

# **EXHIBIT A**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

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IN RE: SAMSUNG TOP-LOAD	:	
WASHING MACHINE MARKETING,	:	
SALES PRACTICES AND PRODUCTS	:	MDL Case No. 5:17-ml-2792-D
LIABILITY LITIGATION	:	
	:	District Judge Timothy D. DeGiusti
	:	
THIS DOCUMENT RELATES TO:	:	
ALL CASES	:	
	:	
	:	

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**SETTLEMENT AGREEMENT**

This Settlement Agreement (“Agreement”) is made and entered into as of this 26th day of May, 2018, by and among (i) Plaintiffs, as defined in Section I.GG below (collectively, “Plaintiffs”), on behalf of themselves and the Settlement Class, as defined below; (ii) Defendants Samsung Electronics America, Inc. (“SEA”) and Samsung Electronics Co., Ltd. (“SEC”) (together, “Defendants”); and (iii) Defendants Best Buy Co., Inc., The Home Depot, Inc., Home Depot U.S.A., Inc., Lowe’s Companies, Inc., Lowe’s Home Centers, LLC, and Sears Holdings Corporation (collectively, “Retailer Defendants”) to settle, fully and finally, all of the claims that have been brought in this class-action lawsuit on behalf of Plaintiffs and the Settlement Class against Defendants and Retailer Defendants relating to certain washing machines described below. Plaintiffs, Defendants, and Retailer Defendants are collectively referred to herein as the “Parties.”

WHEREAS a dispute has arisen among the Parties concerning certain Samsung top-load washing machines specifically defined below (hereinafter referred to as the “Washers”);

WHEREAS Plaintiffs filed numerous putative class-action lawsuits identified in Section I.Z below (“Lawsuits”) against Defendants and, in some cases, Retailer Defendants, in various jurisdictions alleging, among other things, that the Washers had experienced detachment of their top from the washing machine chassis and drain-pump failure during operation, and asserting claims for breach of express warranty, breach of implied warranty of merchantability, violation of the Magnuson-Moss Warranty Act, strict product liability, violations of various states’ consumer protection statutes, fraud, negligence, negligent misrepresentation, unjust enrichment, and declaratory and injunctive relief;

WHEREAS on October 4, 2017, the Lawsuits were consolidated into MDL No. 2792 (*In re: Samsung Top-load Washing Machine Marketing, Sales Practices and Products Liability Litigation*) (the “Consolidated MDL Lawsuit”) by the United States Judicial Panel on Multidistrict Litigation and transferred to the United States District Court for the Western District of Oklahoma before the Honorable Timothy D. DeGiusti for pretrial proceedings;

WHEREAS Defendants and Retailer Defendants deny the allegations in the Consolidated MDL Lawsuit and the Lawsuits, including without limitation that the Washers are defective or that the Recall Repairs have been provided to Settlement Class

Members in an untimely or inadequate manner, and assert numerous defenses to the claims alleged by Plaintiffs;

WHEREAS, the Parties to this Agreement vigorously litigated the claims asserted in the Consolidated MDL Lawsuit and the Lawsuits for over two years, including briefing of motions to dismiss in several of the Lawsuits. After engaging in arms-length settlement negotiations during nine full days of mediation sessions with an experienced and accomplished mediator, Michael N. Ungar, and after engaging in confirmatory discovery, the Parties now wish to resolve all claims, disputes, and differences among them;

WHEREAS Plaintiffs' Counsel have reviewed and analyzed the information provided by Defendants and obtained through their own investigation; consulted with experts; examined and considered the benefits to be provided to the Settlement Class Members under the Settlement provided for in this Agreement; considered the laws of all relevant jurisdictions, and the claims that could be asserted under those laws regarding the Washers; considered the risks, costs, and time associated with prosecuting this case through one or more trials and appeals; and believe the Agreement to be in the best interest of the Settlement Class Members, taking into account the risks and costs of continued litigation, and the length of time that would be required to complete the litigation and any appeals;

WHEREAS Defendants and Retailer Defendants have at all times disputed, and continue to dispute, Plaintiffs' allegations in the Lawsuits and denied any liability for any of the claims that have or could have been raised regarding the Washers by Plaintiffs or Settlement Class Members, but believe that the comprehensive resolution of the issues in

the Consolidated MDL Lawsuit and the Lawsuits as provided in this Agreement will avoid the substantial costs and disruptions of continued litigation, is in the best interest of the Settlement Class, and is in the best interests of Defendants and Retailer Defendants, their employees, their customers and their trade partners, and is the most effective and least costly resolution of the Consolidated MDL Lawsuit and the Lawsuits;

WHEREAS the Parties understand, acknowledge, and agree that this Agreement constitutes the compromise of disputed claims and that it is their mutual desire and intention that the Consolidated MDL Lawsuit and the Lawsuits be settled and dismissed, on the merits and with prejudice as to all named Defendants and Retailer Defendants, and that the Released Claims be finally and fully settled and dismissed, subject to and according to the below terms and conditions.

NOW, THEREFORE, the Parties agree and covenant as follows:

**I. DEFINITIONS**

As used in this Agreement, the following definitions shall apply:

- A. “Administration and Notice Expenses” means reasonable fees and expenses incurred by the Settlement Administrator or SEA for the: (1) preparation and dissemination of the Settlement Notice; (2) receipt and adjudication of claims submitted by Settlement Class Members for compensation under this Settlement, including the costs of administering the Settlement Website for the review of the Settlement Notice and submission of claims; (3) preparation of status reports to the Parties and the Court; (4) assistance in the distribution of settlement payments to eligible Settlement Class

Members who timely submit Valid Claims; (5) receipt and processing of Opt-out Forms submitted by Settlement Class Members who wish to exclude themselves from the Settlement Class, and objections submitted by Settlement Class Members who object but do not wish to exclude themselves; and (6) other reasonable costs of notice and claims administration.

- B. “Agreement” means this Settlement Agreement.
- C. “Attorneys’ Fees and Expenses” means the amount of any attorneys’ fees and reimbursement of litigation costs and expenses awarded to Class Counsel or counsel for any Settlement Class Member in accordance with Section VIII of this Agreement.
- D. “Claim Form” or “Claim Forms” means the proposed forms to be submitted to the Court with the motion seeking entry of the Preliminary Approval Order, and to be submitted to the Settlement Administrator or to SEA, as specified in Section IV of this Agreement, by Settlement Class Members who wish to make a claim in accordance with Section IV of this Agreement.
- E. “Claimant” means a Person who has submitted a Claim Form or Claim Forms.
- F. “Claimant’s Household Member” means any Person who: (1) is claimed by a Claimant as a dependent for tax purposes pursuant to the United States Internal Revenue Code; and (2) has lived in the Claimant’s home as a

member of his or her household for the entire one (1) year period preceding the Notice Date.

- G. “Claimant’s Immediate Family Member” means any Person who is a Claimant’s parent, spouse, sibling, child, step-child, or adopted child.
- H. “Claims Deadline” means one-hundred-and-fifty (150) days after entry of the Preliminary Approval Order.
- I. “Class Counsel” means all counsel for the Settlement Class, including but not limited to Plaintiffs’ Co-Lead Counsel as approved by the Court in the Preliminary Approval Order and Final Approval Order.
- J. “Class Representatives” means the representatives of the Settlement Class, as approved by the Court in the Preliminary Approval Order and Final Approval Order.
- K. “Clean-up Costs” means the costs to clean up from a Top Separation or Drain Pump Failure. Under no circumstances do Clean-up Costs include compensation for repair or replacement of Property. As expressly provided in Section IX, personal injury and damage to a Settlement Class Member’s Property is not a Released Claim under this Settlement.
- L. “Commitment for Recall Repair” means a form of relief offered by the present Settlement in which SEA will provide certain commitments, as specified in Section IV of this Agreement, to Settlement Class Members who, on or after the Notice Date, request a Recall Repair under the Voluntary Recall.

- M. “Consolidated MDL Lawsuit” means the multidistrict litigation (MDL No. 2792) that consolidates the Lawsuits for pretrial proceedings in the captioned matter *In re: Samsung Top-load Washing Machine Marketing, Sales Practices and Products Liability Litigation* (W.D. Okla., No. 5:17-ml-2792-D).
- N. “Court” means the United States District Court for the Western District of Oklahoma.
- O. “Defendants” means Samsung Electronics America, Inc. and Samsung Electronics Co., Ltd.
- P. “Drain Pump Failure” means an event in which the drain pump of a Selected Washer breaks or detaches from the washer tub and causes water leakage.
- Q. “Drain Pump Failure Expenses” means expenses incurred by a Settlement Class Member as the result of a Selected Washer’s Drain Pump Failure for Clean-up Costs, laundromat expenses, and washing machine rental costs.
- R. “Drain Pump Failure Relief” means a form of relief offered by the present Settlement in which SEA will provide certain benefits, as specified in Section IV of this Agreement, to Settlement Class Members who experience a Drain Pump Failure within three (3) years after the Notice Date.
- S. “Effective Date” means the first date that is three (3) business days after all of the following have occurred: (1) the Court has entered the Final



Approval Order; (2) the time for any challenge to the Settlement, both in the Court and on appeal, has elapsed; and (3) the Settlement has become final, either because no timely challenge was made within thirty (30) days of entry of the Final Approval Order or because any timely challenge has been finally adjudicated and rejected.

- T. “Enhanced Minimum Recall Rebate” means a form of relief offered by the present Settlement in which SEA will provide an enhanced minimum Recall Rebate floor of 15.5 percent of the Estimated Purchase Price of a Settlement Class Member’s Washer, for use by the Settlement Class Member in purchasing, or having already purchased, a new, replacement Samsung or other brand washing machine.
- U. “Estimated Purchase Price” means the estimated purchase price of a given Washer model that was used during the Voluntary Recall to determine the Recall Rebate provided to a Settlement Class Member under the Voluntary Recall.
- V. “Fairness Hearing” means the final hearing, to be held after notice has been provided to the Settlement Class in accordance with Section V of this Agreement: (1) to determine whether to grant final approval to (a) the certification of the Settlement Class, (b) the designation of Plaintiffs as the representatives of the Settlement Class, (c) the designation of Class Counsel as counsel for the Settlement Class, and (d) the Settlement; and (2) to consider whether to enter the Final Approval Order.

- W. “FAQ” means the proposed Frequently Asked Questions and Answers form to be approved by the Court and posted on the Settlement Website in accordance with this Agreement.
- X. “Final Approval Order” means the proposed Order Granting Final Approval to the Settlement and Entry of Final Judgment, to be entered by the Court.
- Y. “Home Label Kit” means the package mailed by SEA under the Voluntary Recall to all known Settlement Class Members, which package includes: (1) a control panel guide that is to be affixed to the Washer’s control panel, thereby covering and superseding the Washer’s older control panel indicators; and (2) additional safety instructions to ensure safe operation of the Washer.
- Z. “Lawsuits” means, collectively and individually, the actions consolidated for pretrial proceedings in the captioned matter *In re: Samsung Top-load Washing Machine Marketing, Sales Practices and Products Liability Litigation* (W.D. Okla., No. 5:17-ml-2792-D) and any amended complaints filed therein.
- AA. “Major Home Appliance” means a dishwasher, clothes dryer, range, or refrigerator.
- BB. “Notice Date” means the Court-ordered deadline by which the Settlement Administrator must commence the mailing of the postcard notices, which shall be no more than sixty (60) days after entry of the Preliminary Approval Order.

- CC. “Notice of Claim Denial” means the form that will be provided to each Person who has submitted a Claim Form that the Settlement Administrator has determined is not a Valid Claim.
- DD. “Opt-out Forms” means the proposed form to be submitted to the Court with the motion seeking entry of the Preliminary Approval Order and to be submitted to the Settlement Administrator by Settlement Class Members who wish to be excluded from the Settlement Class in accordance with Section VII of this Agreement. Submission of the Opt-out Forms in accordance with Section VII of this Agreement is the only way by which a Settlement Class Member may exclude himself from the Settlement Class.
- EE. “Parties” means Plaintiffs, Defendants, and Retailer Defendants, collectively.
- FF. “Person” means any natural person.
- GG. “Plaintiffs” means the named Plaintiffs asserting claims on behalf of themselves and all or part of the Settlement Class against any of the Defendants and Retailer Defendants in the Consolidated MDL Lawsuits or the Lawsuits.
- HH. “Plaintiffs’ Co-Lead Counsel” means William B. Federman of Federman & Sherwood and Jason L. Lichtman of Lief Cabraser Heimann & Bernstein, LLP.
- II. “Preliminary Approval Order” means the Order entered by the Court granting preliminary approval to the Settlement.

- JJ. “Prior Drain Pump Repair Costs” means the cost of repairs incurred by the Settlement Class Member prior to the Notice Date and relating to a Drain Pump Failure of a Settlement Class Member’s Selected Washer.
- KK. “Property” means all real and personal property, except for the Washer itself.
- LL. “Publication Notice” means the notice to be prepared in consultation with the Settlement Administrator and to be approved by the Court and to be published in accordance with the notice plan set forth in Section V of this Agreement.
- MM. “Recall Rebate” means the form of relief that Settlement Class Members may select under the Voluntary Recall in which SEA provides Settlement Class Members with a rebate to be applied toward the purchase of a new, replacement Samsung or other brand washing machine. The dollar amount of a Settlement Class Member’s Recall Rebate is determined according to a formula that takes account of the Estimated Purchase Price and age of the Washer.
- NN. “Recall Repair” means the form of relief that Settlement Class Members may select under the Voluntary Recall in which SEA provides Settlement Class Members with a free in-home repair to reinforce their Washers’ top.
- OO. “Recall Repair Additional Benefit” means a form of relief offered by the present Settlement in which SEA will provide an additional benefit of a cash rebate, as specified in Section IV of this Agreement, to Settlement

Class Members who select or selected a Recall Repair under the Voluntary Recall.

PP. “Recall Repair Additional Benefit Rebate Form” means the proposed form to be submitted to the Court with the motion seeking entry of the Preliminary Approval Order and to be provided by the Settlement Administrator to Claimants who have submitted to the Settlement Administrator a Valid Claim to receive a cash rebate under the Recall Repair Additional Benefit, in accordance with Section IV of this Agreement.

QQ. “Released Claims” means the claims released by Plaintiffs and all Settlement Class Members who do not timely exclude themselves from the Settlement, as set forth and further explained in Sections VII and IX of this Agreement.

RR. “Releasees” means: (1) Defendants; (2) Retailer Defendants; (3) the respective predecessors, successors, parents, direct and indirect subsidiaries, affiliates, and assigns of each of the Defendants and Retailer Defendants; (4) the respective past, present, and future officers, directors, agents, representatives, servants, employees, attorneys, and insurers of each of the Defendants and Retailer Defendants; (5) all distributors, retailers, and other entities who were or are in the chain of design, testing, manufacture, assembly, distribution, marketing, sale, installation, or servicing of the Washers; and (6) all other named defendants in the Consolidated MDL Lawsuit and any of the Lawsuits, including, without limitation, each of

their respective past, present, and future officers, directors, agents, representatives, servants, employees, attorneys, and insurers.

SS. “Retailer Defendants” means Best Buy Co., Inc., The Home Depot, Inc., Home Depot U.S.A., Inc., Lowe’s Companies, Inc., Lowe’s Home Centers, LLC, and Sears Holdings Corporation.

TT. “Samsung Authorized Service Provider” means a third-party contractor that is authorized by SEA to provide servicing and technical support for the Washers.

UU. “SEA” means Samsung Electronics America, Inc.

VV. “SEC” means Samsung Electronics Co., Ltd.

WW. “Selected Washers” or “Selected Washer” means the subset of the Washers limited to the following model numbers and serial number ranges manufactured from March 2012 through and including December 9, 2012:

<u>Model Numbers</u>	<u>Serial Number Ranges</u>
WA400PJHWR/AA	Y6BP5AEC400001 – Y6BP5AECC01158
WA456DRHDSU/AA	Y0IX5AEC300351 – Y0IX5AECC02450
WA456DRHDWR/AA	Y0IY5AEC300051 – Y0IY5AECC01409
WA422PRHDWR/AA	Y69Q5AEC400001 – Y69Q5AECC04767

XX. “Service Award” means a payment made to a Class Representative to compensate for his or her efforts in pursuing the Lawsuits as set forth in Section VIII.

- YY. “Settlement” means the settlement provided for in this Agreement.
- ZZ. “Settlement Administrator” means a sufficiently qualified firm mutually selected by Defendants and Plaintiffs’ Co-Lead Counsel, and appointed by the Court to administer the Settlement.
- AAA. “Settlement Class” includes every resident of the United States or its territories who was the original purchaser of a new Washer for household use. Excluded from the Settlement Class are (1) officers, directors, and employees of Defendants and Retailer Defendants, (2) insurers of Settlement Class Members, (3) subrogees or all entities claiming to be subrogated to the rights of a Washer purchaser or a Settlement Class Member, and (4) all third-party issuers or providers of extended warranties or service contracts for the Washers.
- BBB. “Settlement Class Member” means all Persons who are members of the Settlement Class and who do not exclude themselves from the Settlement Class in the manner and time prescribed by the Court in the proposed Preliminary Approval Order.
- CCC. “Settlement Notice” means the proposed written notice to be submitted to the Court with the motion seeking entry of the Preliminary Approval Order and to be sent by the Settlement Administrator to Settlement Class Members in accordance with Section V of this Agreement.
- DDD. “Settlement Website” means a website created by the Settlement Administrator to facilitate notice, the submission of Claim Forms and Opt-

out Forms and objections, and for other administrative purposes related to the Settlement, as detailed in Section V of this Agreement.

- EEE. “Top Separation” means an event in which one or more of a Washer’s top fasteners detaches from the Washer’s chassis during operation of the Washer.
- FFF. “Top Separation Expenses” means expenses incurred by a Settlement Class Member as the result of Top Separation for Clean-up Costs, laundromat expenses, and washing machine rental costs.
- GGG. “Top Separation Relief” means a form of relief offered by the present Settlement in which SEA will provide certain benefits, as specified in Section IV of this Agreement, to Settlement Class Members who experience or have experienced a Top Separation within seven (7) years after the Settlement Class Member purchased his or her Washer.
- HHH. “Valid Claim” means a Claim Form that (1) is timely submitted by a Settlement Class Member in accordance with the requirements of the Preliminary Approval Order, (2) is signed under penalty of perjury by the Settlement Class Member, (3) contains sufficient information and documentation to demonstrate that the Settlement Class Member is eligible to receive one or more of the benefits provided in Section IV of this Agreement, and (4) correctly states the model number and, where required, serial number of the Settlement Class Member’s Washer.



- III. “Voluntary Recall” means the recall of the Washers initiated on November 4, 2016 by SEA and the United States Consumer Product Safety Commission to address the circumstance where a Washer’s top detaches from the Washer’s chassis during operation. *See* <https://www.cpsc.gov/recalls/2017/samsung-recalls-top-load-washing-machines>; <https://pages.samsung.com/us/tlw/>.
- JJJ. “Washers” or “Washer” means, collectively, the Samsung washing machine units that are subject to the Voluntary Recall.

## II. CERTIFICATION OF THE SETTLEMENT CLASS

- A. For the purposes of implementing this Agreement and corresponding Settlement, and for no other purpose, Defendants stipulate to the certification of the nationwide Settlement Class, as set forth in the proposed Preliminary Approval Order.
- B. The Parties understand and agree that, pursuant to this Agreement, they are compromising and settling disputed claims asserted by Plaintiffs and the Settlement Class in the Lawsuits. Accordingly, Plaintiffs, Defendants, and Retailer Defendants understand and agree that neither this Agreement (including all terms thereof) nor performance under the terms of this Agreement by the Parties is, or shall be, construed as any admission by Plaintiffs, Settlement Class Members, Retailer Defendants, or Defendants, including but not limited to: (1) the validity of any claim, theory, or fact; (2) any liability, fault, or responsibility; (3) the existence, cause, or extent

of any damages or losses alleged or suffered by Plaintiffs or any Settlement Class Member; or (4) the appropriateness of Class Certification in the Consolidated MDL Lawsuit or in any of the Lawsuits. Further, Defendants, Retailer Defendants, and Plaintiffs understand and agree that neither this Agreement (including all terms thereof) nor performance under the terms of this Agreement by any party thereto is, or shall be construed as, an admission by Plaintiffs, Settlement Class Members, Retailer Defendants, or Defendants of the validity of any fact or defense asserted in the Consolidated MDL Lawsuit, in any of the Lawsuits, or in any other litigation.

- C. This Agreement is without prejudice to any rights Plaintiffs, Settlement Class Members, Retailer Defendants, or Defendants may have other than those rights expressly released by the Settlement, including but not limited to the rights of Defendants or Retailer Defendants to: (1) oppose class certification in the Consolidated MDL Lawsuit or any of the Lawsuits if this Agreement is not approved or implemented by the Court; (2) oppose class certification in any other proposed class action; (3) any other rights in the Consolidated MDL Lawsuit or in any of the Lawsuits; or (4) any other rights in any other lawsuit not identified herein that relates to the Washers.
- D. The provisions of Sections II.B and II.C shall survive the termination of this Agreement.

### **III. REQUIRED EVENTS**

A. As soon as practicable after the execution of this Agreement, the Parties shall file this Agreement in the Consolidated MDL Lawsuit, and Plaintiffs shall file a consolidated amended complaint and motion seeking entry of the Preliminary Approval Order, which by its terms shall accomplish all of the following:

1. Preliminarily approve the Settlement and this Agreement as fair, reasonable, and adequate to the Settlement Class;
2. Certify the Settlement Class as a nationwide class solely for the purpose of effecting the Settlement;
3. Designate the Class Representatives for the Settlement Class;
4. Designate Plaintiffs' Co-Lead Counsel as Class Counsel for the Settlement Class;
5. Designate the Settlement Administrator, and instruct the Settlement Administrator to perform the following functions in accordance with the terms of this Agreement, the Preliminary Approval Order, and the Final Approval Order:
  - a. Disseminate the Settlement Notice, including the Publication Notice.
  - b. Establish the Settlement Website with information that the Parties jointly agree to post concerning the nature of the case and the status of the Settlement, including relevant pleadings, such as the operative complaints, papers in support of

preliminary and final approval of the Settlement, plus relevant orders of the Court. The Settlement Website should also have the functionality to accept online submissions by Settlement Class Members of Claim Forms, Opt-out Forms, objections, and any accompanying documentation.

- c. Establish a toll-free telephone number that Settlement Class Members can call to request that a hard copy of the Claim Form or Opt-out Form be sent to them by First-Class Mail with the United States Postal Service, and also to obtain additional information regarding the Settlement. This shall be accomplished before mailing the Settlement Notice.
- d. Receive, evaluate, and either approve the Claim Forms submitted by Claimants as meeting the requirements of this Agreement or disapprove as failing to meet those requirements, all in accordance with Section IV of this Agreement.
- e. Provide to Defendants and Class Counsel: (i) a list of the names and addresses of all Claimants whose Claim Forms the Settlement Administrator has determined to be Valid Claims, separately identified by category of settlement benefit to be provided; (ii) a separate list of the names and addresses of all Claimants whose Claim Forms the Settlement Administrator

has determined not to be Valid Claims or otherwise rejected;  
(iii) a separate list of the names and addresses of Opt-out Forms received by the Settlement Administrator; and (iv) a separate list of the names and addresses of any objectors whose objections were received by the Settlement Administrator.

- f. Provide a Notice of Claim Denial to each Claimant that the Settlement Administrator has determined does not have a Valid Claim. This Notice of Claim Denial will provide each Claimant with one opportunity to cure the Settlement Administrator's determination of invalidity by submitting to the Settlement Administrator within thirty (30) days of the issuance of the Notice of Claim Denial a substitute Claim Form, which the Settlement Administrator will then review to determine whether it constitutes a Valid Claim.
- g. Process requests for exclusion from the Settlement in accordance with Section VII of this Agreement.
- h. Within thirty (30) days after the adjudication of all Valid Claims by the Settlement Administrator, provide to Defendants and Class Counsel a statement of the total number of Claim Forms submitted, the total number of

Claim Forms adjudicated as Valid Claims, and the total number of Opt-out Forms.

6. Approve the form, contents, and methods of notice to be given to the Settlement Class as set forth in Section V of this Agreement, and direct the Settlement Administrator to provide, and cause to be provided, such notices and to provide a declaration of compliance with those notice requirements, as set forth in Section V of this Agreement.
7. Establish procedures and schedule deadlines for Settlement Class Members to: (a) submit Opt-out Forms to exclude themselves from the Settlement; (b) submit objections to certification of the Settlement Class, the designation of Class Representatives of the Settlement Class, the appointment of Plaintiffs' Co-Lead Counsel as Class Counsel for the Settlement Class, or any other aspect of the Settlement; and (c) submit Claim Forms to the Settlement Administrator, consistent with Sections IV and VII of this Agreement.
8. Establish procedures and schedule deadlines for the filing of: (a) papers in support of final approval of the certification of the Settlement Class, the designation of Class Representatives of the Settlement Class, the appointment of Plaintiffs' Co-Lead Counsel as Class Counsel for the Settlement Class, and the Agreement and

corresponding Settlement; and (b) Plaintiffs' papers in support of their fees to be awarded pursuant to Section VIII of this Agreement, as required by Rule 23(h)(1) of the Federal Rules of Civil Procedure, and the subsequent findings required by Rule 52(a) of the Federal Rules of Civil Procedure.

- B. Defendants may file a separate memorandum in support of the motion seeking entry of the Preliminary Approval Order, and Plaintiffs must file a petition to be awarded fees or expenses, pursuant to Rule 23(h)(1) of the Federal Rules of Civil Procedure, consistent with Section VIII of this Agreement.
- C. At the Fairness Hearing, the Parties will request that the Court enter the Final Approval Order that:
1. Grants final approval of the certification of the Settlement Class.
  2. Designates the Class Representatives of the Settlement Class and Plaintiffs' Co-Lead Counsel as Class Counsel for the Settlement Class.
  3. Grants final approval of this Agreement and corresponding Settlement as fair, reasonable, and adequate to the Settlement Class.
  4. Provides for the release of all Released Claims and enjoins Settlement Class Members from asserting, filing, maintaining, or prosecuting any of the Released Claims in the future.

5. Orders the dismissal with prejudice, and as to all named defendants, of all claims alleged in the Consolidated MDL Lawsuit and in each of the Lawsuits, and incorporates the releases and covenant not to sue stated in this Agreement, with each of the Parties to bear its, his, or her own costs and attorney fees, except as provided in Section VIII below.
  6. Authorizes the payment by Defendants of Valid Claims approved by the Settlement Administrator as Valid Claims.
  7. Authorizes a total award to Class Counsel and counsel for any Settlement Class Member of the amount of Attorneys' Fees and Expenses, sought by Plaintiffs pursuant to Rule 23(h)(1) of the Federal Rules of Civil Procedure and specified in Section VIII of this Agreement, through findings made, either contemporaneously or before entry of the Final Approval Order, as required by Rule 52(a) of the Federal Rules of Civil Procedure.
  8. Preserves the Court's continuing jurisdiction over the administration of the Settlement and enforcement of this Agreement.
- D. Plaintiffs, Class Counsel, and Defendants will cooperate and take all reasonable actions to accomplish the above. If the Court fails to enter either the Preliminary Approval Order or the Final Approval Order, Plaintiffs, Plaintiffs' Co-Lead Counsel, and Defendants will use all



reasonable efforts that are consistent with this Agreement to cure any defect identified by the Court.

#### IV. **BENEFITS PROGRAM**

##### A. Enhanced Minimum Recall Rebate:

1. Under the Voluntary Recall, Settlement Class Members may choose a Recall Rebate for the purchase of a new, replacement Samsung or other brand washing machine. For Claimants who already selected a Recall Rebate under the Voluntary Recall or who select a Recall Rebate prior to the Claims Deadline, Defendants will provide an Enhanced Minimum Recall Rebate equal to a net 15.5 percent of the Estimated Purchase Price of the Claimant's Washer. Therefore, a Claimant who previously obtained a Recall Rebate under the Voluntary Recall would, under the Enhanced Minimum Recall Rebate, receive the difference in value, if any, between 15.5 percent of the Estimated Purchase Price of the Claimant's Washer and the percentage of the Estimated Purchase Price that the Claimant previously received for his or her Recall Rebate under the Voluntary Recall. For example, if a Claimant previously received a Recall Rebate valued at 6 percent of the Estimated Purchase Price of the Claimant's Washer, then the Claimant would be eligible under this Agreement to receive an electronic transfer or check in the amount necessary to increase the net value of their Recall Rebate to 15.5

percent of the Estimated Purchase Price of the Claimant's Washer (in this example, the referenced check would be in an amount equivalent to 9.5 percent of the Estimated Purchase Price of the Claimant's Washer).

2. To obtain an Enhanced Minimum Recall Rebate under this Section IV.A, the following procedures apply:

a. For a Claimant who has already received a Recall Rebate but whose Recall Rebate was less than 15.5 percent of the Estimated Purchase Price of the Claimant's Washer, such Claimant must submit no later than the Claims Deadline: (1) a properly completed and executed Claim Form; and (2) documentation evidencing (i) that the Claimant previously participated in the Voluntary Recall and selected the Recall Rebate option, and (ii) the dollar amount of the Recall Rebate received by the Claimant under the Voluntary Recall; or

b. For a Settlement Class Member, who, following the Notice Date, seeks a Recall Rebate under the Voluntary Recall and seeks to receive the Enhanced Minimum Recall Rebate, such Settlement Class Member must submit no later than the Claims Deadline a properly completed and executed Claim Form stating the model number and serial number of the Settlement Class Member's Washer. The Enhanced

Minimum Recall Rebate of 15.5 percent shall be available to all such Settlement Class Members who first request a Recall Rebate following the Notice Date but no later than the Claims Deadline, and otherwise comply with this Section IV.A.2.b.

3. Settlement Class Members who participate in the Recall Rebate are not eligible for any other benefit or compensation under this Section IV, with the sole exception of Settlement Class Members who separately qualify for Drain Pump Failure Relief as described below in this Section IV.E.

B. Recall Repair Additional Benefit:

1. Under the Voluntary Recall, Settlement Class Members may choose, instead of the Recall Rebate, a Recall Repair, in which a Samsung Authorized Service Provider provides Settlement Class Members with a free in-home repair to reinforce their Washers' top. For Claimants who already selected a Recall Repair under the Voluntary Recall or who select a Recall Repair under the Voluntary Recall prior to the Claims Deadline, Defendants will further provide those Claimants a:
  - a. \$25.00 cash rebate for purchase of any Samsung microwave oven;
  - b. \$50.00 cash rebate for purchase of any Samsung Major Home Appliance with a purchase price (not including sales taxes,

- delivery fees, and installation charges) between \$0.00 and \$900.00;
- c. \$75.00 cash rebate for purchase of any Samsung Major Home Appliance with a purchase price (not including sales taxes, delivery fees, and installation charges) between \$900.01 and \$1,500.00; **or**
  - d. \$85.00 cash rebate for purchase of any Samsung Major Home Appliance with a purchase price (not including sales taxes, delivery fees, and installation charges) of \$1,500.01 and higher.
2. The cash rebate: (a) has a one (1) year expiration date from entry of the Final Approval Order; and (b) is transferable to any Claimant's Household Member or Claimant's Immediate Family Member.
  3. To obtain a Recall Repair Additional Benefit under this Section IV.B, Claimants must submit to the Settlement Administrator within the Claims Deadline a properly completed and executed Claim Form containing any requisite accompanying documentation, which must include: (a) the model number and serial number of the Claimant's Washer; (b) a statement that the Claimant (i) has affixed to his or her Washer's control panel the control panel guide provided in the Home Label Kit, and (ii) operates his or her Washer in accordance with the additional safety instructions provided in the Home Label

Kit; (c) a designation of the Claimant's Household Member or Claimant's Immediate Family Member, if any, to whom the Claimant wishes to transfer his or her cash rebate; and (d) a signed statement under penalty of perjury from the Claimant attesting that all of the statements in the Claim Form are true and correct. If the Settlement Administrator determines that the Claimant has submitted a Valid Claim, the Claimant will be provided by way of email or First-Class Mail with the United States Postal Service with a Recall Repair Additional Benefit Rebate Form.

4. A Claimant, or Claimant's Household Member, or Claimant's Immediate Family Member who has been designated by Claimant as the transferee of the Recall Repair Additional Benefit cash refund, may then redeem his or her Recall Repair Additional Benefit cash rebate prior to the cash rebate's one (1) year expiration date by: (a) purchasing a Samsung microwave oven or a Samsung Major Home Appliance after the Claims Deadline but prior to the cash rebate's expiration either from SEA or from any licensed retail or internet store that sells Samsung microwave ovens or Major Home Appliances; and (b) submitting in accordance with the instructions on the Recall Repair Additional Rebate Form a properly completed Recall Repair Additional Benefit Rebate Form and proof of purchase. If the submission is validated, the Settlement

Administrator or the Defendants will provide the Claimant, Claimant's designated Household Member, or Immediate Family Member with payment by electronic transfer or a check sent by First-Class Mail with the United States Postal Service for the Recall Repair Additional Benefit cash rebate.

5. Settlement Class Members who participate in the Recall Rebate are not eligible for any other benefit or compensation under this Section IV, with the sole exception of Settlement Class Members who separately qualify for Top Separation Relief, as described below in this Section IV.C, or Drain Pump Failure Relief, as described below in this Section IV.E.

C. Top Separation Relief:

1. For Settlement Class Members whose Washers experience a Top Separation within seven (7) years after the Settlement Class Member purchased his or her Washer, Defendants will provide the following Top Separation Relief, to the extent not previously provided to the Settlement Class Member:
  - a. Full refund of the purchase price paid by the Settlement Class Member for his or her Washer; and
  - b. Reimbursement of Top Separation Expenses incurred by the Settlement Class Member as a result of the Top Separation expressly subject to the following limitations: (1) Settlement

Class Member must submit sufficient documentation evidencing his or her Top Separation Expenses, (2) Top Separation Expenses are capped at a total of \$400.00 per Settlement Class Member, and (3) no more than \$50.00 of Top Separation Expenses may be attributable to Clean-up Costs.

2. To obtain Top Separation Relief under this Section IV.C, Settlement Class Members must submit to SEA: (a) the model number and serial number of the Settlement Class Member's Washer; (b) a photograph evidencing the Top Separation; (c) a signed statement under penalty of perjury (i) attesting that Settlement Class Member's Washer experienced a Top Separation, and (ii) identifying Top Separation Expenses that Settlement Class Member experienced as a result of the Top Separation; and (d) documentation evidencing the Top Separation Expenses, including Clean-up Costs, experienced by Settlement Class Member.
3. Top Separation Relief does not include personal injury or damage to Property arising out of or in connection with Top Separation. As expressly provided in Section IX, personal injury and damage to a Settlement Class Member's Property is not a Released Claim under this Settlement.

D. Commitment for Recall Repair:

1. Under the Voluntary Recall, Settlement Class Members may choose a Recall Repair, in which a Samsung Authorized Service Provider provides Settlement Class Members with a free in-home repair to reinforce their Washers' top and a free one (1) year extension of the manufacturer's warranty.
2. For any Settlement Class Member who has not previously requested a Recall Rebate or a Recall Repair, and who, after entry of the Final Approval Order, selects under the Voluntary Recall a Recall Repair and where SEA is able to confirm the receipt of such request, Defendants commit that a Samsung Authorized Service Provider will effectuate such Recall Repair within fourteen (14) days of the Settlement Class Member's request.
3. Should a Samsung Authorized Service Provider prove unable, solely as a result of an act or omission by the Samsung Authorized Service Provider, to effectuate a requested Recall Repair made within fourteen (14) days of a Settlement Class Member's request pursuant to Section IV.D.2, Defendants will provide the Settlement Class Member with a one-time \$50.00 cash-equivalent card. However, this provision shall not apply if Defendants elect to replace the Settlement Class Member's Washer.
4. To obtain the one-time \$50.00 cash-equivalent card under this Section IV.D, a Settlement Class Member must submit to SEA for



verification: (a) the model number and serial number of the Settlement Class Member's Washer; and (b) a signed statement under penalty of perjury attesting (i) to the date, after entry of the Final Approval Order, that the Settlement Class Member requested a Recall Repair to his or her Washer under the Voluntary Recall, (ii) to the failure of a Samsung Authorized Service Provider to effectuate the requested Recall Repair within fourteen (14) days of the Settlement Class Member's request, and (iii) that such failure is not attributable to any act or omission by the Settlement Class Member or by any other party apart from the Samsung Authorized Service Provider. Upon SEA's acceptance of a Settlement Class Member's submission, SEA will provide the Settlement Class Member by First-Class Mail with the United States Postal Service with a one-time \$50.00 cash-equivalent card.

E. Drain Pump Failure Relief:

1. For Settlement Class Members whose Selected Washers have already experienced a Drain Pump Failure or experience a Drain Pump Failure within three (3) years after the Notice Date, Defendants will provide the following Drain Pump Failure Relief, to the extent not previously provided to the Settlement Class Member:
  - a. Repair of the Selected Washer's Drain Pump or reimbursement of prior Drain Pump Repair Costs, as follows:

- (i) A Samsung Authorized Service Provider will install a new, relocated Drain Pump on the Settlement Class Member's Selected Washer; or
  - (ii) For Settlement Class Members who, prior to the Notice Date, paid for one or more repairs to their Selected Washer's Drain Pump, Defendants will provide reimbursement of Prior Drain Pump Repair Costs, expressly subject to the following limitations:
    - (1) the Settlement Class Member must submit sufficient documentation evidencing his or her Prior Drain Pump Repair Costs, and (2) Prior Drain Pump Repair Costs are capped at \$150.00 per Settlement Class Member; or
  - (iii) In the event SEA determines that the Drain Pump Failure cannot be remedied, SEA will replace the Selected Washer with a comparable washers at SEA's expense.
- b. Reimbursement of Drain Pump Failure Expenses incurred by a Settlement Class Member as a result of the Drain Pump Failure is expressly subject to the following limitations: (1) the Settlement Class Member must submit sufficient documentation evidencing his or her Drain Pump Failure

Expenses; (2) Drain Pump Failure Expenses are capped at a total of \$400.00 per Settlement Class Member; and (3) no more than \$50.00 of Drain Pump Failure Expenses may be attributable to Clean-up Costs.

2. To obtain Drain Pump Failure Relief under this Section IV.E, Settlement Class Members must submit to SEA: (a) the model number and serial number of the Settlement Class Member's Selected Washer; (b) a signed statement under penalty of perjury (i) attesting that the Settlement Class Member's Selected Washer experienced a Drain Pump Failure, and (ii) identifying Drain Pump Failure Expenses that the Settlement Class Member experienced as a result of the Drain Pump Failure; (c) documentation evidencing the Drain Pump Failure Expenses, including Clean-up Costs, experienced by the Settlement Class Member; and (d) documentation evidencing Prior Drain Pump Repair Costs, if any, paid for by the Settlement Class Member prior to the Notice Date.
3. Drain Pump Failure Relief does not include personal injury or damage to Property arising out of or in connection with Drain Pump Failure. As expressly provided in Section IX, personal injury and damage to a Settlement Class Member's Property is not a Released Claim under this Settlement.

**V. SETTLEMENT ADMINISTRATION AND NOTICE**

- A. Defendants agree to pay for all Administration and Notice Expenses, except that Defendants shall not be responsible for any cost that may be incurred by Plaintiffs or Class Counsel in: (a) responding to inquiries about the Agreement, the Settlement, or the Lawsuit; (b) defending the Agreement or the Settlement against any challenge to it; or (c) defending against any challenge to any order or judgment entered pursuant to the Agreement, unless otherwise specifically agreed, except for the costs incurred by the Settlement Administrator to prepare declarations, affidavits, or status reports at the request of the Parties or the Court for the purpose of obtaining preliminary or final approval of the Settlement or for staying informed of developments in the Settlement. Defendants shall be required to pay the reasonable costs, if any, billed by the Settlement Administrator with respect to work performed by the Settlement Administrator to provide information to the Court regarding the notice and settlement administration process related to challenges or objections to the Agreement or the Settlement.
- B. Defendants and Plaintiffs' Co-Lead Counsel have mutually selected KCC as the Settlement Administrator.
- C. As soon as practicable, but no later than ten (10) days after filing the motion for entry of the Preliminary Approval Order, Defendants shall comply with the notice provisions of the Class Action Fairness Act, 28 U.S.C. § 1715, which may be satisfied by directing the Settlement Administrator to do so.

D. As soon as practicable, but no later than sixty (60) days after the Court's entry of the Preliminary Approval Order:

1. The Settlement Administrator shall establish a toll-free telephone number that Settlement Class Members can call to request that hard copies of the Claim Form or Opt-out Form be sent to them by First-Class Mail with the United States Postal Service and to obtain additional information regarding the Settlement. This shall be accomplished before mailing the Settlement Notice.
2. The Settlement Administrator shall send or cause to be sent by First-Class Mail with the United States Postal Service a copy of the Settlement Notice to every Settlement Class Member who can be identified from the Voluntary Recall program, as supplemented by:
  - (a) reasonable efforts of Defendants in their sole discretion; and
  - (b) reasonable cooperation by the Retailer Defendants in their sole discretion.The mailed Settlement Notice will encourage Settlement Class Members to complete and submit their Claim Forms online through the Settlement Website, but will also include a toll-free telephone number that Settlement Class Members can use to request that the Settlement Administrator mail them a hard-copy Claim Form, Opt-out Form, and/or FAQ and to obtain additional information regarding the Settlement and Settlement procedures. The Settlement Administrator will, as appropriate, obtain or cause to

be obtained address updates using a National Change of Address database.

- E. At approximately the same time as the Settlement Administrator mails the Settlement Notice, the Settlement Administrator shall provide Publication Notice to the Settlement Class Members. Any other notice must be approved by Defendants and Class Counsel before being published, and such approval will not be unreasonably withheld.
- F. To facilitate the efficient administration of this Settlement and to promote provision of benefits pursuant to this Settlement, the Settlement Administrator will establish the Settlement Website that enables Settlement Class Members to:
  - 1. Read the Settlement Notice and FAQ.
  - 2. Complete, review, and submit a Claim Form online. This shall include the ability to electronically upload and submit documents supporting Settlement Class Members' Claim Forms.
  - 3. Review and complete an Opt-out Form.
  - 4. Print the completed Claim Form or Opt-out Form for signature by the Settlement Class Member and mailing to the Settlement Administrator along with any required documentary proof.
- G. The Parties agree that the Settlement Notice, FAQ, Claim Form, Opt-out Form, Publication Notice, and Settlement Website will provide information sufficient to inform Settlement Class Members of: (1) the essential terms of

this Agreement; (2) appropriate means for obtaining additional information regarding the Agreement and the Lawsuits; (3) appropriate information about the procedure for objecting to or excluding themselves from the Settlement, if they wish to do so; and (4) appropriate means for, and information about, submitting a Claim Form. The Parties also agree that the dissemination of the Settlement Notice and the FAQ in the manner specified in this Section V satisfies the notice requirements of due process and Rule 23 of the Federal Rules of Civil Procedure.

- H. The Parties will ask the Court to approve, in the Preliminary Approval Order, the direct mailing of the Settlement Notice, the Settlement Website publication of the Settlement Notice and FAQ, the Settlement Website publication of the Claim Form and Opt-out Form, and the Publication Notice, all as set forth above in this Section V.
- I. Within ninety-five (95) days after the Court's entry of the Preliminary Approval Order, the Settlement Administrator will provide to the Court a declaration of compliance with this plan of notice.

**VI. PROCEDURES FOR SETTLEMENT APPROVAL**

- A. The Parties shall use their best efforts to effectuate this Agreement, including cooperating in preparing all necessary documents and securing the prompt, complete, and final dismissal, with prejudice, and as to all named defendants, of the Consolidated MDL Lawsuit together with each of the Lawsuits.

B. Preliminary Approval

1. As soon as practicable after execution of this Agreement, the Parties shall file a joint motion with the Court for: (a) preliminary approval of the Settlement; (b) authorization to disseminate the Settlement Notice contemplated by this Agreement to all members of the Settlement Class; and (c) a stay of all proceedings in the Consolidated MDL Lawsuit and the Lawsuits, except in connection with this Agreement as set forth herein (the “Motion”). The Motion shall include: (a) the proposed Preliminary Approval Order; (b) proposed forms of the Settlement Notice and methods for dissemination; (c) proposed date of dissemination of the Settlement Notice to the Settlement Class; and (d) proposed schedule through final approval of the Agreement.
2. The deadlines established in the Preliminary Approval Order are as follows, all as measured from the date on which the Court enters the Preliminary Approval Order:
  - a. Within ten (10) days after filing of the Motion: date on or before which Defendants (or, at Defendants’ election, the Settlement Administrator) shall comply with the notice provisions of the Class Action Fairness Act, 28 U.S.C. § 1715.



- b. Within sixty (60) days after entry of the Preliminary Approval Order: the Settlement Administrator shall commence mailing of the Settlement Notices as required by Section V of this Agreement.
- c. Within ninety-five (95) days after entry of the Preliminary Approval Order: the Settlement Administrator shall provide a declaration of compliance with the notice requirements set forth in Section V of this Agreement.
- d. Within ninety-five (95) days after entry of the Preliminary Approval Order: Class Counsel shall file their motion for an award of Attorneys' Fees and Expenses as specified by Section VIII of this Agreement and pursuant to Rule 54(d)(2) of the Federal Rules of Civil Procedure. Defendants shall not oppose said motion so long as it complies with the maximum amount set forth in Section VIII of this Agreement.
- e. Within one-hundred-and-twenty (120) days after entry of the Preliminary Approval Order:
  - (i) Any objectors shall file a letter setting out objections, together with all supporting memoranda and other material, with the Court. This includes objections to:
    - (1) certification of the Settlement Class;
    - (2) the designation of Plaintiffs as Class Representatives; the

appointment of Class Counsel; (3) the Settlement; (4) the Agreement; or (5) the Attorneys' Fee and Expenses award.

(ii) Requests by Settlement Class Members to be excluded from the Settlement, through use of the Opt-out Form, must be either postmarked by the United States Postal Service (in the case of mailed exclusions) or actually received by the Settlement Administrator (in the case of Opt-out Forms submitted through the Settlement Website) within one-hundred-and-twenty (120) days after entry of the Preliminary Approval Order. The Settlement Administrator must provide a list of all exclusions to the Court within one-hundred-and-thirty-five (135) days after entry of the Preliminary Approval Order.

f. Within one-hundred-and-twenty (120) days after entry of the Preliminary Approval Order: any attorney seeking to appear at the Fairness Hearing must file with the Court and contemporaneously serve on Class Counsel and Defendants an entry of appearance and notice of intention to appear at the Fairness Hearing, setting forth the basis of their objections and summarizing the nature and source of any evidence that

they intend to present at the Fairness Hearing. Any objector not represented by an attorney seeking to appear at the Fairness Hearing must state the same in the objection that they file with the Court or submit to the Settlement Administrator or Class Counsel, as provided above. This deadline applies to any Person objecting to any or all of the certification of the Settlement Class, designation of Plaintiffs as Class Representatives, appointment of Class Counsel, the Settlement, the Agreement, or the Attorneys' Fees and Expenses.

- g. One-hundred-and-thirty-five (135) days after entry of the Preliminary Approval Order: the Parties shall file the proposed Final Approval Order and memorandum in support of Final Approval.
- h. Within one-hundred-and-fifty (150) days after entry of the Preliminary Approval Order: all claims by Settlement Class Members to the Settlement Administrator for benefits under Section IV of this Agreement shall be postmarked (in the case of mailed Claims Forms) or received (in the case of Claims Forms submitted through the Settlement Website). Claims received after this date shall not be Valid Claims.

- i. Within one-hundred-and-sixty-five (165) days after entry of the Preliminary Approval Order: date on or around which the Court, at its convenience, will hold the Fairness Hearing.

C. Final Approval

1. At the Fairness Hearing, the Parties will request the Court to enter the Final Approval Order, which: (a) grants final approval of the certification of the Settlement Class, designation of the Class Representatives, and designation of Class Counsel; (b) grants final approval to the Settlement and this Agreement as fair, reasonable, and adequate to the Settlement Class; (c) provides for the release of all Released Claims and enjoins Settlement Class Members from asserting, filing, maintaining, prosecuting, or assisting in the prosecution of any of the Released Claims in the future; (d) orders the dismissal with prejudice and as to all named defendants of all claims alleged in the Consolidated MDL Lawsuit and the Lawsuits, and incorporates the releases and covenant not to sue stated in this Agreement; (e) authorizes the payment by Defendants of Valid Claims approved by the Settlement Administrator as Valid Claims, in accordance with the terms of the Agreement, commencing 30 days after any order granting Final Approval, but in no event, before January 1, 2019; (f) makes findings under Rule 52(a) of the Federal Rules of Civil Procedure that authorizes the payment by Defendants

of Attorneys' Fees and Expenses and Service Awards for Class Representatives, in accordance with the terms of the Agreement; and (g) preserves the Court's continuing jurisdiction over the administration of the Settlement and enforcement of the Agreement.

**VII. REQUESTS FOR EXCLUSION AND OBJECTIONS**

- A. Any member of the Settlement Class shall have the right to opt out of the Settlement Class by providing the Settlement Administrator with an executed Opt-out Form by timely mailing such form to the Settlement Administrator's mailing address or submitting the Opt-out Form through the Settlement Website. Any Settlement Class Member shall have the right to object to the Agreement, including the Attorneys' Fees and Expenses, by filing with the Court a timely objection. All Opt-out Forms must be postmarked by the United States Postal Service or received by the Settlement Administrator (in the case of Opt-out Forms submitted through the Settlement Website) or, in the case of objections, filed with the Court no later than one-hundred-and-twenty (120) days after entry of the Preliminary Approval Order, and this deadline shall be set forth in the Settlement Notice.
- B. Settlement Administrator must provide a final list of all exclusions to the Court within one-hundred-and-thirty-five (135) days after entry of the Preliminary Approval Order.

**VIII. ATTORNEYS' FEES AND EXPENSES, AND SERVICE AWARDS TO CLASS REPRESENTATIVES**

- A. The Parties agree that Defendants will pay attorneys' costs and fees in the total, all-inclusive amount of \$6,550,000.00, subject to approval of the Court required by Rule 23(h)(1) and Rule 54(d)(2) of the Federal Rules of Civil Procedure, for all attorneys' fees, costs, expenses, and interest related in any way to work performed or to be performed, and costs and expenses incurred, by or on behalf of Plaintiffs or Settlement Class Members in connection with the Washers, the Consolidated MDL Lawsuit, each of the Lawsuits, or the Settlement.
- B. Plaintiffs and Class Counsel acknowledge and agree that (1) the attorneys' fees, costs, expenses, and interest set out in this Section VIII are in full and fair settlement of any claim for attorneys' fees, costs, expenses, and interest, whether already incurred or incurred in the future, for any activity related in any way to the Washers, the Consolidated MDL Lawsuit, any of the Lawsuits, or the Settlement, and (2) Class Counsel shall not seek any award of attorneys' fees, costs, expenses, or interest in addition to the total, all-inclusive amount set out above in this Section VIII, whether already incurred or incurred in the future, and whether incurred by Class Counsel or by any other counsel acting on behalf of any Settlement Class Member.

- C. The Parties agree that Defendants will not oppose the request for service awards to proposed Class Representatives in the total amount of \$100,000.00.
- D. The Parties agree further that Plaintiffs shall not seek any award in excess of \$6,650,000.00, inclusive of attorneys' fees, costs, expenses, interest, and service awards to proposed Class Representatives.

**IX. RELEASES**

- A. Plaintiffs and all Settlement Class Members who do not timely exclude themselves from the Settlement do forever release, acquit, and discharge Releasees from all manner of claims, actions, causes of action, administrative claims, demands, debts, damages, costs, attorneys' fees, obligations, judgments, expenses, or liabilities for loss, in law or in equity, whether now known or unknown, contingent or absolute, including all claims that Plaintiffs or any Settlement Class Member now have or, absent this Agreement, may in the future have had, against Releasees, by reason of any act, omission, harm, matter, cause, or event whatsoever up to and including the Effective Date of this Agreement that arises from or relates in any way to any Top Separation in Washers or Drain Pump Failure in Selected Washers, or that was brought in the Consolidated MDL Lawsuit or any of the Lawsuits, including but not limited to all claims for out-of-pocket expenses, consequential damages, diminution-in-value, benefit-of-the-bargain, cost-of-repair, cost-of-replacement, premium-price damages,

attorneys' fees, disgorgement, or statutory damages or penalties (the "Released Claims"), provided that this release will not extinguish, and the Released Claims do not include, claims for: (1) personal injury; or (2) damage to Property.

- B. By executing this Agreement, the Parties acknowledge that, upon entry of the Final Approval Order by the Court, the Consolidated MDL Lawsuit and the Lawsuits shall be dismissed with prejudice, an order of dismissal with prejudice as to all named defendants shall be entered as to the Consolidated MDL Lawsuit and to each of the Lawsuits, and all Released Claims shall thereby be conclusively settled, compromised, satisfied, and released as to all of the Releasees. The Final Approval Order shall provide for and effect the full and final release, by Plaintiffs and all Settlement Class Members, of all Released Claims.
- C. As additional consideration for the Settlement and benefits provided by this Agreement, Plaintiffs each agree to take all reasonable actions to support any of the Releasees' efforts to obtain dismissal with prejudice of any claims or causes of action brought against them relating to the Released Claims, including any action for contribution or indemnity, that may hereafter at any time be asserted against any of the Releasees by any of the Plaintiffs, or by anyone subrogated to any of the Plaintiffs' rights in any capacity, and that arise from any loss, injury, property damage, or expense released by this Settlement.



- D. Future or Unknown Harm and Waiver of Statutory Rights: It is possible, although unlikely, that other injuries, damages, losses, or future consequences or results of the sale, purchase, use, non-use, need for repair, or repair of the Washers relating to the Released Claims are not currently known by Plaintiffs and Settlement Class Members and will develop or be discovered that relate to the subject matter of the Consolidated MDL Lawsuit or the Lawsuits. The release in this Agreement, and the compromise on which it is based, are expressly intended to and do cover and include a release by each of the Plaintiffs and each Settlement Class Member of all such future injuries, damages, losses, or future consequences or results, including a release and waiver of all rights, causes of actions, claims, and lawsuits against the Releasees that may exist or arise in the future because of such future injuries, damages, losses, or future consequences or results of known or unknown injuries that relate to, or arise out of the Released Claims.
- E. Each of the Plaintiffs and each Settlement Class Member hereby expressly, knowingly, and voluntarily waives the provisions of Section 1542 of the California Civil Code, which provides as follows:

**A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.**

Each of the Plaintiffs and each Settlement Class Member expressly waives and relinquishes all rights and benefits that he or she may have under, or that may be conferred upon him or her by, the provisions of Section 1542 of the California Civil Code and of all similar laws of any other States or jurisdictions, to the fullest extent that he or she may lawfully waive such rights or benefits pertaining to the Released Claims. In connection with such waiver and relinquishment, each of the Plaintiffs and each Settlement Class Member hereby acknowledges that he or she is aware that he/she or his/her attorneys may hereafter discover claims or facts in addition to, or different from, those which he or she now knows or believes to exist with respect to the Released Claims, but that it is his/her intention to hereby fully, finally, and forever settle and release all of the Released Claims, known or unknown, suspected or unsuspected, that he/she has against Releasees.

- F. Each of the Plaintiffs and each Settlement Class Member expressly consents that this release shall be given full force and effect according to each of its terms and provisions, including those relating to unknown and unspecified claims, injuries, demands, rights, lawsuits, or causes of action as referenced above. Each of the Plaintiffs and each Settlement Class Member acknowledges and agrees that this waiver is an essential and material term of this release and the compromise settlement that led to it, and that, without this waiver, the compromise settlement would not have

been accomplished. Each of the Plaintiffs has been advised by his or her attorney with respect to this waiver and, being of competent mind, understands and acknowledges its significance.

- G. Each Party expressly accepts and assumes the risk that, if facts with respect to matters covered by this Agreement are found to be other than, or different from, the facts now believed or assumed to be true, this Agreement shall nevertheless remain effective. It is understood and agreed that this Agreement shall constitute a general release and shall be effective as a full and final accord and satisfaction and is a bar to all actions, causes of action, costs, expenses, attorney fees, damages, claims, and liabilities whatsoever, whether or not now known, suspected, claimed, or concealed, pertaining to the Released Claims of this Agreement.
- H. Nothing in this Agreement abrogates, or is intended to abrogate, in whole or in part, the Voluntary Recall, including without limitation any of the Voluntary Recall's communications, information, materials, processes, remedies, or relief.

**X. COVENANT NOT TO SUE**

Plaintiffs, on behalf of themselves and each of the Settlement Class Members who do not timely exclude themselves from the Settlement: (1) covenant and agree that neither Plaintiffs nor any of the Settlement Class Members, nor anyone authorized to act on behalf of any of them, will commence, authorize, or accept any benefit from any judicial or administrative action or proceeding, other than as expressly provided for in

this Agreement, against Releasees, or any of them, in either their personal or corporate capacity, with respect to any claim, matter, or issue that in any way arises from, is based on, or relates to, any alleged loss, harm, or damages allegedly caused by Releasees, or any of them, in connection with the Released Claims; (2) waive and disclaim any right to any form of recovery, compensation, or other remedy in any such action or proceeding brought by, or on behalf of, any of them or any putative class of Washer owners over the Released Claims; and (3) agree that this Agreement shall be a complete bar to any such action by any Plaintiffs or Settlement Class Member.

**XI. REPRESENTATIONS AND WARRANTIES**

Each of the Parties represents and warrants, and agrees with, each of the other Parties as follows:

- A. Plaintiffs represent and warrant that no portion of any claim, right, demand, action, or cause of action against any of the Releasees that Plaintiffs have or may have arising out of the Lawsuits or pertaining in any way to the Washers, and no portion of any recovery or settlement to which Plaintiffs may be entitled, has been assigned, transferred or conveyed by, or for, Plaintiffs in any manner, except for such portion of the Settlement sum that has been assigned, transferred, or conveyed by Plaintiffs to counsel to pay litigation fees and costs; and no Person or entity other than Plaintiffs has any legal or equitable interest in the claims asserted in their respective Lawsuits.

B. Each of the Parties to this Agreement further represents and warrants, and agrees with, each other Party hereto as follows:

1. Each Party has had the opportunity to receive, and has received, independent legal advice from his, her, or its attorneys regarding the advisability of making the Settlement, the advisability of executing this Agreement and the legal and tax consequences of this Agreement, and fully understands and accepts the terms of this Agreement.
2. None of the Parties relies or has relied on any statement, representation, omission, inducement, or promise of the other Party (or any officer, agent, employee, representative, or attorney for the other Party) in executing this Agreement, or in making the Settlement provided for herein, except as expressly stated in this Agreement.
3. Each of the Parties has investigated the facts pertaining to the Settlement and this Agreement, and all matters pertaining thereto, to the full extent deemed necessary by that Party and his, her, or its attorneys.
4. Each of the Parties has carefully read, and knows and understands, the full contents of this Agreement and is voluntarily entering into this Agreement after having had the opportunity to consult with, and having in fact consulted with, his, her, or its attorneys.

5. Each term of this Agreement, under the titles of the various Sections, is contractual and not merely a recital.

C. Each of the Parties has authority to enter into this Agreement. The undersigned Plaintiffs' Co-Lead Counsel represents that it has authority to enter into this Agreement and bind all Plaintiffs and their respective counsel.

## **XII. MISCELLANEOUS**

A. Extensions of Time: Unless otherwise ordered by the Court, the Parties may agree in writing to reasonable extensions of time to carry out any of the provisions of this Agreement and corresponding Settlement.

B. Mutual Non-Disparagement: To the extent permitted by law and the applicable rules of professional conduct, the Settlement is conditioned on the Parties' and their lawyers' agreement not to disparage Defendants, Retailer Defendants, Plaintiffs, or Class Counsel regarding the subject matter of the Lawsuits. The Class Representatives and Class Counsel agree to not create, establish, or assist in the development of, or provide any content for, any print publication of any kind, website, social media, blog, "gripe" site, or radio, movie, television, or internet broadcast or video that criticizes Defendants or Retailer Defendants with respect to the Lawsuits, the Settlement, or the Washers. The foregoing shall not restrict the ability of Class Counsel from performing their responsibilities to absent Settlement Class Members in connection with settlement approval

proceedings, nor shall it restrict counsel's responsibilities to respond to orders of any court or other legal obligation. This provision shall not be interpreted to interfere or to limit any rights or obligations under the applicable rules of professional conduct.

- C. Severability: None of the terms of this Agreement is severable from the others. If the Court or any court exercising appellate jurisdiction rules that any term of this Agreement is void, illegal, or unenforceable for any reason, however, Defendants and Retailer Defendants, in their sole discretion, and Plaintiffs, in their sole discretion (but acting in accord with their duties and obligations as representatives of the Settlement Class), may elect to waive any such deficiency and proceed with the Settlement under the terms and conditions approved by the Court.
- D. Entire Agreement of Parties: This Agreement constitutes and comprises the entire agreement between the Parties concerning the subject matter hereof. It supersedes all prior and contemporaneous oral and written agreements and discussions. It may be amended only by an agreement in writing, signed by the Parties.
- E. Conditional Nature of Agreement:
1. At Plaintiffs' option, expressed in written notice to Defendants' counsel, this Agreement shall become null and void, and no obligation on the part of any of the Parties will accrue, if the Court materially alters any of the terms of this Agreement to the detriment

of Plaintiffs or the Settlement Class, or fails to enter the Preliminary Approval Order or the Final Approval Order in substantially the form submitted by the Parties.

2. At Defendants' option, expressed in written notice to Class Counsel, this Agreement shall become null and void, and no obligation on the part of any of the Parties will accrue, if (a) the Court declines to certify the Settlement Class as provided in the Preliminary Approval Order, or (b) the Court materially alters any of the terms of this Agreement to the detriment of Defendants, or fails to enter the Preliminary Approval Order or the Final Approval Order in substantially the form submitted by the Parties.

F. Interpretation and Construction: Each Party has participated in the negotiation and drafting of all provisions of this Agreement, has had an adequate opportunity to read, review, and consider with his, her, or its own counsel the effect of the language of this Agreement, and has agreed to its terms. Accordingly, the legal maxim that "ambiguity shall be interpreted against the drafter" has no relevance to the interpretation or construction of this Agreement.


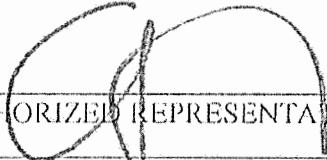
G. Binding on Agents, Successors, and Assigns: This Agreement is binding on, and shall inure to the benefit of, the Parties and their respective agents, employees, representatives, officers, directors, parents, subsidiaries, assigns, executors, administrators, insurers, and successors in interest.



- H. Third-Party Beneficiaries: All Releasees other than the signatories to this Agreement are intended to be third-party beneficiaries of this Agreement.
- I. Cooperation in Implementation: Defendants, Plaintiffs, and their respective counsel agree that they will abide by this Agreement and do all such acts, and prepare, execute, and deliver all such documents, as may reasonably be required to carry out the stated objectives of this Agreement.
- J. Governing Law: This Agreement shall be construed and governed in accordance with federal procedural law and the substantive laws of the State of New York, without regard to New York's conflict-of-laws principles.
- K. No Admission of Liability: It is understood and agreed that the Settlement benefits provided in this Agreement, and this Settlement and release, are for the compromise of disputed claims and are not to be construed as, or deemed to be, an admission of any liability, fault or responsibility on the part of any of the Releasees, by whom liability and fault are, and always have been, expressly and completely denied.
- L. Continuing Jurisdiction: The Court shall retain jurisdiction over the Parties and the Agreement with respect to future performance of the terms of the Agreement.
- M. Signatures: This Agreement may be executed in counterparts, and, when so executed, shall constitute a binding original. Co-Lead Counsel's signature shall be construed to bind Plaintiffs in this action, and Co-Lead Counsel

expressly represent that they have received authorization from the named Plaintiffs and Plaintiffs' Steering Committee Members, as appointed by the Court on December 6, 2017, prior to executing this agreement.

Dated: May 24, 2018

	SAMSUNG ELECTRONICS AMERICA, INC.  By:  AUTHORIZED REPRESENTATIVE
	SAMSUNG ELECTRONICS CO., LTD.  By:  AUTHORIZED REPRESENTATIVE
	BEST BUY CO, INC  By: _____ AUTHORIZED REPRESENTATIVE
	THE HOME DEPOT, INC.  By: _____ AUTHORIZED REPRESENTATIVE
	HOME DEPOT U.S.A., INC.  By: _____ AUTHORIZED REPRESENTATIVE
	LOWE'S COMPANIES, INC.  By: _____ AUTHORIZED REPRESENTATIVE


Dated: May 29, 2018



	SAMSUNG ELECTRONICS AMERICA, INC.  By: _____ AUTHORIZED REPRESENTATIVE
	SAMSUNG ELECTRONICS CO., LTD.  By: _____ AUTHORIZED REPRESENTATIVE
	BEST BUY CO, INC.  By: <u>Wm. R. L. 5/29/18</u> AUTHORIZED REPRESENTATIVE
	THE HOME DEPOT, INC.  By: _____ AUTHORIZED REPRESENTATIVE
	HOME DEPOT U.S.A., INC.  By: _____ AUTHORIZED REPRESENTATIVE
	LOWE'S COMPANIES, INC.  By: _____ AUTHORIZED REPRESENTATIVE

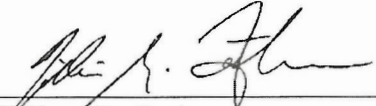

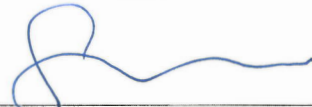
Dated: May 29, 2018

	SAMSUNG ELECTRONICS AMERICA, INC.  By: _____ AUTHORIZED REPRESENTATIVE
	SAMSUNG ELECTRONICS CO., LTD.  By: _____ AUTHORIZED REPRESENTATIVE
	BEST BUY CO, INC.  By: _____ AUTHORIZED REPRESENTATIVE
	THE HOME DEPOT, INC.  By: <u>Kacy D. Doebel</u> AUTHORIZED REPRESENTATIVE
	HOME DEPOT U.S.A., INC.  By: <u>Kacy D. Doebel</u> AUTHORIZED REPRESENTATIVE
	LOWE'S COMPANIES, INC.  By: _____ AUTHORIZED REPRESENTATIVE

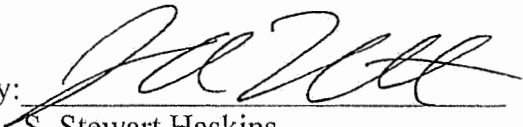
Dated: May \_\_\_\_, 2018

	<p>SAMSUNG ELECTRONICS AMERICA, INC.</p> <p>By: _____                  AUTHORIZED REPRESENTATIVE</p>
	<p>SAMSUNG ELECTRONICS CO., LTD.</p> <p>By: _____                  AUTHORIZED REPRESENTATIVE</p>
	<p>BEST BUY CO, INC.</p> <p>By: _____                  AUTHORIZED REPRESENTATIVE</p>
	<p>THE HOME DEPOT, INC.</p> <p>By: _____                  AUTHORIZED REPRESENTATIVE</p>
	<p>HOME DEPOT U.S.A., INC.</p> <p>By: _____                  AUTHORIZED REPRESENTATIVE</p>
	<p>LOWE'S COMPANIES, INC.</p> <p>By:  _____                  AUTHORIZED REPRESENTATIVE</p>

	LOWE'S HOME CENTERS, LLC  By: <u></u> AUTHORIZED REPRESENTATIVE
	SEARS HOLDINGS CORPORATION  By: <u></u> AUTHORIZED REPRESENTATIVE
<b><u>Counsel for Plaintiffs:</u></b>	<b><u>Counsel for Defendants and Retailer Defendants Best Buy Co., Inc., Lowe's Companies, Inc., Lowe's Home Centers, LLC, and Sears Holdings Corporation:</u></b>
By: _____ William B. Federman FEDERMAN & SHERWOOD	By: _____ Arthur E. Brown ARNOLD & PORTER KAYE SCHOLER LLP
By: _____ Jason L. Lichtman LIEFF CABRASER HEIMANN & BERNSTEIN, LLP	By: _____ Susan L. Shin ARNOLD & PORTER KAYE SCHOLER LLP
	<b><u>Counsel for Retailer Defendants The Home Depot, Inc. and Home Depot U.S.A., Inc.:</u></b>

	<p>LOWE'S HOME CENTERS, LLC</p> <p>By: _____          AUTHORIZED REPRESENTATIVE</p>
	<p>SEARS HOLDINGS CORPORATION</p> <p>By: _____          AUTHORIZED REPRESENTATIVE</p>
<p><b><u>Counsel for Plaintiffs:</u></b></p>	<p><b><u>Counsel for Defendants and Retailer Defendants Best Buy Co., Inc., Lowe's Companies, Inc., Lowe's Home Centers, LLC, and Sears Holdings Corporation:</u></b></p>
<p>By:           William B. Federman          FEDERMAN &amp; SHERWOOD</p>	<p>By:           Arthur E. Brown          ARNOLD &amp; PORTER KAYE          SCHOLER LLP</p>
<p>By:           Jason L. Lichtman          LIEFF CABRASER HEIMANN &amp;          BERNSTEIN, LLP</p>	<p>By:           Susan L. Shin          ARNOLD &amp; PORTER KAYE          SCHOLER LLP</p>
	<p><b><u>Counsel for Retailer Defendants The Home Depot, Inc. and Home Depot U.S.A., Inc.:</u></b></p>



	<p>By:  S. Stewart Haskins J. Andrew Pratt KING &amp; SPALDING LLP</p>
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