarding recovery of attorneys' fees and costs.
14. Thereafter, the Parties engaged in confirmatory discovery. Among other things, Plaintiffs reviewed additional documents relating to the nature of Plaintiffs' claims and the products at issue. The Parties have had a full and fair opportunity to evaluate the strengths and weaknesses of their respective positions.
15. After completing extensive discovery, the Parties finalized and executed this Settlement Agreement.
16. Weighing the risks and uncertainties of continued litigation and all factors bearing on the merits of settlement, Plaintiffs and Class Counsel are satisfied that the terms and conditions of this settlement are fair, reasonable, adequate, and in the best interests of the Class.
17. Godiva, while continuing to deny all allegations of wrongdoing, and disclaiming all liability with respect to all claims, considers it desirable to resolve the Action on the terms stated herein to avoid further expense, inconvenience, and burden associated with further litigation, and therefore determines that this Settlement Agreement is in Godiva's best interests.
18. NOW, THEREFORE, without any admission or concession of liability or wrongdoing or the lack of merit of any defense whatsoever by Godiva, or any admission or concession of

the lack of merit of this Action whatsoever by Plaintiffs, it is hereby stipulated and agreed by the undersigned, on behalf of Plaintiffs, the Settlement Class, and Godiva, that the Action and all claims of the Settlement Class be settled, compromised, and dismissed on the merits and with prejudice, subject to Court approval as required by Federal Rules of Civil Procedure 23, on the terms and conditions set forth herein and upon the Effective Date (as defined below).

19. Each Party affirms that the Recitals above are true and accurate and are hereby made a part of this Settlement Agreement.

## **I. DEFINITIONS**

As used in this Settlement Agreement and the Exhibits hereto, in addition to any definitions set forth elsewhere in this Settlement Agreement, the following terms shall have the meanings set forth in Section I below. Unless otherwise indicated, defined terms include the plural as well as the singular. The recitals above and definitions stated below are incorporated into this Agreement and made a part of this Agreement as if fully set forth herein.

20. “**Action**” means the class action captioned *Hesse, et al. v. Godiva Chocolatier, Inc.*, No. 1:19-cv-00972-AJN, in the United States District Court for the Southern District of New York.
21. “**Agreement**” or “**Settlement Agreement**” means this settlement agreement in its entirety, including any and all of its Exhibits attached hereto and incorporated herein.
22. “**CAFA Notice**” means the notice which Godiva or the Settlement Administrator shall serve upon the appropriate State and Federal officials, providing notice of the proposed settlement in compliance with 28 U.S.C. § 1715.

23. “**Claim Deadline**” means the date to be set by the Court as the deadline for Settlement Class Members to submit Claim Forms, and which shall be a total of one hundred and twenty (120) calendar days, beginning after the Notice Date.
24. “**Claim Form**” means the document which Settlement Class Members must submit to the Settlement Administrator in order to obtain the Settlement Benefit. Settlement Class Members may complete the Claim Form on the Settlement Website, substantially in the form of **Exhibit 1** hereto, and submit it electronically to the Settlement Administrator. Alternatively, Settlement Class Members may obtain a hard copy of the Claim Form, substantially in the form of **Exhibit 2** hereto, by downloading it from the Settlement Website or requesting it from the Settlement Administrator. If using a hard copy of the Claim Form, Settlement Class Members must mail the Claim Form to the Settlement Administrator. The Claim Form may be modified as necessary to comply with the provisions of any order by the Court.
25. “**Claims Period**” means the period of time from the Notice Date until the Claim Deadline.
26. “**Claimant**” means a Settlement Class Member that submits a Claim Form.
27. “**Class Counsel**” or “**Plaintiffs’ Counsel**” means the law firms of Faruqi & Faruqi, LLP and the Wand Law Firm, P.C.
28. “**Class Period**” or “**Settlement Class Period**” means the period of time from January 31, 2015 through the date Preliminary Approval is granted.
29. “**Class Representatives**” or “**Plaintiffs**” means Plaintiffs Steve Hesse and Adam Buxbaum.

30. **“Class Representative Service Award”** means the monetary award, sought by application and approved by the Court, which is payable to the Class Representatives for their efforts and diligence in prosecuting this Action on behalf of the Settlement Class.
31. **“Court”** means the United States District Court for the Southern District of New York, the Honorable Alison J. Nathan presiding.
32. **“Cy Pres Recipient”** means Public Justice Foundation, or any other non-profit organization that may be mutually-agreed upon by the Parties and approved by the Court.
33. **“Defendant”** or **“Godiva”** means Godiva Chocolatier, Inc.
34. **“Defendant’s Counsel,” “Defense Counsel,”** or **“Godiva’s Counsel”** means the law firm of Perkins Coie LLP.
35. **“Direct Notice”** means notice of the proposed Settlement, substantially in the form of **Exhibit 3** hereto, to be emailed directly to Persons for whom Godiva maintains marketing or loyalty email addresses. The Direct Notice may be modified as necessary to comply with the provisions of any order by the Court.
36. **“Effective Date”** means the date on which the Court enters a Final Approval Order and Final Judgment, if no appeal is taken. If an appeal is taken, the Effective Date shall mean the first date all appellate rights with respect to the Final Approval Order and Final Judgment have expired or been exhausted in such a manner as to affirm the Final Approval Order and Final Judgment.
37. **“Final Approval Hearing”** means the hearing that is to take place after the entry of a Preliminary Approval Order and after the Notice Date for purposes of, *inter alia*, (a) determining whether the Settlement Agreement should be approved as fair, reasonable,

adequate; (b) entering the Final Approval Order and Final Judgment and dismissing the Action with prejudice; and (c) ruling upon a Fee Application.

38. **“Fee Application”** means the motion for a Fee Award and Class Representative Service Awards, which Plaintiffs will file at least thirty-five (35) calendar days before the Final Approval Hearing.
39. **“Fee Award”** means an award of reasonable attorneys’ fees, costs and expenses sought by application and approved by the Court, which is payable to Class Counsel.
40. **“Final Approval”** or **“Final Approval Order”** means the Court’s entry of an Order following the Final Approval Hearing, approving the Settlement pursuant to the terms and conditions of this Settlement Agreement without material change and confirming the certification of the Settlement Class for purposes of this Agreement only.
41. **“Final Judgment”** means the Court’s entry of a judgment following the Final Approval Hearing, entering final judgment, dismissing the Action with prejudice, and releasing all claims of Plaintiffs and the Settlement Class Members, with the exception of those who submit a timely and valid Request for Exclusion.
42. **“Fraudulent Claims”** means any Claim Form(s) that the Settlement Administrator, in conjunction with the Parties, determines in good faith contain indicia of fraud or deceit, including but not limited to, any attempts to bypass the terms and limitations set out in this Settlement Agreement regarding Claim Forms, Claimants, Settlement Class Members and Settlement Benefits.
43. **“Godiva Chocolate Product”** means any product manufactured and sold by Godiva, or sold under the Godiva brand, which contains chocolate.

44. **“Long Form Notice”** means notice of the proposed settlement to be provided to Settlement Class Members substantially in the form of **Exhibit 4** hereto. The Long Form Notice shall be published on the Settlement Website. The Long Form Notice may be modified as necessary to comply with the provisions of any order by the Court.
45. **“Motion for Final Approval”** means the unopposed motion that the Plaintiffs shall make seeking an entry of the Final Approval Order and Final Judgment by the Court.
46. **“Motion for Preliminary Approval”** means the unopposed motion that the Plaintiffs shall make seeking an entry of the Preliminary Approval Order.
47. **“Notice”** means notice of this Settlement Agreement as defined in Section IV.
48. **“Notice Date”** means the date that Direct Notice is given, and the first date that the Notice Plan commences, as set forth in Section IV below.
49. **“Notice Plan”** means the plan for dissemination of Notice of this Settlement Agreement by the Settlement Administrator in accord with the terms and provisions set forth in Section IV below.
50. **“Notice of Missing or Inaccurate Information”** means the notice sent by the Settlement Administrator to a Claimant who has submitted a Claim Form with inaccurate, disqualifying, incomplete or missing information that is required for the Claimant to be considered eligible for the Settlement Benefit provided by this Settlement.
51. **“Objection/Exclusion Deadline”** means the date to be set by the Court as the deadline for Settlement Class Members to submit Objections or Requests for Exclusion, and which shall be twenty-one (21) calendar days before the Final Approval Hearing.



52. **“Objection”** means the written communication that a Settlement Class Member must submit to the Court by the Objection/Exclusion Deadline in order to object to the Settlement, as provided for in Section VI below.
53. **“Person”** means any natural person.
54. **“Parties”** means Plaintiffs and Godiva, collectively, and **“Party”** means either Plaintiffs or Godiva, individually.
55. **“Preliminary Approval”** or **“Preliminary Approval Order”** shall mean the issuance of an Order by the Court, substantially in the form of **Exhibit 5** hereto, provisionally certifying the Settlement Class, and preliminarily approving, *inter alia*, the terms of this Settlement and authorizing dissemination of Notice to the Class.
56. **“Proof of Purchase”** means a receipt, copies of receipts, paid invoice, or other similar types of documentation evidencing the purchase of Godiva Chocolate Products from either Godiva or a retail establishment by the Settlement Class Member.
57. **“Released Claims”** means any claim, cross-claim, liability, right, demand, suit, matter, obligation, damage, restitution, disgorgement, loss or cost, attorneys’ fee, cost or expense, action or cause of action, of every kind and description that the Releasing Party had or has, including assigned claims, whether in arbitration, administrative, or judicial proceedings, whether as individual claims or as claims asserted on a class basis or on behalf of the general public against any of the Released Parties that are based on, arise out of, or relate to the allegations or claims in the Action, that the Godiva Chocolate Products were misleadingly promoted, marketed or sold, or that relate to the promotion, labeling and marketing of the Godiva Chocolate Products. Excluded from the Released Claims is any claim for alleged bodily injuries arising out of use of the Godiva Chocolate Products.

58. **“Released Parties”** means Godiva, and all of its past, present and/or future parents, predecessors, successors, assigns, subsidiaries, divisions, departments, and affiliates, and any and all of their past, present and/or future officers, directors, employees, stockholders, partners, agents, servants, successors, attorneys, representatives, advisors, consultants, brokers, distributors, wholesalers, subrogees and assigns of any of the foregoing, and representatives of any of the foregoing.
59. **“Releasing Parties”** means the Plaintiffs, each Settlement Class Member who does not submit a timely and valid Request for Exclusion, and any Person claiming by or through such Settlement Class Member as his/her spouse, parent, child, heir, guardian, associate, co-owner, attorney, agent, administrator, devisee, predecessor, successor, assignee, representative of any kind, shareholder, partner, director, employee, or affiliate.
60. **“Request for Exclusion”** means the written communication that a Settlement Class Member must submit to the Settlement Administrator by the Objection/Exclusion Deadline in order to be excluded from the Settlement as provided for in Section VI below.
61. **“Settlement”** means the settlement embodied in this Agreement.
62. **“Settlement Administrator”** means Kroll Business Services (formerly known as Heffler Claims Group), which will be responsible for, *inter alia*, providing Notice to the Settlement Class and administering the Settlement as provided for in Sections IV and V below.
63. **“Settlement Notice and Administration Costs”** means the costs for providing Notice and administration of the Settlement. Godiva shall pay the Settlement Notice and Administration Costs.
64. **“Settlement Benefit”** means the monetary payment described in Section II, available to Settlement Class Members who submit a timely and valid Claim Form.

65. “**Settlement Class Members**,” “**Class Members**,” “**Class**,” or “**Settlement Class**” means: All Persons who purchased any Godiva Chocolate Product in the United States during the Class Period. Excluded from the Settlement Class are: (a) Godiva and any of its parents’, affiliates’, or subsidiaries’ employees, officers and directors, (b) distributors, retailers or re-sellers of Godiva Chocolate Products, (c) governmental entities, (d) the Court, the Court’s immediate family, Court staff, (e) the mediator and her staff and immediate family, (f) counsel of record for the Parties, and their respective law firms, and (g) all Persons who timely and properly exclude themselves from the Settlement Class.
66. “**Settlement Website**” means the ADA-compliant website to be established by the Settlement Administrator for purpose of providing Notice, Claim Forms and other information regarding this Settlement Agreement. The Settlement Website will include, *inter alia*, (a) an FAQ section, (b) links to all pertinent documents including, the Settlement Agreement, Long Form Notice, and all other relevant pleadings as agreed by the Parties or as ordered by the Court, (c) the Fee Application and Motions for Preliminary Approval and Final Approval (and orders granting these motions if and when they are issued), (d) a toll-free number, (e) and other pertinent information about the Settlement, including the ability to complete and submit the Claim Form. The Settlement Website will be updated regularly with relevant documents as they become available.
67. “**Summary Notice**” means notice of the proposed Settlement published in the California edition of *USA Today*. Summary Notice is to be provided substantially in the forms of **Exhibit 6** hereto, but which may be modified as necessary to comply with the provisions of any order of Preliminary Approval entered by the Court.

## II. SETTLEMENT CONSIDERATION

## Monetary Relief

68. To each Claimant who submits a timely and valid Claim Form, Godiva shall pay a monetary Settlement Benefit as follows:

- a. **With Proof of Purchase.** Each Claimant who submits sufficient Proof of Purchase may claim \$1.25 per Godiva Chocolate Product purchased during the Class Period, up to a maximum recovery of \$25.
- b. **Without Proof of Purchase.** Each Claimant who does not submit sufficient Proof of Purchase, or no Proof of Purchase at all, but who submits an attestation of his/her purchase of Godiva Chocolate Products during the Class Period under penalty of perjury, may claim \$1.25 per Godiva Chocolate Product purchased during the Class Period, up to a maximum recovery of \$15.
- c. **Maximum Payment of Settlement Benefits.** If the aggregate total monetary value of all valid and timely Claims submitted by Settlement Class Members meets or exceeds Fifteen Million Dollars (\$15,000,000.00), then Godiva shall only be responsible for paying Fifteen Million Dollars (\$15,000,000.00), and in this situation, each Settlement Class Member's Settlement Benefit shall be reduced on a pro rata basis.
- d. **Un-Claimed Settlement Benefits.** Settlement Benefits shall be paid via paper checks, Zelle, PayPal, Venmo, direct deposit via ACH, or prepaid debit cards (physical or electronic), as selected by the Settlement Class Member when completing the Claim Form. Paper checks and PayPal are the only methods of payment which require Settlement Class Members making a claim to take action to receive custody of the funds, and Settlement Class Members choosing one of these

two payment methods shall be provided one hundred and eighty (180) calendar days from issuance to negotiate or accept the funds. If the check is not cashed, deposited, or otherwise negotiated within this 180-day timeframe, the check will be voided, and the funds shall be distributed by the Settlement Administrator to the *Cy Pres* Recipient. Similarly, if the funds via PayPal are not accepted within this 180-day timeframe, then the funds shall be distributed by the Settlement Administrator to the *Cy Pres* Recipient. No unclaimed Settlement Benefits shall return to Godiva under any circumstances.

- e. For purposes of Paragraph 68(a)-(b), Settlement Class Members residing in the same household (i.e., the same mailing address) who each submit a Claim Form shall only be entitled to a collective maximum payment of \$15 or \$25 per household, depending on whether Proof of Purchase is submitted. If one or more Settlement Class Members from the same household submit Claim Forms, the Settlement Administrator will only pay the aggregate amount of all Claims from that household, up to the maximum recovery of \$15 or \$25 (depending on whether Proof of Purchase is submitted), and it shall pay this aggregate amount to the first submitted valid and timely Claim in the household.

- 69. Godiva shall pay the monetary relief to the Class separate from, and in addition to, all other payments it is obligated to make under the Settlement (e.g., Settlement Notice and Administration Costs, the Class Representative Service Awards, and the Fee Award).

### **III. CLAIMS PROCESS AND PAYMENT**

#### **Submission of Claims**

70. To be eligible to receive the Settlement Benefit under the Settlement Agreement, Settlement Class Members must submit a claim to the Settlement Administrator by either: (a) completing, certifying, and sending the Claim Form to the Settlement Administrator via U.S. Mail or electronic mail; or (b) completing, certifying, and submitting the Claim Form electronically to the Settlement Administrator via the Settlement Website.
71. In order to be timely, the Claim Form must be postmarked or electronically submitted by no later than the Claim Deadline. Claim Forms postmarked or electronically submitted after the Claim Deadline may be denied by the Settlement Administrator, and Godiva will not be obligated to make any payment on such claims.
72. In order to be valid, the Claim Form must: (a) be signed in hard copy or electronically by the Settlement Class Member under penalty of perjury; and (b) bear an attestation by the Settlement Class Member that he/she purchased the Godiva Chocolate Products during the Class Period. Claim Forms that do not meet these requirements may be denied by the Settlement Administrator, in consultation as necessary with Godiva's Counsel and Class Counsel, and Godiva will not be obligated to make any payment on such claims, unless the Parties agree otherwise.
73. In completing the Claim Form, Claimants have two options: (1) if they have no Proof of Purchase, they may select Option A or (2) if they have Proof of Purchase, they may select Option B.

#### **Review of Claims**

74. The Settlement Administrator shall review all submitted Claim Forms within a reasonable time to determine the validity and timeliness of the Claim, each Settlement Class Member's eligibility for the Settlement Benefit, and the amount of such relief, if any. Copies of

submitted Claim Forms shall be provided to Godiva's Counsel and to Class Counsel upon request. Settlement Class Members who submit valid and timely Claim Forms shall be entitled to the Settlement Benefit. Settlement Class Members who submit Claims Forms that do not meet the eligibility requirements described herein may not be entitled to such relief.

### **Fraudulent Claims**

75. The Settlement Administrator shall use good faith and appropriate procedures to prevent, detect, and reject the payment of Fraudulent Claims and ensure payment of only legitimate claims.
76. Godiva will not be obligated to make any payment for any Claim Forms that are initially determined to be valid, but are later discovered to be fraudulent.

### **Incomplete or Inaccurate Claim Forms**

77. After receipt of any Claim Forms containing incomplete or inaccurate information, and/or submitted Claims Forms omitting required information, the Settlement Administrator shall send a Notice of Missing or Inaccurate Information explaining what information is missing or inaccurate. In the event of missing or invalid Proof of Purchase, submitted in connection with Option B, the Notice of Missing or Inaccurate Information sent by the Settlement Administrator, shall inform the Claimant of his or her ability to convert or resubmit the Claim Form under Option A.
78. Claimants shall have thirty (30) calendar days from when the Notice of Missing or Inaccurate Information was mailed to reply to the Notice of Missing or Inaccurate Information and provide the required information.

79. If a Claimant fails to respond within thirty (30) calendar days from when the Notice of Missing or Inaccurate Information was mailed or the Settlement Administrator is unable to provide a Notice of Missing or Inaccurate Information as a result of the omitted information, the Settlement Administrator will reject such Claimant's claim, and Godiva will not be obligated to make any payment on such claim, unless otherwise agreed by the Parties.
80. The Parties will each have the right to review and contest all claims approved for payment by the Settlement Administrator, including for Fraudulent Claims or Complete or Inaccurate Claim Forms. The Settlement Administrator will, however, ultimately be the final decision maker on the validity of any claim.

#### **Provision of Settlement Benefits**

81. Godiva shall transmit via wire transfer to the Settlement Administrator the aggregate dollar value of all Settlement Benefits by no later than fourteen (14) calendar days after the Effective Date.
82. The Settlement Administrator shall pay all Settlement Benefits to Settlement Class Members who are eligible and who submit a valid and timely Claim Form thirty (30) calendar days of receiving the funds from Godiva.
83. All Settlement Benefits to Settlement Class Members shall be in the form of cash payments via whichever option the Settlement Class Member elects. To assist with claims administration, Settlement Class Members that elect to receive a Settlement Benefit electronically must complete the Claim Form electronically. Class Members completing the Claim Form electronically can alternatively choose a physical payment method. However, Settlement Class Members that complete and mail the physical Claim Form to



the Settlement Administrator will only be allowed to choose a physical payment method (as account verification, which cannot be provided through the physical Claim Form, is needed for the electronic payment methods).

#### **IV. NOTICE**

84. Notice of the Settlement shall conform to all applicable requirements of the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process Clauses), the Class Action Fairness Act of 2005, 28 U.S.C. § 1715, and any other applicable law, and shall otherwise be in the manner and form approved by the Court. The Notice Plan shall reach at least 75% of the Class. To the extent any changes to the Notice Plan set forth herein need to be modified, the Parties agree to work cooperatively to make any such changes.

#### **Forms of Notice**

85. Upon Preliminary Approval, Notice of the Settlement to the Class shall be provided according to the following Notice Plan:
- a. Settlement Website Notice: Within fourteen (14) calendar days of Preliminary Approval, the Settlement Administrator shall launch a Settlement Website, which will include, *inter alia*, links to the Long Form Notice, the Summary Notice, this Settlement Agreement and Exhibits, the Claim Form, the list of examples of Godiva Chocolate Products, relevant filings and orders, and information relating to filing a claim, objecting to the Settlement, opting out of the Settlement, other deadlines relating to the Settlement, and instructions on how to access the case docket via PACER or in person at any of the Court's locations. The Settlement Website will also provide Class Members with the ability to submit Claim Forms and Requests

for Exclusion and to obtain information contained without the Claim Form. The Settlement Website shall be compliant with the Americans with Disabilities Act of 1990.

- b. Toll-Free Telephone Support: Within fourteen (14) calendar days of Preliminary Approval, the Settlement Administrator shall establish a toll-free live telephone support system to provide Settlement Class Members with (a) general information about the Action and Settlement; (b) frequently asked questions and answers; and (c) information relating to filing a Claim, objecting to the Settlement, opting out of the Settlement, and other deadlines relating to the Settlement.
- c. Direct Notice: Within ten (10) calendar days of Preliminary Approval, Godiva shall provide the Settlement Administrator with a list of all Persons for whom it has e-mail addresses. Within twenty (20) calendar days after an order granting Preliminary Approval, the Settlement Administrator shall initiate the Direct Notice program to be sent via e-mail to all such Persons. The Direct Notice shall be in the body of the email. The Settlement Administrator shall implement protocols and procedures to ensure delivery of the Direct Notice via email by, *inter alia*, notifying major ISPs that it will begin a large email campaign (thereby reducing the risk of the email being identified a spam or junk email). The Settlement Administrator will also make reasonable efforts to re-email the Direct Notice to all email addresses for which it receives any undeliverable or bounce back notices, to the extent possible.
- d. Print Publication Notice: No sooner than thirty (30) calendar days after an order granting Preliminary Approval, the Settlement Administrator will publish the

Summary Notice in a California edition of *USA Today* one day a week for a period of four consecutive weeks in compliance with the California CLRA.

- e. Internet Publication Notice: The Settlement Administrator will purchase Internet banner notice ads, social media ads, and search ads, that will allow access to the Settlement Website through an embedded hyperlink contained within the banner notice ad. This Internet Publication Notice will commence no sooner than thirty (30) calendar days after an order granting Preliminary Approval, and it shall continue for a period of forty-five (45) calendar days.
- f. CAFA Notice: Within ten (10) calendar days after Plaintiffs file the Motion for Preliminary Approval, Godiva or the Settlement Administrator shall provide CAFA Notice, in compliance with 28 U.S.C. § 1715, and Godiva or Godiva's counsel or the Settlement Administrator shall provide a declaration attesting to this.

## **V. ADMINISTRATION OF SETTLEMENT**

- 86. All Settlement Notice and Administration Costs shall be paid by Godiva. If Notice is provided to the Settlement Class but the Settlement is not finally approved, Godiva shall be solely responsible for any notice costs claimed by the Settlement Administrator. Any supplemental or additional notice that may become necessary or appropriate, by Court order or as otherwise as agreed by the Parties, shall also be by paid by Godiva.
- 87. The Settlement Administrator shall be responsible for administrative tasks, including, without limitation:
  - a. Arranging, as set forth in Section IV and in the Preliminary Approval Order, for distribution of Notice of the Settlement (in a form substantially similar to that

approved by the Court) and Claims Forms (in a form substantially similar to that approved by the Court) to Settlement Class Members;

- b. Answering inquiries from Settlement Class Members pertaining to the mechanics of exercising their rights under the Settlement and directing any inquiries from Settlement Class Members pertaining to the substantive terms of the Settlement to Class Counsel;
- c. Receiving and maintaining correspondence regarding Objections and Requests for Exclusion from the Settlement Agreement;
- d. Posting notices, Claim Forms, and other related documents on the Settlement Website and otherwise maintaining the Settlement Website;
- e. Receiving and processing Claim Forms, including sending rejection notices for potential invalid/fraudulent claims;
- f. Providing prompt updates to Godiva's Counsel and Class Counsel regarding the number of Claims, Notice of Missing or Inaccurate Information issued, Requests for Exclusion, and Objections;
- g. Providing declaration(s) in support of preliminary and final approval as necessary and appropriate;
- h. Distributing all payments under the Settlement, including payments to Settlement Class Members and the Class Representative Service Awards;
- i. Providing a post-distribution accounting declaration and/or any other declarations regarding compliance with and effectuation of the terms of the Settlement; and

- j. Otherwise assisting with implementation and administration of the Settlement Agreement terms as the Parties mutually agree or the Court orders the Settlement Administrator to perform.

## **VI. OBJECTIONS AND OPT-OUTS**

### **Objections**

88. Settlement Class Members shall have the right to appear and present Objections as to any reason why the terms of this Agreement should not be given Final Approval. Any Objection must be made within the Objection/Exclusion Deadline, and must be in writing and submitted to the Court in either of the following manners: (1) mailing the Objection to the Class Action Clerk, United States District Court for the Southern District of New York, Thurgood Marshal Courthouse, Courtroom 906, 40 Foley Square, New York, NY 10007, or (2) filing the Objection in person at any location of the United States District Court for the Southern District of New York or via the ECF electronic filing system.
89. The date of the postmark on the envelope, or the electronic date of submission or filing, shall be the exclusive means used to determine whether an Objection has been timely submitted by the Objection/Exclusion Deadline.
90. Any Objection must contain a caption or title that identifies it as “Objection to Class Settlement in *Hesse, et al. v. Godiva Chocolatier, Inc.*, No. 1:19-cv-00972-AJN” and shall also contain:
- a. Information sufficient to identify and contact the objecting Settlement Class Member, including name, address, telephone number, and, if available, email address, and if represented by counsel, the foregoing information for his/her counsel;

- b. Whether the Settlement Class Member, or his or her counsel, intends to appear at the Final Approval Hearing;
  - c. Whether the Objection applies only to the Settlement Class Member, to a specific subset of the Settlement Class, or to the entire Settlement Class;
  - d. A clear and concise statement of the Settlement Class Member's Objection, including all bases and legal grounds for the Objection;
  - e. Documents sufficient to establish the person's standing as a Settlement Class Member, *i.e.*, Proof of Purchase or verification under penalty of perjury as to the person's purchase of Godiva Chocolate Products during the Class Period;
  - f. A list of any other objections submitted by the Settlement Class member, or his/her counsel, to any class actions in any state or federal court in the United States in the previous five (5) years (or affirmatively stating that no such prior objection has been made); and
  - g. The Settlement Class Member's signature, in addition to the signature of his/her attorney, if any.
91. Plaintiffs and Godiva shall each have the right to respond to any Objection no later than seven (7) calendar days prior to the Final Approval Hearing.
92. Settlement Class Members who fail to file written Objections in the manner specified above shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement Agreement and shall be bound, to the extent allowed by law, by the terms of the Settlement Agreement.

### **Requests for Exclusion/Opt-Outs**

93. Any Settlement Class Member who does not wish to participate in this Settlement must submit a Request for Exclusion to the Settlement Administrator by the Objection/Exclusion Deadline, stating a clear intention to be “excluded” from or “opt out” of the Settlement. The Request for Exclusion must contain the Settlement Class Member’s name, current address, and telephone number. The Request for Exclusion must be signed by the Settlement Class Member, dated and sent to the Settlement Administrator via the Settlement Website or by hard copy sent via U.S. Mail.
94. The postmarked date of a submission by mail, or the electronic date of submission in the case of a submission via the Settlement Website, shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted by the Objection/Exclusion Deadline. Any Settlement Class Member whose request to be excluded from the Settlement Class is approved by the Court will not be bound by this Settlement Agreement nor will he or she have any right to object, appeal, or comment thereon.
95. Settlement Class Members who fail to submit a valid and timely Request for Exclusion on or before the Objection/Exclusion Deadline shall be bound, to the extent allowed by law, by all terms of the Settlement Agreement and any Final Approval Order and Final Judgment entered by the Court, regardless of whether they have requested exclusion from the Class.
96. Settlement Class Members who submit a valid and timely Request for Exclusion cannot object to the Settlement. If a Settlement Class Member submits both a valid and timely Request for Exclusion and Objection, the Request for Exclusion shall control.

97. If a Settlement Class member submits both a valid Claim Form and a Request for Exclusion, the Claim Form shall take precedence and be considered valid and binding, and the Request for Exclusion shall be deemed submitted by mistake and rejected.

#### **No Solicitation of Objections or Exclusions**

98. The Parties and their counsel agree to use their best efforts to carry out this Agreement. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage any Person or entity to submit Objections or Requests for Exclusion or to appeal from the Court's Final Approval Order and Final Judgment.

### **VII. FEE AWARD AND CLASS REPRESENTATIVE SERVICE AWARDS**

#### **Fee Award**

99. Class Counsel may submit a Fee Application for an award of attorneys' fees and costs in an amount not to exceed Five Million Dollars (\$5,000,000.00).
100. Any Fee Award ordered by the Court shall be the total obligation of Godiva to pay for Plaintiffs' attorneys' fees, costs, and/or attorneys' expenses of any kind (including, but not limited to, travel, filing fees, court reporter and videographer expenses, expert fees and costs, notice of pendency costs and expenses, and document review and production costs) related to this Action.
101. Godiva shall pay any Fee Award ordered by the Court via wire transfer to Class Counsel not later than ten (10) calendar days following the issuance of an Order granting the Fee Application.
102. Payment by Godiva of any Fee Award is separate from, and in addition to, the other relief afforded to the Settlement Class Members in this Agreement.



103. This Settlement is not contingent upon the Court awarding any particular amount in attorneys' fees and costs. The Agreement is valid and binding on the Parties regardless of whether the Court reduces or otherwise modifies Class Counsel's requested Fee Award.
104. Class Counsel, in their sole discretion, shall allocate and distribute the Fee Award.
105. Godiva shall pay its own attorneys' fees and costs incurred in this Action.
106. Any appeal that exclusively concerns the award of attorneys' fees, expenses, and/or service awards shall not delay the Effective Date of the Settlement.

#### **Class Representative Service Awards**

107. In recognition of, *inter alia*, the time and effort the Class Representatives expended in pursuing this Action and fulfilling their obligations and responsibilities as Class Representatives, Class Counsel may petition the Court for a service award in an amount of Five Thousand Dollars (\$5,000.00) to each of the two Class Representatives.
108. The Court's award of any Class Representative Service Awards shall be separate from its determination of whether to approve the Settlement as set forth in this Agreement. In the event the Court approves the Settlement, but declines to award a Class Representative Service Award in the amount requested by Class Counsel, the Settlement will nevertheless be binding on the Parties.
109. Godiva shall pay the Class Representative Service Awards by wire transfer to the Settlement Administrator not later than fourteen (14) calendar days after the Effective Date. The Settlement Administrator shall pay the Class Representative Service Awards to Plaintiffs within fourteen (14) calendar days of receiving the funds from Godiva. Plaintiffs shall be solely and legally responsible to pay and all applicable taxes on their Class Representative Service Awards, and shall hold harmless Godiva and Class Counsel from

any claim or liability for taxes, penalties, or interest arising as a result of the Class Representative Service Awards. Plaintiffs shall also furnish to Godiva any necessary forms related to this Class Representative Service Awards, including but not limited to a W-9 form.

110. Payment by Godiva of any Class Representative Service Awards is separate from, and in addition to, the other relief afforded to the Settlement Class Members in this Agreement.

## **VIII. PRELIMINARY APPROVAL**

### **Motion for Preliminary Approval**

111. As soon as reasonably practicable after this Settlement Agreement is fully executed, Plaintiffs shall file an unopposed Motion for Preliminary Approval of Class Settlement that seeks entry of the Preliminary Approval Order, which, in accordance with the terms of this Agreement, for settlement purposes would:

- a. Preliminarily approve this Settlement Agreement;
- b. Provisionally certify a Settlement Class under Federal Rule of Civil Procedure 23 composed of the Settlement Class Members;
- c. Approve the Settlement Administrator;
- d. Approve and authorize the contents of the Notice Plan and distribution of the Notice;
- e. Appoint Class Counsel as counsel for the Settlement Class;
- f. Approve and authorize the procedures for submitting Objections and Requests for Exclusion and the binding nature thereof;

- g. Set deadlines for submitting papers in support of the Motion for Final Approval, the Fee Application, and any responses to timely and valid Objections;
- h. Schedule the Final Approval Hearing to determine whether Final Approval of the Settlement Agreement is warranted; and
- i. Stay all activity in the Action except to the extent necessary to effectuate this Agreement unless and until this Agreement is terminated pursuant to its terms and conditions.

#### **Certification of Settlement Class for Settlement Purposes Only**

112. The Parties agree, for settlement purposes only, that the Settlement Class shall be certified and proceed as a class action under Federal Rule of Civil Procedure 23, with a class consisting of all Settlement Class Members, and with Plaintiffs as Class Representatives, and with Class Counsel as counsel for the Settlement Class Members.

### **IX. FINAL APPROVAL**

#### **Motion for Final Approval**

113. Thirty-five (35) calendar days before the Final Approval Hearing, Class Counsel shall petition the Court for Final Approval Order and Final Judgment that would:
- a. Confirm the certification of the Settlement Class as defined above;
  - b. Dismiss this Action, with prejudice, upon the Effective Date;
  - c. Release the Released Parties from the Released Claims of the Releasing Parties;
  - d. Find that this Agreement is entered into in good faith, is reasonable, fair and adequate, and is in the best interest of the Settlement Class Members;
  - e. Retain the Court's continuing and exclusive jurisdiction over the enforcement, interpretation, and applicability of the Settlement and power to enjoin all actions in

any jurisdiction against the Released Parties as necessary to preserve the Court's jurisdiction; and

- f. Make such orders as are necessary and appropriate to effectuate the terms and conditions of this Settlement Agreement.

### **Final Approval Hearing**

114. The Court shall conduct a Final Approval Hearing so that the Court may review any objections to this Agreement, consider the fairness, reasonableness and adequacy of this Agreement and consider Plaintiffs' Motion for Final Approval and Fee Application. The date of the Final Approval Hearing shall be posted on the Settlement Website in advance of the hearing. If the date of the Final Approval Hearing is subsequently modified by the Court, no further notice is required to be published to Settlement Class Members, except that, the Parties will notify any Settlement Class Member who has filed a timely Objection in writing of any change to the date of the Final Approval Hearing.

### **Dismissal of this Action**

115. The Final Approval shall provide that this Action shall be dismissed, with prejudice, upon the Effective Date.

## **X. RELEASES**

### **General Release from Liability**

116. Upon the Effective Date, each of the Plaintiffs and each Settlement Class Member who has not validly and timely submitted a Request for Exclusion shall be deemed to release and forever discharge any and all Released Parties of and from liability of any kind or type whatsoever for any and all Released Claims, and shall be permanently barred and enjoined from initiating, asserting and/or prosecuting any Released Claim(s) against any Released

Party in any court or forum. This Agreement shall be the sole and exclusive remedy available to the Releasing Parties for any and all Released Claims against the Released Parties. No Released Party shall be subject to liability or expense of any kind to any Releasing Party with respect to any Released Claim.

117. The Parties agree that they may hereafter discover facts in addition to or different from those they believe to be true with respect to the subject matter of this Agreement. The Parties agree that, notwithstanding the discovery of the existence of any such additional or different facts that, if known, would materially affect its decision to enter into this Agreement, the releases herein given shall be and remain in effect as a full, final and complete general release of the Released Claims and the Parties shall not be entitled to modify or set aside this Agreement, either in whole or in part, by reason thereof. The Parties hereby waive and relinquish, to the fullest extent permitted by law, the rights and benefits of any statute which might otherwise render unenforceable a release contained in this Agreement.
118. With respect to all Released Claims, the Parties agree that they are expressly waiving and relinquishing to the fullest extent permitted by law (a) the provisions, rights and benefits conferred by Section 1542 of the California Civil Code, which provides: “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY” and (b) any law of any state or territory of the United States, federal law or principle of common law, or of

international or foreign law, that is similar, comparable or equivalent to Section 1542 of the California Civil Code.

119. This Settlement shall not impact or act as a release of any claim Godiva may have against any of its insurance carriers.

**XI. Termination and Effect of Termination**

120. Each Party shall have the right to terminate this Settlement Agreement if: (a) the Court denies preliminary approval of this Settlement Agreement (or grants preliminary approval through an order that materially differs in substance to **Exhibit 5** hereto); (b) the Court denies final approval of this Settlement Agreement; or (c) the Final Approval Order Final Judgment do not become final by reason of a higher court reversing final approval by the Court, and the Court thereafter declines to enter a further order or orders approving the Settlement on the terms set forth herein. If a Party elects to terminate this Settlement Agreement under this paragraph, that Party must provide written notice to the other Parties' counsel, by hand delivery, mail, or e-mail within ten (10) calendar days of the occurrence of the condition permitting termination.
121. If the Settlement is not approved, the Parties shall meet and confer in good faith, in an effort to effectuate the material terms of the Settlement and/or negotiate a different settlement, consistent with the Parties' desire to resolve this Action. As part of this meet and confer process, the Parties shall contact Jill Sperber, or another mediator as mutually agreed by the Parties.
122. Nothing shall prevent Plaintiffs and/or Godiva from appealing or seeking other appropriate relief from an appellate court with respect to any denial by the Court of Final Approval of the Settlement. In the event such appellate proceedings result, by order of the appellate

court or by an order after remand or a combination thereof, in the entry of an order(s) whereby the Settlement is approved in a manner substantially consistent with the substantive terms and intent of this Settlement Agreement, and dismissing all claims in the Action with prejudice, and otherwise meeting the substantive criteria of this Agreement for approval of the Settlement, such order shall be treated as a Final Approval Order.

123. If this Settlement Agreement is terminated or disapproved, or if the Effective Date should not occur for any reason, then: (a) this Settlement Agreement and all orders entered in connection therewith shall be rendered null and void; and (b) all Parties shall be deemed to have reverted to their respective status in the Action as of the date and time immediately preceding the execution of this Settlement Agreement and, except as otherwise expressly provided, the Parties shall stand in the same position and shall proceed in all respects as if this Settlement Agreement and any related orders had never been executed, entered into, or filed, except that the Parties shall not seek to recover from one another any attorneys' fees, costs, and expenses incurred in connection with this Settlement, including any Settlement Notice and Administration costs already incurred by the Settlement Administrator.

## **XII. Non-Admission of Fault or Liability**

124. This Agreement, whether or not consummated, and any communications exchanged or actions taken pursuant to or during the negotiation of this Agreement are for settlement purposes only. Neither the fact of nor the contents of this Agreement or its exhibits, nor any communications exchanged, nor actions taken, pursuant to or during the negotiation of this Agreement, shall constitute, be construed as, or be admissible in evidence as an

admission of the validity of any claim asserted or fact alleged in this Action or of any wrongdoing, fault, violation of law or liability of any kind on the part of Godiva.

### **XIII. Miscellaneous**

#### **Non-Admissibility**

125. This Agreement and all negotiations, correspondence and communications leading up to its execution, including confirmatory discovery, shall be deemed to be within the protection of Federal Rule of Evidence 408 and any analogous state or federal rules or principles. Neither this Agreement, nor any terms, conditions, contents or provisions hereof or exhibits hereto, nor any negotiations, correspondence or communications leading up to the execution of this Agreement, shall constitute a precedent or be admissible for any purpose in any proceeding; provided, however, that this Agreement shall be admissible in any proceeding related to the approval of this Agreement, to enforce any of its terms and conditions, to support or defend this Agreement in an appeal from an order granting or denying Final Approval, to enforce or assert a claim or defense of *res judicata*, *collateral estoppel*, claim preclusion, issue preclusion, settlement, release, merger and bar, or any similar claim or defense against the Plaintiffs, any Settlement Class Member, or any third party, or in any proceeding involving Godiva and any of its insurance carriers.

#### **Reservation of Rights**

126. This Settlement Agreement is made without prejudice to the right of Godiva to take any position in its defense of the Action, should this Agreement not be approved or implemented.

#### **Dispute Resolution**



127. If Plaintiffs or Class Counsel, on behalf of Plaintiffs or any Settlement Class Member, or Godiva's Counsel, on behalf of Godiva, at any time believe that the other Party has breached or acted contrary to the Agreement, that Party shall notify the other Party in writing of the alleged violation. The Parties shall meet and confer in good faith to resolve the dispute. If the Parties are unable to resolve their differences within twenty (20) calendar days, either Party shall first contact Jill Sperber to try to resolve the dispute. If that proves unsuccessful, the Party may file an appropriate motion for enforcement with the Court.

#### **Non-Disparagement**

128. Class Counsel and Class Representatives agree not to disparage or otherwise take any action which could reasonably be expected to adversely affect the reputation of Godiva regarding this matter. Godiva and its attorneys agree not to disparage or otherwise take any action which could reasonably be expected to adversely affect the personal or professional reputation of Class Counsel and Class Representatives regarding this matter.

#### **Authority to Execute**

129. The Parties warrant and represent that the Persons executing this Agreement are duly authorized to do so.

#### **Signatures**

130. This Agreement may be executed in one or more counterparts, by facsimile, PDF, electronic mail, or original signature, each of which shall be deemed an original against the Party whose signature is provided, and all of which shall be considered an original and together shall constitute one agreement binding on all Parties. The Parties agrees that a facsimile, PDF, or electronic signatures shall be deemed to be as valid and enforceable as

original ink signatures. The Parties further agree that they may use DocuSign, an electronic signature technology, to expedite the execution of this Agreement.

### **Assignment of Claims**

131. The Parties warrant and represent that no claim or any portion of any claim referenced or released in this Agreement has been sold, assigned, conveyed, or otherwise transferred to any other entity or Person.

### **Reading and Understanding**

132. The Parties warrant and represent that they have carefully read this Agreement, have consulted their attorneys regarding this Agreement, and fully understand and voluntarily accept the terms and conditions of this Agreement.

### **Reliance on Own Judgment**

133. The Parties warrant and represent that they have relied upon their own judgment and that of their legal counsel regarding the sufficient and agreed upon consideration for this Agreement and that no statement or representation by any of the other Parties or their agents, employees, officers, directors or legal representatives influenced or induced them to execute this Agreement.

### **Governing Law**

134. This Agreement shall be construed under and governed by the laws of the State of New York, applied without regard to choice of law principles that may otherwise be applicable.

### **Jurisdiction of the Court**

135. The Court shall retain jurisdiction with respect to the interpretation, implementation and enforcement of the terms of this Agreement and all orders and judgments entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of

the Court for purposes of interpreting, implementing and enforcing the resolution embodied in this Agreement and all orders and judgments entered in connection therewith.

In granting Final Approval, the Court shall enjoin all actions in any jurisdiction against the Released Parties as is necessary to preserve the Court's jurisdiction.

### **Entire Agreement**

136. This Agreement, including all exhibits hereto, shall constitute the entire Agreement among the Parties with regard to the subject of this Agreement and shall supersede any previous agreements, representations, communications and understandings among the Parties with respect to the subject matter of this Agreement.

### **Joint Preparation**

137. This Agreement shall be construed as if the Parties jointly prepared it, and any uncertainty or ambiguity shall not be interpreted against any of the Parties.

### **Recitals**

138. The Recitals are a material part of this Agreement and are incorporated herein in their entirety.

### **Captions**

139. The captions used in this Agreement are for convenience and identification purposes only, and are not part of this Agreement.

### **Amendment or Modification**

140. This Agreement may not be changed, modified, or amended except in writing signed by all Parties (or their successors-in-interest) and approved by the Court. Notwithstanding the foregoing, however, the claims process set forth above may be modified by mutual agreement of the Parties without Court approval and the Parties may agree to reasonable

extensions of time in which to accomplish the tasks required by the terms and conditions of this Agreement.

### **Cooperation**

141. The Parties and their counsel agree to cooperate fully with one another and to use their best efforts to effectuate the Settlement, including without limitation in seeking preliminary and final Court approval of the Settlement embodied herein, carrying out the terms of this Settlement, and promptly agreeing upon and executing all such other documentation as may be reasonably required to obtain Final Approval by the Court of the Settlement.

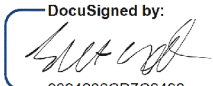
### **No Waiver**

142. The waiver of any term or condition or breach of this Agreement shall not be deemed to be a waiver of any other term or condition or breach of this Agreement and shall not be deemed to be a continuing waiver.

### **Parties' Waiver of Right to be Excluded and Object**

143. The Parties agree that by signing this Agreement they are bound to these terms. The Parties agree to not object to or appeal from this Agreement or the exhibits attached hereto. Plaintiffs further agree not to request to be excluded from the Class.

### **APPROVED AND AGREED TO BY THE PLAINTIFFS**

By:  \_\_\_\_\_  
0094206CD7C2499...

Steve Hesse

Date: 9/15/2021 | 10:21 AM PDT \_\_\_\_\_

By: \_\_\_\_\_

Adam Buxbaum

Date: \_\_\_\_\_

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APPROVED AND AGREED TO BY THE PLAINTIFFS

By: \_\_\_\_\_

Steve Hesse

Date: \_\_\_\_\_

By: \_\_\_\_\_

Adam Buxbaum

DocuSigned by:  
Adam Buxbaum  
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Date: 9/15/2021 | 12:47 PM PDT

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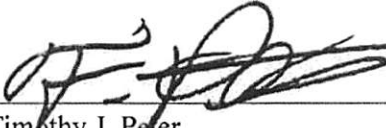
APPROVED AND AGREED TO BY GODIVA CHOCOLATIER, INC.

By: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

APPROVED AS TO FORM BY CLASS COUNSEL

By:   
Timothy J. Peter

Date: 9/15/21

Faruqi & Faruqi, LLP

By:   
Aubry Wand

Date: 9/15/2021

Aubry Wand

The Wand Law Firm, P.C.

APPROVED AS TO FORM BY COUNSEL FOR GODIVA CHOCOLATIER, INC.

By: \_\_\_\_\_

Date: \_\_\_\_\_

David T. Biderman

Perkins Coie LLP

APPROVED AND AGREED TO BY GODIVA CHOCOLATIER, INC.



By: Nurtac Afridi

Date: 9/23/2021

Title: CEO

APPROVED AS TO FORM BY CLASS COUNSEL

By: \_\_\_\_\_

Date: \_\_\_\_\_

Timothy J. Peter

Faruqi & Faruqi, LLP

By: \_\_\_\_\_

Date: \_\_\_\_\_

Aubry Wand

The Wand Law Firm, P.C.

APPROVED AS TO FORM BY COUNSEL FOR GODIVA CHOCOLATIER, INC.

By: \_\_\_\_\_

Date: \_\_\_\_\_

David T. Biderman

Perkins Coie LLP

APPROVED AND AGREED TO BY GODIVA CHOCOLATIER, INC.

By: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

APPROVED AS TO FORM BY CLASS COUNSEL

By: \_\_\_\_\_

Date: \_\_\_\_\_

Timothy J. Peter

Faruqi & Faruqi, LLP

By: \_\_\_\_\_

Date: \_\_\_\_\_

Aubry Wand

The Wand Law Firm, P.C.

APPROVED AS TO FORM BY COUNSEL FOR GODIVA CHOCOLATIER, INC.

By:  \_\_\_\_\_

Date: 9/23/2021

David T. Biderman

Perkins Coie LLP