

## AGREEMENT OF SETTLEMENT AND RELEASE

**THIS AGREEMENT OF SETTLEMENT AND RELEASE (“Agreement”)** is entered into by and between plaintiffs Laurie Munning, Michael Pallagrosi, Caron Coladonato and Carmen Andrews, individually, and in their representative capacity on behalf of all others similarly situated (collectively “Plaintiffs”), on the one hand, and Defendants The Gap, Inc., Gap (Apparel) LLC, Gap International Sales, Inc., Banana Republic LLC, and Banana Republic (Apparel) LLC (collectively “Gap” or “Defendants”), on the other (collectively referred to as the “Parties” or singularly “Party”) to effect the settlement set forth herein, subject to Court approval.

### RECITALS

**A.** On May 25, 2016, Plaintiff Laurie Munning filed a class action lawsuit in the Superior Court of the State of California for the County of San Francisco, on behalf of a class of all United States Citizens who purchased any discounted item from Defendants’ online Gap Factory Store website or Banana Republic Factory Store website between May 24, 2010 and the date of preliminary approval. On or about June 20, 2016 Defendants removed the Action to Federal Court. The action is entitled *Laurie Munning v. The Gap, Inc., Gap (Apparel) LLC, Gap International Sales, Inc., Banana Republic LLC, and Banana Republic (Apparel) LLC*, Civil Action No. 4:16-cv-3804 (N.D.C.A.).

**B.** On July 28, 2016, Defendants filed a motion to dismiss. The motion was denied in part and granted in part. On December 12, 2016, Plaintiff Munning filed a First Amended Complaint (“Munning Action”).

**C.** On January 9, 2017, Defendants filed a second motion to dismiss. After briefing, on February 24, 2017, the court denied in part and granted in part Defendants’ second motion to dismiss.

**D.** The parties engaged in written discovery on the Munning Action.

**E.** On June 20, 2017, the parties engaged in a full day mediation session of the Munning Action with the Hon. Edward A. Infante (Ret.) of JAMS, Inc. While the Parties made progress as to the possible framework for a settlement, a settlement was not reached.

**F.** On October 9, 2017, Plaintiff Caron Coladonato filed a class action lawsuit in the Superior Court of New Jersey, Camden County, on behalf of a class of all New Jersey citizens who purchased any purportedly discounted item from a Gap Factory Store or Banana Republic Factory Store in New Jersey between October 9, 2011 and the date of preliminary approval. Defendants removed the action and Plaintiff Coladonato filed a motion to remand which was denied on September 26, 2018. The action is entitled *Caron Coladonato v. The Gap, Inc., Gap (Apparel) LLC, Gap International Sales, Inc., Banana Republic LLC, and Banana Republic (Apparel) LLC*, Civil Action No. 1:17-cv-11998 (D.N.J.) (“Coladonato Action”).

**G.** On October 13, 2017, Plaintiff Michael Pallagrosi filed a class action lawsuit in Federal Court for the Northern District of California, on behalf of a class of all persons who purchased any purportedly discounted item from a Banana Republic Factory Store or Gap Factory Store in the United States between October 9, 2011 and the date of Preliminary Approval. The action is *Michael Pallagrosi v. The Gap, Inc., Gap (Apparel) LLC, Gap International Sales, Inc., Banana Republic LLC, and Banana Republic (Apparel) LLC*, Civil Action No. 4:17-cv-5905-HSG

(N.D.C.A.) (“Pallagrosi Action”). On December 6, 2017, Defendants filed a motion to dismiss which was fully briefed and argued but not yet decided.

**H.** On June 13, 2018, Plaintiff Carmen Andrews filed a class action lawsuit in the Superior Court of the State of California for the County of San Francisco on behalf of all California citizens who purchased a purportedly discounted item from a Gap Factory Store or Gap Outlet in California between June 13, 2014 and the date of preliminary approval. The action is entitled *Carmen Andrews v. The Gap, Inc., Gap (Apparel) LLC, Gap International Sales, Inc.*, Docket No. CGC-18-567237 (“Andrews Action”). On October 9, 2018, Defendants filed a demurrer.

**I.** Between July 24, 2017 and the present, Plaintiffs and Defendants conducted substantial written discovery in the Munning and Pallagrosi Actions which consisted of Plaintiff producing over 40 terra bites of data which is the equivalent of 3 million pages of documents and Defendants producing over 300,000 pages of documents. The Parties did a thorough review of all of those documents as well as conducted a thorough investigation of the facts and analyzed the relevant legal issues with respect to the claims asserted in the Action, and Defendants’ potential defenses to those claims, including the arguments asserted in Defendants’ various motions to dismiss filed in the Action.

**J.** Plaintiffs’ counsel also consulted with experts which included retail practices sales expert Chuck Polin, of Sandler and Associates, and damages expert Brian J. Bergmark of Torrey Partners, an economic and accounting services firm. Plaintiffs further reviewed extensive publicly-available information relating to Defendants, its pricing, advertising, and sales practices, and financial status. Counsel for Plaintiffs moreover conducted an extensive independent investigation of Defendants’ pricing, advertising, and sales practices.

**K.** On August 20, 2018, the Parties participated in a second all day mediation of the Munning, Pallagrosi, Coladonato and Andrews Actions with mediator Hon. Jay C. Ghandi (Ret.) of JAMS Inc. Subsequent to the second mediation the Parties continued for two additional months of intense, contentious almost daily settlement discussions, which ultimately reached an amicable resolution of the actions, the terms of which are set forth in this Agreement.

**L.** Plaintiffs and their counsel believe that the claims asserted in the Complaint have merit. Defendants has denied, and continues to deny, any and all allegations of wrongdoing, liability or damages to any person whatsoever alleged in the Action, and believe the claims asserted by Plaintiffs are wholly without merit. Nonetheless, the Parties have concluded that litigation could be protracted and expensive, and desire the Action to be fully and finally settled in the manner and upon the terms and conditions set forth in this Agreement in order to limit further expense, inconvenience, and risk. The Parties also have considered the risks of continued litigation and the benefits of the proposed Agreement, and have considered the costs, risks, and delays associated with the prosecution of this complex and time-consuming litigation, as well as the likely appeals of any rulings in favor of either Plaintiffs or Defendants.

**M.** It is now the intention of the Parties, and the objective of this Agreement, to avoid the costs of litigation and trial and settle and dispose of, fully and completely and forever, any and all claims and causes of action alleged in the Action.

## AGREEMENT

**NOW, THEREFORE**, in consideration of the covenants and agreements set forth herein, Plaintiffs, on behalf of themselves and the Class, and Defendants, hereby stipulate to the resolution of the Action, subject to Court approval, under the following terms and conditions:

**1. DEFINITIONS.** In addition to the definitions included in the Recitals above, and in later sections of this Agreement, the following shall be defined terms for purposes of this Agreement. Some of the definitions in this section use terms that are defined later in the section. All defined terms are capitalized:

**1.1** As used herein, the term “**Action**” means this lawsuit, entitled *Carmen Andrews, Laurie Munning, Caron Coladonato and Michael Pallagrosi, on behalf of themselves and all others similarly situated v. The Gap, Inc., Gap (Apparel) LLC, Gap International Sales, Inc., Banana Republic LLC, and Banana Republic (Apparel) LLC.*, Docket No. Docket No. CGC-18-567237 (Super. Ct. of CA, San Francisco County). The Munning, Pallagrosi, and Coladonato actions mentioned above have all been dismissed.

**1.2** As used herein, the term “**Cash Fund**” means the fund of \$3,750,000 that Defendants will establish to pay Class Counsels attorneys’ fees and costs, Incentive Awards and Claims Administrator Costs, subject to court approval. All of Class Counsels attorneys’ fees and costs, Incentive Awards for Lead Plaintiffs and all Claims Administrator Costs shall be paid from the Cash Fund; in no event shall Defendants pay more than a total of \$3,750,000 to the Cash Fund, Claims Administrator Costs, Class Counsel’s attorneys’ fees and costs and Lead Plaintiffs’ Incentive Awards.

**1.3** As used herein, the term “**Claim**” means a request made by a Class Member in order to receive a Purchase Certificate pursuant to the procedures stated in Section 3.5.

**1.4** As used herein, the term “**Claim Filing Deadline**” means the deadline by which Class Members must file all claims under the Agreement. The Claim Filing Deadline shall be one hundred eighty (180) calendar days after entry of the Preliminary Approval Order.

**1.5** As used herein, the term “**Claim Form**” means the form Class Members must complete to submit a Claim under this Agreement. The Claim Form will state that any Claim submitted will be under penalty of perjury, and shall be substantially similar to the form attached hereto as **Exhibit E**.

**1.6** As used herein, the term “**Claimant**” means any Class Member who submits a valid Claim Form under this Agreement.

**1.7** As used herein, the term “**Claims Administrator**” means a third-party settlement administrator to be selected by Class Counsel, to administer the notice, claims, and Settlement relief distribution process provided for in the Agreement. The Claims Administrator must complete a data security questionnaire from Defendants, meet Defendants’ data security requirements, and execute a retention agreement that includes data security requirements. The Claims Administrator may be removed and replaced by agreement of the Parties or by order of the Court.

**1.8** As used herein, the term “**Claims Administrator Costs**” means all costs incurred by the Claims Administrator, including the cost of providing notice to the Class and administering the terms set forth in this Agreement.

**1.9** As used herein, the terms “*Class*” and “*Class Members*” mean the following Class:

All United States citizens who made one or more in-store or online purchase(s) at a Gap Outlet, Gap Factory Store or a Banana Republic Factory Store located in the United States between May 24, 2010 and the date of Preliminary Approval.

**1.10** As used herein, the term “*Class Period*” means May 24, 2010 through the date of Preliminary Approval.

**1.11** As used herein, the term “*Class Released Claims*” means all manner of actions, causes of action, claims, demands, rights, suits, obligations, debts, contracts, agreements, promises, liabilities, damages, charges, penalties, losses, costs, expenses, and attorneys’ fees, in law or equity, fixed or contingent, which Class Members have or may have, arising out of or relating to any of the acts, omissions or other conduct by Defendants alleged or otherwise referred to in the Complaint, or any preceding version thereof filed in the Action, including, but not limited to, any and all claims related in any way to the advertisement or communication of prices in Burlington stores by any means in New Jersey during the Class Period.

**1.12** As used herein, the term “*Class Releasers*” means all Class Members who do not timely and sufficiently request to be excluded from the proposed settlement, and each of their respective successors, assigns, legatees, heirs, and personal representatives.

**1.13** As used herein, the term “*Complaint*” means the operative First Amended Class Action Complaint, filed by Plaintiffs in the Action, captioned *Carmen Andrews, Laurie Munning, Caron Coladonato and Michael Pallagrosi, on behalf of themselves and all others similarly situated v. The Gap, Inc., Gap (Apparel) LLC, Gap International Sales, Inc., Banana Republic LLC, and Banana Republic (Apparel) LLC*, Docket No. Docket No. CGC-18-567237 (Super. Ct. of CA. San Francisco County).

**1.14** As used herein, the term “*Court*” means the Superior Court of the State of California for the County of San Francisco, in which this Action is pending, and to which presentation of this Agreement for judicial review and approval will be made.

**1.15** As used herein, the terms “*Defendants*” and “*Gap*” mean the named Defendants in the Action.

**1.16** As used herein, the terms “*Defendants Counsel*” and “*Gap’s Counsel*” mean the law firm of Morgan, Lewis & Bockius LLP.

**1.17** As used herein, the term “*Email Notice*” means the legal notice summarizing the proposed terms of this Agreement, as approved by Class Counsel, Defendants’ Counsel, and the Court, to be provided to Class Members under Section 3.3 of this Agreement via electronic mail. The Email Notice shall be substantially similar to the form attached as **Exhibit C**.

**1.18** As used herein, the term “*Exclusion Deadline*” means the deadline by which Class Members must file any exclusion from the Agreement. The Exclusion Deadline shall be seventy-five (75) calendar days after entry of the Preliminary Approval Order.

**1.19** As used herein, the term “*Fairness Hearing*” means the hearing(s) to be held by the Court to consider and determine whether the Agreement should be approved as fair, reasonable, and adequate, and whether the Final Order and Judgment approving the Agreement should be entered.

1.20 As used herein, the term “***Final Order and Judgment***” means the Court’s grant of final approval of the Agreement following the Fairness Hearing. The proposed Final Order and Judgment that Plaintiffs submit to the Court for its approval shall be substantially similar to the form attached as **Exhibit G**.

1.21 As used herein, the term “***Final Settlement Date***” means two (2) Court days after the Final Order and Judgment becomes “final.” For the purposes of this section, “final” means after [i] thirty (30) calendar days after notice of the entry of the Final Order and Judgment is served on the Parties, if no timely motions for reconsideration and/or no appeals or other efforts to obtain review have been filed; or [ii] in the event that an appeal or other effort to obtain review has been initiated, the date after any and all such appeals or other review(s) have been finally concluded in favor of the Final Order and Judgment, any mandates have been returned to the Court, and the Final Order and Judgment is no longer subject to review, whether by appeal, petitions for rehearing, petitions for rehearing *en banc*, petitions for certiorari, or otherwise.

1.22 As used herein, the term “***Full Notice***” means the full legal notice of the proposed Agreement terms, as approved by Class Counsel, Defendants’ counsel, and the Court, to be provided to Class Members under Section 3.3 of this Agreement. The Full Notice shall be substantially similar to the form attached as **Exhibit B**.

1.23 As used herein, the term “***Named Plaintiffs***” means Carmen Andrews, Laurie Munning, Michael Pallagrosi and Caron Coladonato in their individual capacities only.

1.24 As used herein, the term “***Objection Deadline***” means the deadline by which Class Members must file any objections to the Agreement. The Objection Deadline shall be seventy-five (75) calendar days after entry of the Preliminary Approval Order.

1.25 As used herein, the terms “***Plaintiffs’ Counsel***” and “***Class Counsel***” mean the law firm of DeNittis Osefchen Prince, P.C., Hattis Law, LLC and the Law Office of Todd M. Friedman, P.C.

1.26 As used herein, the term “***Preliminary Approval Order***” means the order provisionally certifying the Class for settlement purposes only, approving and directing notice, and setting the Fairness Hearing. The proposed Preliminary Approval Order that Plaintiffs submit to the Court for its approval shall be substantially similar to the form attached as **Exhibit A**.

1.27 As used herein, the term “***Publication Notice***” means the legal notice summarizing the proposed Agreement terms, as approved by Class Counsel, Defendants’ Counsel, and the Court, to be provided to Class Members under Section 3.3 via publication on one date in two New Jersey newspapers where Defendants advertises in New Jersey. The Publication Notice shall be substantially similar to the form attached as **Exhibit D**.

1.28 As used herein, the term “***Qualifying Purchase***” means the purchase of any product by a United States citizen from a Gap Outlet or website, a Gap Factory Store or website or a Banana Republic Factory Store or website in the United States within the Class Period, which was not subsequently returned.

1.29 As used herein, the term “***Released Parties***” means Defendants The Gap, Inc., Gap (Apparel) LLC, Gap International Sales, Inc., Banana Republic LLC, and Banana Republic (Apparel) LLC and each of their direct or indirect parents, wholly or majority-owned subsidiaries, affiliated and related entities, predecessors, successors and assigns, partners, privities, and any of their present and former directors, officers, employees, shareholders, agents, representatives,

attorneys, accountants, insurers, and all persons acting by, through, under or in concert with them, or any of them.

**1.30** As used herein, the term “*Settlement*” means the Settlement of the Action and related claims effectuated by this Agreement.

**1.31** As used herein, the term “*Settlement Purchase Certificate*” means a single-use certificate good for \$6.00 toward any purchase of merchandise in any Gap Outlet, Gap Factory Store, Banana Republic Store or any of their respective websites in the United States. Settlement Purchase Certificates will be valid for one (1) year from the date of issuance. The Settlement Purchase Certificates may be used with any other discounts and promotions, and on items that are on sale or otherwise discounted. The Settlement Purchase Certificates shall not be redeemable for cash (including no cash back), may not be applied to past purchases, may not be used to purchase gift cards, and will not be replaced if lost, stolen, damaged, or expired. The Settlement Purchase Certificates are fully transferable and may be used toward a single purchase. There is no minimum purchase required to use a Settlement Purchase Certificates. An exemplar of the Settlement Purchase Certificate is attached as **Exhibit “F.”**

**1.32** As used herein, the term “*Settlement Website*” means the website that shall be created for settlement administration purposes and administered by the Claims Administrator at a URL to be jointly approved by the Parties.

## **2. SETTLEMENT TERMS.**

**2.1 Tiers.** Authorized Claimants will be categorized into tiers based on the total dollar amount of their Qualifying Purchase(s) during the Class Period:

- (a) Tier 1 Authorized Claimants: A Tier 1 Authorized Claimant is one who does not submit proof of Qualifying Purchase(s), or submits proof of Qualifying Purchase(s) that are less than \$90.00, with his or her timely and valid Claim Form.
- (b) Tier 2 Authorized Claimants: A Tier 2 Authorized Claimant is one who has Qualifying Purchase(s) during the Class Period totaling \$90.00 or more and submits proof of such purchase(s) with their timely and valid Claim Form.

### **2.2 Award to the Class.**

- (a) Authorized Claimant Awards. The Claim Form shall have a space for Claimants to elect to receive the number of Settlement Purchase Certificates he or she wishes to obtain that corresponds with his or her tier. Below are the Settlement Purchase Certificates associated with each tier:
  - (i) Tier 1 Authorized Claimants: To each Tier 1 Authorized Claimant, Gap shall issue one (1) \$6.00 Settlement Purchase Certificate.
  - (ii) Tier 2 Authorized Claimants: To each Tier 2 Authorized Claimant, Gap shall issue two (2) \$6.00 Settlement Purchase Certificates.

**2.3 Distribution.** Within sixty (60) calendar days of the Final Settlement Date, the Claims Administrator shall distribute the Settlement Purchase Certificates to Claimants via the email or address designated on their Claim Form.

**2.4 Incentive Awards to Named Plaintiffs.** The Parties acknowledge that the Named Plaintiffs must move the Court for approval of any incentive award to the Named Plaintiffs (the "Incentive Awards") in recognition of their efforts and activities in furtherance of both the litigation and this Agreement. Each Named Plaintiff agrees they will not seek an Incentive Award of greater than \$2,500. Defendants agrees not to oppose a request by Named Plaintiffs for such Incentive Awards. Named Plaintiffs further agree that, in any event, Defendants will not be obligated to pay any Incentive Award in excess of \$2,500 for each Named Plaintiff. Incentive Awards shall be payable to the Named Plaintiffs from the Cash Fund, if approved by the Court within five (5) calendar days after all of the following events have occurred: (a) the Final Settlement Date, and (b) each of the Named Plaintiffs have provided Defendants Counsel with a Form W-9 and payment instructions. The Parties represent that their negotiation of and agreement to the compensation paid to the Named Plaintiffs did not occur until after the substantive terms of this Agreement had been negotiated and agreed to in principle. No interest shall be paid on the Individual Awards.

**2.5 Claims Administrator Costs and Attorneys' Fees and Costs.** The Parties acknowledge that there will be certain Claims Administrator Costs associated with the Settlement, including the cost of providing notice to the Class and administering the terms set forth in this Agreement. The Parties also acknowledge that Plaintiffs will move the Court for approval of an award to Class Counsel for attorneys' fees and costs. Defendants have agreed to establish a Cash Fund of \$3,750,000 to be divided as set forth below, to cover both the Claims Administrator Costs and Class Counsels attorneys' fees and costs that may be awarded by the Court, as set forth below. The Parties agree that Defendants shall in no event be obligated to pay more than \$3,750,000, in total, toward Claims Administrator Costs, Class Counsels attorneys' fees and costs and Incentive Awards.

(a) Claims Administrator Costs. Within twenty (20) days of Court's entry of the Preliminary Approval Order, Defendants shall make a payment of \$770,000 out of the Cash Fund to an escrow account established by the Claims Administrator. Class Counsel will ensure that the Claims Administrator has supplied Defendants with the its Form W-9 prior to the date payment is due. Class Counsel shall direct the payments from the escrow account to the Claims Administrator as may be appropriate. Any Claims Administrator Costs in excess of \$770,000 shall be paid by Class Counsel.

(b) Attorneys' Fees and Costs. The Parties agree that Class Counsel shall seek an award of no more than \$2,970,000, in the aggregate, for fees and costs in an amount no more than \$2,970,000. Defendants agrees not to oppose Class Counsel's request for attorneys' fees and costs in an amount no more than \$2,970,000. Plaintiffs and Class Counsel further agree that any and all attorneys' fees and costs awarded to Class Counsel will be paid from the Cash Fund. If the Court approves this Agreement and an award of attorneys' fees and costs to Class Counsel, Defendants agrees to pay the attorneys' fees and costs approved by the Court to Class Counsel upon the occurrence of all of the following: (a) the Final Settlement Date, and (b) Class Counsel's delivery to Defendants of a Form W-9 for DeNittis Osefchen Prince, P.C. Any such payment shall be made within ten (10) calendar days of the occurrence of the later of these events and shall be

made to the law firm of DeNittis Osefchen Prince, P.C. The Parties represent that the amount of the attorneys' fees and costs to be requested by Class Counsel was negotiated at arm's-length, and only after agreement was reached on all substantive terms of the settlement. No interest shall be paid on the attorneys' fees and costs award.

**2.6 Reduction in Plaintiffs' Awards or Class Counsel's Attorneys' Fees.** A reduction by the Court or by an appellate court of the attorneys' fees or litigation costs or the Individual Awards sought by Plaintiffs and Class Counsel shall not affect any of the Parties' other rights and obligations under the Agreement.

**2.7 No Tax Liability.** Under no circumstances will Defendants or Defendants' Counsel have any liability for taxes or tax expenses under the Settlement. Plaintiffs and/or Class Counsel are/is responsible for any taxes on any recovery, award or on the Cash Fund. Nothing in this Settlement, or statements made during the negotiation of its terms, shall constitute tax advice by Defendants or Defendants' Counsel.

**2.8 Implementation Costs.** All the costs of providing notice to the Class (including the Settlement Website) in the manner prescribed in Section 3.3 of this Agreement, and the costs associated with independent administration of benefits by the Claims Administrator, shall be paid from the Cash Fund. To the extent there is any additional funds following the entry of Final Order and Judgment, the Parties agree to identify a mutually agreeable cy pres recipient to the Court for approval.

**2.9 Release as to All Class Members.** Upon entry of the Final Order and Judgment, Class Releasers shall be deemed to have fully, finally, and forever released and discharged all Class Released Claims against all Released Parties as set forth in the Final Order and Judgment.

**2.10 Release by Named Plaintiffs.** In addition to the releases made by the Class Members set forth in Section 2.9 above, effective upon entry of the Final Order and Judgment, the Named Plaintiffs make the additional following general release of all past or present claims, known or unknown, against the Released Parties. Upon entry of the Final Order and Judgment, the Named Plaintiffs, and each of their successors, assigns, legatees, heirs, and personal representatives release and forever discharge the Released Parties, from all manner of action, causes of action, claims, demands, rights, suits, obligations, debts, contracts, agreements, promises, liabilities, damages, charges, penalties, losses, costs, expenses, and attorneys' fees, of any nature whatsoever, known or unknown, in law or equity, fixed or contingent.

In addition, Named Plaintiffs, and each of Named Plaintiffs' successors, assigns, legatees, heirs, and personal representatives, expressly waive and relinquish, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code, or any other similar provision under federal or state law, which provides:

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



Named Plaintiffs fully understand that the facts on which this Agreement is to be executed may be different from the facts now believed by Named Plaintiffs and Class Counsel to be true and expressly accept and assume the risk of this possible difference in facts and agree that the Agreement will remain effective despite any difference in facts. Further, Named Plaintiffs agree that this waiver is an essential and material term of this release and this Agreement that underlies it and that without such waiver this Agreement would not have been accepted.

**2.11 No Admission of Liability or Wrongdoing.** This Agreement reflects the Parties' compromise and resolution of disputed claims. Its constituent provisions, and any and all drafts, communications, and discussions relating thereto, shall not be construed as or deemed to be evidence of an admission or concession of any point of fact or law (including, but not limited to, matters respecting class certification) by any person, including Defendants, and shall not be offered or received in evidence or requested in discovery in this Action or any other action or proceeding as evidence of an admission or concession. Defendants have denied and continues to deny each of the claims and contentions alleged by Plaintiffs in the Action. Defendants have repeatedly asserted and continues to assert defenses thereto, and have expressly denied and continues to deny any wrongdoing or legal liability arising out of any of the facts or conduct alleged in the Action.

**2.12 Settlement Information.** Within thirty (30) days after the execution of this Agreement, Defendants will provide to Class Counsel information regarding the number of items offered for sale in Gap Outlet, Gap Factory Stores, Banana Republic Stores and their respective websites in the United States, at a price of \$6 or less, along with a representative list of examples of such items.

### **3. CLASS NOTICE AND CLAIMS PROCEDURES.**

**3.1 Cooperation to Obtain Court Approval.** The Parties will jointly take all reasonable steps necessary to secure the Court's approval of this Agreement as provided in this Section.

**3.2 Preliminary Approval and Provisional Class Certification.** Plaintiffs shall file their motion for preliminary approval as soon as reasonably possible. The motion shall request that the Court:

- (a) preliminarily approve this Agreement as fair, adequate, and reasonable;
- (b) approve the form, manner, and content of the Full Notice, Email Notice, Postcard Notice, Publication Notice, and Claim Form described in Section 3.3 of this Agreement, and attached as **Exhibits B–F**;
- (c) set deadlines for the filing of objections to, and exclusions from, the settlement, for the submission of Claim Forms, for the filing of a motion for final approval of the settlement and for fees and costs and individual awards for the Named Plaintiffs, and to schedule the date of the Fairness Hearing;
- (d) provisionally certify the Class under CAL. R. CT. 3.769(d) for settlement purposes only;
- (e) stay all proceedings in the Action until the Court renders a final decision on approval of the Agreement and sets a briefing schedule for the papers in support of the Final Order;

(f) conditionally appoint Named Plaintiffs as the Class Representatives for settlement purposes only; and

(g) conditionally appoint the law firm of DeNittis Osefchen Prince, P.C. as Class Counsel for settlement purposes only.

The proposed Preliminary Approval Order shall be substantially similar to the form attached as **Exhibit A**. Defendants shall be permitted, but not required, to file its own brief or statement of non-opposition in support of the Preliminary Approval and Provisional Class Certification Order.

**3.3 Class Notice.** Subject to the Court entering the Preliminary Approval Order, the Parties agree that Defendants, through the retained Claims Administrator, will provide the Class with notice of the proposed Agreement by the following methods.

(a) **Settlement Website.** The Claims Administrator will post the Full Notice on an Internet website (“Internet Posting”) specifically created for the Settlement. The Full Notice shall be substantially similar to the form attached as **Exhibit B**. The Internet Posting will also contain the Claim Form, Complaint, Agreement, and Preliminary Approval Order. The Internet Posting shall be operative starting on or before thirty (30) calendar days after entry of the Preliminary Approval Order. The Internet Posting shall remain active at least until the Final Settlement Date.

(b) **Email Notice.** Defendants and the Claims Administrator shall use reasonable efforts to identify its Gap Outlet, Gap Factory Store and Banana Republic Factory Store customers who may be Class Members and for whom an email address can be determined from Gap’s records or other sources available to the Claims Administrator, including by reverse lookup. The Claims Administrator will send two (2) Email Notices to those Class Members for whom Defendants has or the Claims Administrator can find an email address. The Email Notice shall be substantially similar to the form attached as **Exhibit C**, and will provide the web address of the Settlement Website and an email and mailing address to contact the Claims Administrator. The Claims Administrator will provide the 1<sup>st</sup> Email Notice on or before thirty (30) calendar days after entry of the Preliminary Approval Order and the 2<sup>nd</sup> Email Notice, two (2) weeks thereafter.

(c) **Publication Notice.** The Claims Administrator will publish a Publication Notice through an internet and social media banner campaign throughout the United States. This Publication Notice will be substantially similar to the form attached as **Exhibit D**, and will provide the web address of the Settlement Website and an email and mailing address to contact the Claims Administrator. The Publication Notice will be published on multiple dates within thirty (30) calendar days after entry of the Preliminary Approval Order.

**3.4 Proof of Notice.** No later than ten (10) calendar days before the deadline for Plaintiffs to file their brief in support of the Final Order and Judgment, the Claims Administrator will serve upon Class Counsel a declaration confirming that notice to the Class has been provided in accordance with Section 3.3 of this Agreement.

### **3.5 Claims Procedure.**

(a) Class Members must complete and submit, under penalty of perjury, a valid Claim Form on or before the Claim Filing Deadline in order to receive the appropriate number of Settlement Purchase Certificates. For each such Class Member, Gap, through the Claims

Administrator, will send one or more Settlement Purchase Certificates to the email address or postal address specified on the completed Claim Form.

(b) Class Members who made over \$90.00 in Qualifying Purchases (exclusive of returns) and who wish to obtain more than one (1) Settlement Purchase Certificate as set forth in Sections 2.1 and 2.2 must submit a complete, valid, and timely Claim Form, and must attach thereto proof of such Qualifying Purchases. Acceptable proof of Qualifying Purchases includes [i] receipt(s) clearly showing the date of purchase(s) and the total of the purchase(s), or [ii] a credit or debit card transaction record clearly showing the date of purchase(s) and the total of the purchase(s). Copies of such documents must be included with the Claim Form whether submitted electronically or by postal mail. The proof of purchase must include sufficient information to allow Gap to verify the purchase(s). Other than as set forth in this subsection, Authorized Claimants may only receive one Settlement Purchase Certificate.

(c) **Date of Submission.** The Claim Form must be submitted electronically, either via email or online through the Claims Administrator's settlement website or via fax or U.S. Mail. The delivery date is deemed to be the date that: (1) the Claim Form is deposited in the U.S. Mail, as evidenced by the postmark, in the case of submission by U.S. mail; or (2) in the case of submission electronically through the Settlement Website, the date the Claims Administrator receives the Claim Form, as evidenced by the transmission receipt.

**3.6 Right to Verify.** The Claims Administrator and/or Defendants may review all submitted Claim Forms and proof of Qualifying Purchase(s) for completeness, validity, accuracy, and timeliness, and may contact any Claimant, through the Claims Administrator, to request additional information and/or documentation to determine the validity of any claim. In addition, the Claims Administrator and/or Defendants may verify that: (1) the information set forth in or attached to a submitted Claim Form is accurate; and (2) the Claimant is a Class Member.

**3.7 Objections.** Any Class Member who has not submitted a timely written exclusion request pursuant to Section 3.8 of this Agreement and who wishes to object to the fairness, reasonableness, or adequacy of the settlement contemplated in this Agreement, may elect to object to this Agreement by delivering a timely written objection to the Court, Class Counsel, and Defendants' Counsel.

(a) To be timely, a written objection to the settlement contemplated in this Agreement must be submitted no later than the Objection Deadline. The submission date is deemed to be the date the objection is deposited in the U.S. Mail as evidenced by the postmark or emailed electronically or faxed. It shall be the objector's responsibility to ensure receipt of any objection by the Court, Class Counsel, and Defendants' Counsel. The Court has the discretion to reject untimely objections.

(b) Any written objections to the settlement contemplated in this Agreement must contain: (1) the name and case number of the Action; (2) the Class Member's full name, address, and telephone number; (3) the words "Notice of Objection" or "Formal Objection"; (4) in clear and concise terms, the legal and factual arguments supporting the objection; (5) facts supporting the person's status as a Class Member (*e.g.*, either any unique identifier included by the Claims Administrator in his/her notice, or the date and location of his/her relevant purchases); (6) the Class Member's signature and the date; and (7) the following language immediately above the Class Member's signature and date: "I declare under penalty of perjury under the laws of the State of California that the foregoing statements regarding class membership are true and correct

to the best of my knowledge.” The objection will not be valid if it only objects to the Action’s appropriateness or merits. Class Members who fail to make objections in this manner will be deemed to have waived any objections and will be foreclosed from making any objections (whether by a subsequent objection, intervention, appeal, or any other process) to this Agreement.

(c) Class Members have the option to appear at the Fairness Hearing, either in person or through counsel hired at the Class Member’s expense, to object to the fairness, reasonableness, or adequacy of the settlement contemplated in this Agreement, or to the award of attorneys’ fees. However, Class Members (with or without counsel) intending to make an appearance at the Fairness Hearing must so inform the Parties and the Court on or before the Objection Deadline by providing a “Notice of Intention to Appear” to the Court, Class Counsel, and Defendants’ Counsel.

**3.8 Exclusion from the Class.** Class Members may elect not to be part of the Class and not to be bound by this Agreement. To make this election, Class Members must send a signed letter or postcard to the Claims Administrator stating: (a) the name and case number of the Action; (b) the full name, address, and telephone number of the person requesting exclusion; and (c) a statement that he/she does not wish to participate in the Settlement, postmarked no later than the Exclusion Deadline. The Claims Administrator must serve on Class Counsel and Defendants’ Counsel a list of Class Members who have timely and validly excluded themselves from the Class within five (5) days after the Exclusion Deadline.

**3.9 Final Order and Judgment.** Before the Fairness Hearing, Plaintiffs must apply to the Court for entry of Final Order and Judgment. Such an order shall be substantially similar to the form attached as **Exhibit F**. Class Counsel shall draft the motion papers, and Defendants’ Counsel will not oppose the motion. Defendants shall be permitted, but not required, to file their own brief or statement of non-opposition in support of the Final Order and Judgment.

**3.10 Judgment and Enforcement.** The Parties agree that if the Court grants final approval of the proposed Agreement and enters Final Order and Judgment, the Final Order and Judgment shall include a provision for the retention of the Court’s jurisdiction over the Parties to enforce the terms of this Agreement.

#### **4. TERMINATION OF THE AGREEMENT.**

**4.1 Right to Terminate Agreement for Either Party.** Either Party has the right to terminate and withdraw from this Agreement at any time prior to the Fairness Hearing if the Court makes an order inconsistent with the terms of this Agreement (except for an order reducing the Class Counsel fee award or the Plaintiffs’ Individual Settlement Awards).

**4.2 Defendants’ Right to Terminate for Opt-Outs.** Defendants may terminate this Agreement if more than five percent (5%) of the proposed Class Members elect to be excluded from the Class.

**4.3 Effect of Settlement if Agreement Is Not Approved.** This Agreement was entered into only for the purpose of settlement of the action. In the event that this Agreement is Terminated by either Party, the Court conditions its approval of either the Preliminary Approval Order or the Final Order and Judgment on any modifications of this Agreement that are not acceptable to all Parties, or if the Court does not approve this Agreement or enter the Final Order and Judgment, or if the Final Settlement Date does not occur for any reason, then this Agreement shall be deemed

null and void *ab initio* and the Parties shall be deemed restored to their respective positions *status quo ante*, as if this Agreement was never executed. In that event: (a) the Preliminary Approval Order and all of its provisions will be vacated by its own terms; (b) the Action will revert to the status that existed before the Plaintiffs filed their motion for approval of the Preliminary Approval Order; and (c) no term or draft of this Agreement, or any part of the Parties' settlement discussions, negotiations or documentation will have any effect or be admissible into evidence for any purpose in the Action or any other proceeding. If the Court does not approve this Agreement or enter the Final Order and Judgment for any reason, or if the Final Settlement Date does not occur for any reason, Defendants shall retain all its rights to object to the maintenance of the Action as a class action, and nothing in this Agreement or other papers or proceedings related to this Agreement shall be used as evidence or argument by any Party concerning whether the Action may properly be maintained as a class action provided however, that Defendants will nonetheless bear any costs of Administration and notice paid from the Cash Fund.

## **5. ADDITIONAL PROVISIONS.**

**5.1 Change of Time Periods.** All time periods and dates described in this Agreement are subject to the Court's approval. These time periods and dates may be changed by the Court or by the Parties' written agreement without notice to the Class.

**5.2 Fair, Adequate, and Reasonable Agreement.** The Parties agree this Agreement and settlement reflected herein is fair, adequate, and reasonable and this Agreement was the result of extensive informed, intense, non-collusive, and arms-length negotiations, taking into account all relevant factors, present and potential.

**5.3 Real Parties in Interest.** In executing this Agreement, the Parties warrant and represent that except as provided herein, neither the claims or causes of action released herein nor any part thereof have been assigned, granted, or transferred in any way to any other person, firm, or entity.

**5.4 Voluntary Agreement.** This Agreement is executed voluntarily and without duress or undue influence on the part of or on behalf of the Parties, or of any other person, firm, or entity.

**5.5 Binding on Successors.** This Agreement shall bind and inure to the benefit of the respective successors, assigns, legatees, heirs, and personal representatives of each of the Parties.

**5.6 Parties Represented by Counsel.** The Parties hereby acknowledge that they have been represented in negotiations for and in the preparation of this Agreement by independent counsel of their own choosing, that they have read this Agreement and have had it fully explained to them by such counsel, and that they are fully aware of the contents of this Agreement and of its legal effect.

**5.7 Authorization.** Each Party warrants and represents that there are no liens or claims of lien or assignments in law or equity or otherwise of or against any of the claims or causes of action released herein and, further, that each Party is fully entitled and duly authorized to give this complete and final release and discharge.

**5.8 Entire Agreement.** This Agreement, and the exhibits thereto, contain(s) the entire agreement between the Parties and constitute the complete, final, and exclusive embodiment of their agreement with respect to the Action. This Agreement is executed without reliance on any promise, representation, or warranty by any Party or any Party's representative other than those expressly set forth in this Agreement.

**5.9 Construction and Interpretation.** Neither the Parties nor any of the Parties' respective attorneys shall be deemed the drafter of this Agreement for purposes of interpreting any provision hereof in any judicial or other proceeding that may arise between or among them. This Agreement has been, and must be construed to have been, drafted by all the Parties to it, so that any rule that construes ambiguities against the drafter will have no force or effect.

**5.10 Headings and Formatting of Definitions.** The various headings used in this Agreement are solely for the convenience of the Parties and shall not be used to interpret this Agreement. Similarly, bolding and italicizing of definitional words and phrases is solely for the Parties' convenience and may not be used to interpret this Agreement. The headings and the formatting of the text in the definitions do not define, limit, extend, or describe the Parties' intent or the scope of this Agreement.

**5.11 Exhibits.** The exhibits to this Agreement are integral parts of the Agreement, and are hereby incorporated and made a part of this Agreement, as though fully set forth in the Agreement.

**5.12 Modifications and Amendments.** No amendment, change, or modification of this Agreement or any part thereof shall be valid unless in writing signed by the Parties or their counsel.

**5.13 Governing Law.** This Agreement is entered into in accordance with the laws of the State of California, and shall be governed by and interpreted in accordance with the laws of the State of California, without regard to its conflict of law principles.

**5.14 Further Assurances.** Each of the Parties hereto shall execute and deliver any and all additional papers, documents, and other assurances and shall do any and all acts or things reasonably necessary in connection with the performance of its obligations hereunder to carry out the express intent of the Parties hereto.

**5.15 Agreement Constitutes a Complete Defense.** To the extent permitted by law, this Agreement may be pled as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit, or other proceedings that may be instituted, prosecuted, or attempted in breach of or contrary to this Agreement.

**5.16 Cooperation of the Parties.** The Parties acknowledge that it is their intent to consummate this Agreement and agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions contained herein and to exercise their best efforts to accomplish the foregoing terms and conditions of this Agreement. Specifically, the Parties agree to prepare and execute all documents, to seek Court approvals, defend Court approvals, and to do all things reasonably necessary to complete the settlement described herein. Further, the Parties will comply in good faith with the terms and conditions of this Agreement. Should any dispute arise among the Parties or their respective counsel regarding the implementation or interpretation of this Agreement, a representative of Class Counsel and a representative of Defense Counsel shall meet and confer in an attempt to resolve such disputes prior to submitting such disputes to the Court.

**5.17 Execution Date.** This Agreement shall be deemed executed upon the last date of execution by all of the undersigned.

**5.18 Continuing Jurisdiction.** The Court shall retain jurisdiction over the interpretation, effectuation, and implementation of this Agreement.

**5.19 Counterparts.** This Agreement may be executed in counterparts, each of which shall constitute an original, but all of which together shall constitute one and the same instrument. The several signature pages may be collected and annexed to one or more documents to form a complete counterpart. Photocopies of executed copies of this Agreement may be treated as originals.

**5.20 Recitals.** The Recitals are incorporated by this reference, and are part of this Agreement.

**5.21 Inadmissibility.** This Agreement (whether approved or not approved, revoked, or made ineffective for any reason) and any proceedings or discussions related to it are inadmissible as evidence of any liability or wrongdoing whatsoever in any court or tribunal in any state, territory, or jurisdiction. Further, this Agreement shall not be construed or offered or received into evidence as an admission, concession, or presumption that class certification is appropriate, except to the extent necessary to consummate this Agreement and the binding effect of the Final Order and Judgment.

**5.22 Notices.** Any notice, instruction, application for Court approval or application for Court orders sought in connection with this Agreement or other document to be given by any Party to any other Party shall be in writing and delivered personally or sent by registered or certified mail, postage prepaid, if to Defendants' to the attention of Defendants' Counsel, and if to Class Members to the attention of Class Counsel on their behalf.

<b>CLASS COUNSEL</b>	<b>DEFENDANTS'S COUNSEL</b>
Stephen P. DeNittis DeNITTIS OSEFCHEN PRINCE, PC 5 Greentree Centre 525 Route 73 North, Suite 410 Marlton, NJ 08053	Joseph Duffy MORGAN, LEWIS & BOCKIUS LLP 300 South Grand Avenue Twenty Second Floor Los Angeles, CA 90071-3132

**5.23 List of Exhibits:** The following exhibits are attached to this Agreement:

- Exhibit A: [Proposed] Preliminary Approval and Provisional Class Certification Order
- Exhibit B: Full Notice
- Exhibit C: Email Notice
- Exhibit D: Publication Notice
- Exhibit E: Claim Form
- Exhibit F: Exemplar of Purchase Certificate
- Exhibit G: [Proposed] Final Approval Order and Judgment

:

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**IN WITNESS WHEREOF**, the Parties hereto, acting by and through their respective Counsel of record, have so AGREED:

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

\_\_\_\_\_  
CARMEN ANDREWS, PLAINTIFF

Dated: 1/30/19

  
\_\_\_\_\_  
LAURIE MUNNING, PLAINTIFF

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

\_\_\_\_\_  
MICHAEL PALLAGROSI, PLAINTIFF

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

\_\_\_\_\_  
CARON COLADONATO, PLAINTIFF

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

\_\_\_\_\_  
THE GAP, INC., GAP (APPAREL) LLC, GAP INTERNATIONAL SALES, INC., BANANA REPUBLIC LLC, and BANANA REPUBLIC (APPAREL) LLC

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

Their: \_\_\_\_\_

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

\_\_\_\_\_  
DENITTIS OSEFCHEN PRINCE, PC

\_\_\_\_\_  
Stephen DeNittis  
Counsel for Plaintiffs

And



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IN WITNESS WHEREOF, the Parties hereto, acting by and through their respective Counsel of record, have so AGREED:

Dated: 01/29/2019

Carmen Andrews  
CARMEN ANDREWS, PLAINTIFF

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

\_\_\_\_\_  
LAURIE MUNNING, PLAINTIFF

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

\_\_\_\_\_  
MICHAEL PALLAGROSI, PLAINTIFF

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

\_\_\_\_\_  
CARON COLADONATO, PLAINTIFF

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

\_\_\_\_\_  
THE GAP, INC., GAP (APPAREL) LLC, GAP INTERNATIONAL SALES, INC., BANANA REPUBLIC LLC, and BANANA REPUBLIC (APPAREL) LLC

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

Their: \_\_\_\_\_

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

**DENITTIS OSEFCHEN PRINCE, PC**

\_\_\_\_\_  
Stephen DeNittis  
Counsel for Plaintiffs

And

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**IN WITNESS WHEREOF**, the Parties hereto, acting by and through their respective Counsel of record, have so AGREED:

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

\_\_\_\_\_  
CARMEN ANDREWS, PLAINTIFF

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

\_\_\_\_\_  
LAURIE MUNNING, PLAINTIFF

Dated: 1/29/19

  
\_\_\_\_\_  
MICHAEL PALLAGROSI, PLAINTIFF

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

\_\_\_\_\_  
CARON COLADONATO, PLAINTIFF

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

\_\_\_\_\_  
THE GAP, INC., GAP (APPAREL) LLC, GAP INTERNATIONAL SALES, INC., BANANA REPUBLIC LLC, and BANANA REPUBLIC (APPAREL) LLC

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

Their: \_\_\_\_\_

Dated: 1/30/19

**DENITTIS OSEFCHEN PRINCE, PC**

  
\_\_\_\_\_  
Stephen DeNittis  
Counsel for Plaintiffs

And

[This Space Left Blank; Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto, acting by and through their respective Counsel of record, have SO AGREED:

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

CARMEN ANDREWS, PLAINTIFF

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

LAURIE MUNNING, PLAINTIFF

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

MICHAEL PALLAGROSI, PLAINTIFF

Dated: 1/30/19

Caron Coladonato  
CARON COLADONATO, PLAINTIFF

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

THE GAP, INC., GAP (APPAREL) LLC, GAP INTERNATIONAL SALES, INC., BANANA REPUBLIC LLC, and BANANA REPUBLIC (APPAREL) LLC

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

Their: \_\_\_\_\_

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

DENITTIS OSEFCHEN PRINCE, PC

\_\_\_\_\_  
Stephen DeNittis  
Counsel for Plaintiffs

And

[This Space Left Blank; Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto, acting by and through their respective Counsel of record, have so AGREED:

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

\_\_\_\_\_  
CARMEN ANDREWS, PLAINTIFF

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

\_\_\_\_\_  
LAURIE MUNNING, PLAINTIFF

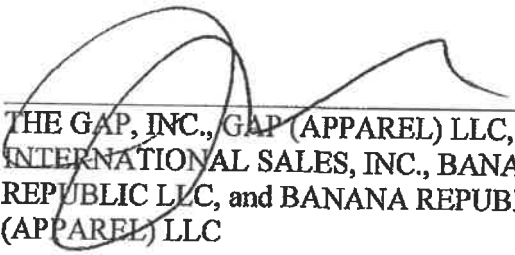
Dated: \_\_\_\_\_

\_\_\_\_\_  
MICHAEL PALLAGROSI, PLAINTIFF

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

\_\_\_\_\_  
CARON COLADONATO, PLAINTIFF

Dated: 1/30/19

  
\_\_\_\_\_  
THE GAP, INC., GAP (APPAREL) LLC, GAP INTERNATIONAL SALES, INC., BANANA REPUBLIC LLC, and BANANA REPUBLIC (APPAREL) LLC

By: Julie Gruber

Their: General Counsel, EIP

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

\_\_\_\_\_  
DENITTIS OSEFCHEN PRINCE, PC

\_\_\_\_\_  
Stephen DeNittis  
Counsel for Plaintiffs

And


Todd M. Friedman, Esquire  
Law Offices of Todd M. Friedman, P.C.  
21550 Oxnard St., Ste 780  
Woodland Hills, CA 91367  
Counsel for Plaintiffs

and

Daniel M. Hattis, Esquire  
HATTIS LAW, PLLC  
1134 Crane Street, #216  
Menlo Park, CA 94025  
Counsel for Plaintiffs

Dated: January 30, 2019

**MORGAN, LEWIS & BOCKIUS LLP**

  
\_\_\_\_\_  
Joseph Duffy  
Counsel for Defendants

**EXHIBIT A**  
**[PROPOSED] PRELIMINARY APPROVAL AND PROVISIONAL CLASS CERTIFICATION**  
**ORDER**

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN FRANCISCO**

<p>CARMEN ANDREWS, LAURIE MUNNING, MICHAEL PALLAGROSI and CARON COLADONATO, on behalf of themselves and all others similarly situated,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>THE GAP, INC., GAP (APPAREL) LLC and GAP INTERNATIONAL SALES, INC., BANANA REPUBLIC, LLC and BANANA REPUBLIC (APPAREL), LLC;</p> <p style="text-align: center;">Defendants.</p>	<p>CGC-18-567237</p> <p><b>[PROPOSED] CLASS ACTION SETTLEMENT AND PROVISIONAL CLASS CERTIFICATION</b></p>
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On \_\_\_\_\_ (month) \_\_\_\_ (day), 2018, this Court heard Plaintiffs Carmen Andrews, Laurie Munning, Michael Pallagrosi and Caron Coladonato’s (“Plaintiffs”) motion for preliminary approval of class settlement and provisional class certification under California Rule of Court 3.769(c) and (d). This Court reviewed the motion, including the Settlement Agreement and Release (the “Agreement” or “Settlement”). Based on this review and the findings below, the Court finds good cause to GRANT the motion.

**FINDINGS:**

1. Unless otherwise specified, defined terms in this Preliminary Approval Order has the same definition as the terms in the Agreement.

1           2.       The Agreement falls within the range of possible approval as fair, reasonable and  
2 adequate.

3           3.       The Court finds that (a) the Full Notice, Email Notice, and Publication Notice  
4 constitute the best notice practicable under the circumstances, (b) they constitute valid, due, and  
5 sufficient notice to all members of the Class, and (c) they comply fully with the requirements of  
6 California Code of Civil Procedure section 382, California Rules of Court 3.766 and 3.769, the  
7 California and United States Constitutions, and other applicable law.

8           4.       For settlement purposes only, the Class is so numerous that joinder of all Class  
9 Members is impracticable, Plaintiffs' claims are typical of the Class's claims, there are questions  
10 of law and fact common to the Class, which predominate over any questions affecting only  
11 individual Class Members, and Class certification is superior to other available methods for the fair  
12 and efficient adjudication of the controversy.

13 **IT IS ORDERED THAT:**

14           1.       **Settlement Approval.** The Agreement, including the Full Notice, Email Notices,  
15 Publication Notice, and Claim Form attached to the Agreement as Exhibits B-E, is preliminarily  
16 approved.

17           2.       **Provisional Certification.** The Class is provisionally certified for settlement  
18 purposes only as a class of all individuals who, between May 24, 2010 and the date of entry of the  
19 Preliminary Approval Order, who made one or more in-store or online purchase(s) at a Gap Outlet,  
20 Gap Factory Store or Banana Republic Factory Store located in the United States.

21           3.       **Appointment of Class Representative and Class Counsel.** Plaintiffs Carmen  
22 Andrews, Laurie Munning, Michael Pallagrosi and Caron Coladonato are conditionally certified as  
23 the class representatives to implement the Parties' Settlement in accordance with the Agreement.  
24 DeNittis Osefchen Prince, P.C. are conditionally appointed as Class Counsel. Plaintiff and Class  
25 Counsel must fairly and adequately protect the Class's interests.

26           4.       **Provision of Class Notice.** Defendants The Gap, Inc., Gap (Apparel) LLC, Gap  
27 International Sales, Inc., Banana Republic LLC, and Banana Republic (Apparel) LLC. ("Gap" or  
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1 “Defendants”) will notify Class Members of the Settlement in the manner specified under Section  
2 3.3 of the Agreement and will pay all costs associated with claims administration and providing  
3 notice to Class Members as set forth in the Settlement Agreement.

4 **5. Objection to Settlement.** Class Members who have not submitted a timely written  
5 exclusion request pursuant to paragraph 7 below and who want to object to the Agreement may file  
6 a written objection with the Court and serve such objection on Class Counsel and Gap’s Counsel  
7 no later than seventy-five (75) calendar days after entry of this Order. The delivery date is deemed  
8 to be the date the objection is deposited in the U.S. Mail as evidenced by the postmark, the date set  
9 forth on an email or the date time stamp via facsimile machine. Written objections are required to  
10 state: (1) the name and case number of the Action; (2) the Class Member’s full name, address, and  
11 telephone number; (3) the words “Notice of Objection” or “Formal Objection”; (4) in clear and  
12 concise terms, the legal and factual arguments supporting the objection; (5) facts supporting the  
13 person’s status as a Class Member (e.g., either any unique identifier included by the Claims  
14 Administrator in his/her notice, or the date and location of his/her relevant purchases); (6) the Class  
15 Member’s signature and the date; and (7) the following language immediately above the Class  
16 Member’s signature and date: “I declare under penalty of perjury under the laws of the State of  
17 California that the foregoing statements regarding class membership are true and correct to the best  
18 of my knowledge.” Class Members have the option to appear at the Fairness Hearing, either in  
19 person or through personal counsel hired at the Class Member’s expense, to object to the fairness,  
20 reasonableness, or adequacy of the Settlement Agreement or the proposed Settlement, or to the  
21 award of attorneys’ fees. However, Class Members (with or without their attorneys) intending to  
22 make an appearance at the Fairness Hearing must so-inform the Parties and the Court no later than  
23 seventy-five (75) calendar days after entry of this Order by providing a “Notice of Intention to  
24 Appear” to the Claims Administrator. Only Class Members who file and serve timely Notices of  
25 Intention to Appear may speak at the Fairness Hearing.

26 **6. Failure to Object to Settlement.** Class Members who fail to object to the  
27 Agreement in the manner specified above will: (1) be deemed to have waived their right to object  
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1 to the Agreement; (2) be foreclosed from objecting (whether by a subsequent objection,  
2 intervention, appeal, or any other process) to the Agreement; and (3) not be entitled to speak at the  
3 Fairness Hearing.

4       **7. Requesting Exclusion.** Class Members who want to be excluded from the  
5 Settlement must send a letter, email facsimile or postcard to the Settlement Administrator stating:  
6 (a) the name and case number of the Action; (b) the full name, address, and telephone number of  
7 the person requesting exclusion; and (c) a statement that he/she does not wish to participate in the  
8 Settlement, postmarked no later than seventy-five (75) calendar days after entry of this Order. If a  
9 Class Member submits a Claim Form and a request for exclusion, the request for exclusion will be  
10 deemed invalid.

11       **8. Claim Form.** Except for Class Members who received direct notice under Section  
12 3.3(b) or (c) of the Agreement, Class Members must submit complete, valid and sufficient Claim  
13 Forms no later than one hundred and eighty (180) calendar days after entry of this Order in order  
14 to be included in the distribution of the Settlement Vouchers. Class Members may also be required  
15 to provide proof of Qualifying Purchase(s) as described in Section 2.1 and 2.2 of the Agreement.  
16 The Claim Form shall have a space for Class Members to elect the number of Settlement Purchase  
17 Certificates he or she wishes to obtain that corresponds with his/or her tier as described in Sections  
18 2.1 and 2.2 of the Agreement. Class Members who receive direct notice pursuant to Section 3.3(b)  
19 or (c) of the Agreement, shall receive one (1) Settlement Purchase Certificate for \$6 for any  
20 purchase or discount off any purchase (no minimum purchase), unless such Class Member timely  
21 and validly completes a Claim Form and elects different relief.

22       **9. Termination.** If the Agreement terminates for any reason, the following will occur:  
23 (a) this Order and all of its provisions will be vacated, including, but not limited to, vacating  
24 conditional certification of the Class, conditional appointment of Plaintiffs as class representative,  
25 and conditional appointment of Plaintiffs' Counsel as Class Counsel; (b) the Action will revert to  
26 the status that existed before the Plaintiffs filed their motion for approval of the Preliminary  
27 Approval Order; and (c) no term or draft of the Settlement Agreement, or any part of the Parties'  
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1 settlement discussions, negotiations or documentation will have any effect or be admissible into  
2 evidence for any purpose in the Action or any other proceeding. This Order will not waive or  
3 otherwise impact the Parties' rights or arguments.

4 **10. No Admissions.** Nothing in this Order is, or may be construed as, an admission or  
5 concession on any point of fact or law by or against any Party.

6 **11. Stay of Dates and Deadlines.** All discovery and pretrial proceedings and deadlines,  
7 are stayed and suspended until further notice from the Court, except for such actions as are  
8 necessary to implement the Agreement and this Order.

9 **12. Fairness Hearing.** On \_\_\_\_\_, at \_\_\_\_\_, this Court will hold a Fairness  
10 Hearing to determine whether the Agreement should be finally approved as fair, reasonable, and  
11 adequate. All papers supporting Plaintiffs' request for attorneys' fees and costs must be filed no  
12 later than fourteen (14) calendar days before the deadline for Class Members to object to the  
13 Settlement. All papers supporting final approval of the Agreement must be filed no later than seven  
14 (7) calendar days before the Fairness Hearing. Based on the date of this Order and the date of the  
15 Fairness Hearing, the following are the certain associated dates in this Settlement:

Event	Timing	Date
Last day for Defendants, through the Claims Administrator, to send Email Notice and Publication Notice, and start operating Settlement Website	30 days after entry of this Order	
Last day for Defendants, through the Claims Administrator to send 2 <sup>nd</sup> Email Notice	44 days after entry of this Order	
Last day for Plaintiffs to file fee petition	61 days after entry of this Order	
Last day for Class Members to request exclusion or object to the Settlement	75 days after entry of this Order	

Event	Timing	Date
Last day for Class Members to file a claim	180 days after entry of this Order	
Last day for Parties to file briefs in support of the Final Order and Judgment	7 days before Fairness Hearing	

This Court may order the Fairness Hearing to be postponed, adjourned, or continued. If that occurs, the updated hearing date shall be posted on the Settlement Website but other than the website posting Gap will not be required to provide any additional notice to Class Members.

**IT IS SO ORDERED.**

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

\_\_\_\_\_  
 JUDGE OF THE SUPERIOR COURT

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**EXHIBIT B**  
**FULL NOTICE**

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

CARMEN ANDREWS, LAURIE MUNNING,  
MICHAEL PALLAGROSI and CARON  
COLADONATO, on behalf of themselves and  
all others similarly situated,

CGC-18-567237

Plaintiff,

v.

THE GAP, INC., GAP (APPAREL) LLC and  
GAP INTERNATIONAL SALES, INC.,  
BANANA REPUBLIC, LLC and BANANA  
REPUBLIC (APPAREL), LLC;

**IF YOU MADE ONE OR MORE IN-STORE OR ONLINE PURCHASES  
AT A GAP OUTLET, GAP FACTORY STORE OR BANANA FACTORY  
STORE IN THE UNITED STATES BETWEEN MAY 24, 2010 AND  
[MONTH], [DAY], [YEAR] YOU MAY BE ELIGIBLE TO RECEIVE AN  
AWARD TO USE IN-STORE OR ONLINE WITH ANY OF THESE  
STORES IN THE FUTURE FOR FUTURE PURCHASES.**

*A CALIFORNIA COURT AUTHORIZED THIS NOTICE. THIS IS NOT A SOLICITATION FROM A  
LAWYER.*

A settlement ("Settlement") has been proposed in the class action lawsuit referenced above pending in the Superior Court of the State of California in the County of San Francisco ("Action"). If the Court gives final approval to the Settlement, The Gap, Inc., Gap (Apparel) LLC, Gap International Sales, Inc., Banana Republic LLC, and Banana Republic (Apparel) LLC (collectively "Gap") will provide, for each eligible Class Member (eligibility described below) one or more Settlement Purchase Certificates good for a purchase of merchandise online or in-store at in a Gap Outlet, Gap Factory Store or Banana Republic Factory Store in the United States, for (i) \$6 or \$12 in Settlement Purchase Certificates to use for purchase(s) (no minimum purchase required) or discount off of a purchase(s), subject to the additional conditions explained later in this notice.

Your legal rights are affected whether you act or don't act. Read this notice carefully.

**YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT**

<b>SUBMIT A CLAIM FORM</b>	<p>A Class Member who submits a timely and sufficient Claim Form (“Authorized Claimant”) shall be able to identify the form of Settlement Purchase Certificate he or she wishes to receive on the Claim Form.</p> <p>Visit the Settlement website located at _____ to obtain a Claim Form.</p>	<p>Deadline: _____</p>
<b>EXCLUDE YOURSELF</b>	<p>If you exclude yourself from the Settlement, you will not receive a Settlement Purchase Certificate under the Settlement. Excluding yourself is the only option that allows you to bring or maintain your own lawsuit against Gap regarding the allegations in the Action ever again.</p>	<p>Deadline: _____</p>
<b>OBJECT</b>	<p>You may write to the Court about why you object to (i.e., don’t like) the Settlement and think it shouldn’t be approved. Submitting an objection does not exclude you from the Settlement.</p>	<p>Deadline: _____</p>
<b>GO TO THE “FAIRNESS HEARING”</b>	<p>The Court will hold a “Fairness Hearing” to consider the Settlement, the request for attorneys’ fees and costs of the lawyers who brought the Action, and the Representative Plaintiffs’ request for service awards for bringing the Action.</p> <p>You may, but are not required to, speak at the Fairness Hearing. If you intend to speak at the Fairness Hearing, you must also submit a “Notice of Intention to Appear” indicating your intent to do so.</p>	<p>Hearing Date and Time: _____</p>
<b>DO NOTHING</b>	<p>If you do not submit a Claim Form, you will not receive a Settlement Purchase Certificate</p> <p>You will also give up your right to object to the Settlement and you will be not be able to be part of any other lawsuit about the legal claims in this case.</p>	<p>N/A</p>

These rights and options—and the deadlines to exercise them—are explained in more detail below.

The Court in charge of this Action has preliminarily approved the Settlement and must decide whether to give final approval to the Settlement. The relief provided to Class Members will be provided only if the Court gives final approval to the

Settlement and, if there are any appeals, after the appeals are resolved in favor of the Settlement. *Please be patient.*

**WHAT THIS NOTICE CONTAINS**

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- 20. How do I get more information?
- 21. What if my address or other information has changed or changes after I submit a Claim Form?

**BACKGROUND INFORMATION**

**1. *Why did I get a notice?***

You received a notice because a Settlement has been reached in this Action. According to Gap’s available records you might be a member of the Settlement Class and may be eligible for the relief detailed below.

This Notice explains the nature of the Action, the general terms of the proposed Settlement, and your legal rights and obligations. To obtain more information about the Settlement, including information about how you can see a copy of the Settlement Agreement (which defines certain capitalized terms used in this Notice), see Section 20 below.

**2. *What is this lawsuit about?***

Plaintiffs Carmen Andrews, Laurie Munning, Michael Pallagrosi and Caron Coladonato (the “Representative Plaintiffs”) filed a lawsuit against Gap on behalf of themselves and all others similarly situated. The lawsuit alleges that Gap engaged in deceptive advertising by advertising false reference prices on merchandise in-store and online at Gap Outlets, Gap Factory Stores and Banana Republic Factory Stores in the United States.

Gap denies each and every one of the allegations of unlawful conduct, any wrongdoing, and any liability whatsoever, and no court or other entity has made any judgment or other determination of any liability. Gap further denies that any Class Member is entitled to any relief and, other than for settlement purposes, that this Action is appropriate for certification as a class action.

**The issuance of this Notice is not an expression of the Court’s opinion on the merits or the lack of merits of the Representative Plaintiffs’ claims in the Action.**

For information about how to learn about what has happened in the Action to date, please see Section 20 below.

**3. *Why is this a class action?***

In a class action lawsuit, one or more people called "Representative Plaintiff(s)" (in this Action, Carmen Andrews, Laurie Munning, Michael Pallagrosi and Caron Coladonato) sue on behalf of other people who allegedly have similar claims. For purposes of this proposed Settlement, one court will resolve the issues for all Class Members. The companies sued in this case, The Gap, Inc., Gap (Apparel) LLC, Gap International Sales, Inc., Banana Republic LLC, and Banana Republic (Apparel) LLC, are called the Defendants.

**4. *Why is there a Settlement?***

The Representative Plaintiffs have made claims against Gap. Gap denies that it has done anything wrong or illegal and admits no liability. The Court has **not** decided that the Representative Plaintiffs or Gap should win this Action. Instead, both sides agreed to a settlement. That way, they avoid the cost of a trial, and the Class Members will receive relief now rather than years from now, if at all.

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

The Court has decided that everyone who fits this description is a Class Member for purposes of the proposed Settlement: All individuals who, between May 24, 2010 and the date of entry of the Preliminary Approval Order, purchased an item in-store or online from any Gap Outlet, Gap Factory Store, or Banana Republic Factory Store in the United States.

**6. *I'm still not sure if I am included.***

If you are still not sure whether you are included, you can write the Claims Administrator for free help. The email address of the Claims Administrator is \_\_\_\_\_ and the U.S. postal (mailing) address is \_\_\_\_\_.

**THE PROPOSED SETTLEMENT**

**7. *What relief does the Settlement provide to the Class Members?***

Gap has agreed to provide Class Members with a Settlement Purchase Certificate or Settlement Purchase Certificates good for purchase in a Gap Factory store in California. The number and amount of Settlement Purchase Certificate(s) available to each Class Member depends on the total of the Class Member's Qualifying Purchases made between May 24, 2010 and \_\_\_\_\_.

A Class Member who submits a timely and sufficient Claim Form (“Authorized Claimant”) shall be able to identify the form of Settlement Purchase Certificate he or she wishes to receive on the Claim Form.

- A Tier 1 Authorized Claimant is one who does not submit proof of Qualifying Purchase(s), or submits proof of Qualifying Purchase(s) that are less than \$90.00, with his or her timely and valid Claim Form. To each Tier 1 Authorized Claimant, Gap shall issue one (1) Settlement Purchase Certificate for \$6 for any purchase or off any purchase (no minimum purchase required).
- Tier 2 Authorized Claimants: A Tier 2 Authorized Claimant is one who has Qualifying Purchase(s) during the Class Period totaling \$90.00 or more and submits proof of such purchase(s) with their timely and valid Claim Form. To each Tier 2 Authorized Claimant, Gap shall issue two (2) Settlement Purchase Certificates for a total value of \$12 for any purchase or off any purchase (no minimum purchase required).

Settlement Purchase Certificates are single-use vouchers usable for the purchase of merchandise and will be valid for 1 year. No more than two of the Settlement Purchase Certificates can be used on a single transaction. The Settlement Purchase Certificates may be used on items that are on sale or otherwise discounted. The Settlement Purchase Certificates shall not be redeemable for cash, may not be used to purchase gift cards, will not be replaced if lost, stolen or damaged, and if there is any balance left after the single permitted use, the balance will be forfeited. The Settlement Purchase Certificates are transferable.

#### HOW TO REQUEST A SETTLEMENT PURCHASE CERTIFICATE - SUBMITTING A CLAIM FORM

##### **8. *How can I choose the Settlement Purchase Certificate or Settlement Purchase Certificates I want?***

To choose your Settlement Purchase Certificate, you must send in a Claim Form, and, depending upon the Tier sought potentially proof of Qualifying Purchase(s) as explained in Section 7 above. A Claim Form is available by clicking [HERE](#) or on the Internet at the website \_\_\_\_\_. The Claim Form may be submitted electronically, fax or by postal mail. Read the instructions carefully, fill out the form, and postmark it by \_\_\_\_\_ or submit it online on or before 11:59 p.m. (Pacific) on \_\_\_\_\_.

**9. *When will I get my Settlement Purchase Certificate or Settlement Purchase Certificates?***

As described in Sections 17 and 18, the Court will hold a hearing on \_\_\_\_\_ at \_\_\_\_\_, to decide whether to approve the Settlement. If the Court approves the Settlement, after that, there may be appeals. It's always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. You can check on the progress of the case on the website dedicated to the Settlement at \_\_\_\_\_. *Please be patient.*

**THE LAWYERS IN THIS CASE AND THE REPRESENTATIVE PLAINTIFFS**

**10. *Do I have a lawyer in this case?***

The Court has ordered that the law firm of DeNittis Osefchen Prince, P.C., the Law Office of Todd M. Friedman, P.C. and the Law Office of Daniel Hattis ("Class Counsel") will represent the interests of all Class Members. You will not be separately charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

**11. *How will the lawyers be paid?***

Gap has agreed to pay Class Counsel's attorneys' fees and costs up to \$2,970,000 subject to approval by the Court. You will not be required to pay any attorneys' fees or costs. Please see Section 2.5 of the Settlement Agreement, available [HERE](#), for additional details.

**12. *Will the Representative Plaintiffs receive any compensation for their efforts in bringing this Action?***

The Representative Plaintiffs will request a service award of up to \$2,500 each for their services as class representatives and their efforts in bringing the Action. The Court will make the final decision as to the amount to be paid to the class representatives.

**DISMISSAL OF ACTION AND RELEASE OF ALL CLAIMS**

**13. *What am I giving up to obtain relief under the Settlement?***

If the Court approves the proposed Settlement, unless you exclude yourself from the Settlement, you will be releasing your claims against Gap. This generally means that you will not be able to file a lawsuit, continue prosecuting a lawsuit, or be part of any other lawsuit against Gap regarding the claims in the Action. The Settlement

Agreement, available on the Internet at the website \_\_\_\_\_ contains the full terms of the release.

## HOW TO EXCLUDE YOURSELF FROM THE SETTLEMENT

### 14. *How do I exclude myself from the Settlement?*

You may exclude yourself from the Class and the Settlement. If you want to be excluded, you must send, email or fax a signed letter or postcard stating: (a) the name and case number of the Action; (b) the full name, address, and telephone number of the person requesting exclusion; and (c) a statement that he/she does not wish to participate in the Settlement, postmarked no later than \_\_\_\_\_ to the Claims Administrator at:

GAP PRICING LITIGATION

c/o \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If you timely request exclusion from the Class, you will be excluded from the Class, you will not receive a Settlement Purchase Certificate or Settlement purchase Certificates under the Settlement, you will not be bound by the judgment entered in the Action, and you will not be precluded from prosecuting any timely, individual claim against Gap based on the conduct complained of in the Action.

## HOW TO OBJECT TO THE SETTLEMENT

### 15. *How do I tell the Court that I disagree with the Settlement?*

At the date, time, and location stated in Section 18 below, the Court will hold a Fairness Hearing to determine if the Settlement is fair, reasonable, and adequate, and to also consider Class Counsel's request for an award of attorneys' fees and costs, and service awards to the Representative Plaintiffs.

If you wish to object to the fairness, reasonableness, or adequacy of the Settlement Agreement or the proposed Settlement, you may submit a written objection to the Claims Administrator at the address set forth below no later than (*i.e.*, postmarked by) \_\_\_\_\_.

GAP PRICING LITIGATION

c/o \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Any written objections should contain: **(1)** the name and case number of the Action; **(2)** the Class Member's full name, address, and telephone number; **(3)** the words "Notice of Objection" or "Formal Objection"; **(4)** in clear and concise terms, the legal and factual arguments supporting the objection; **(5)** facts supporting the person's

status as a Class Member (e.g., either any unique identifier included by the Claims Administrator in his/her notice, or the date and location of his/her relevant purchases); **(6)** the Class Member's signature and the date; and **(7)** the following language immediately above the Class Member's signature and date: "I declare under penalty of perjury under the laws of the State of California that the foregoing statements regarding class membership are true and correct to the best of my knowledge." You may, but need not, submit your objection through counsel of your choice. If you do make your objection through an attorney, you will be responsible for your personal attorney's fees and costs.

Class Members have the option to appear at the Fairness Hearing, either in person or through personal counsel hired at the Class Member's expense, to object to the fairness, reasonableness, or adequacy of the Settlement Agreement or the proposed Settlement, or to the award of attorneys' fees. However, Class Members (with or without their attorneys) intending to make an appearance at the Fairness Hearing must so-inform the Parties and the Court on or before \_\_\_\_\_ by providing a "Notice of Intention to Appear" to the Claims Administrator.

**16. *What is the difference between excluding myself and objecting to the Settlement?***

Objecting is simply telling the Court that you disagree with something about the Settlement. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you don't want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the Settlement no longer affects you.

**FAIRNESS HEARING**

**17. *What is the Fairness Hearing?***

The Court has preliminarily approved the Settlement and will hold a hearing to decide whether to give final approval to the Settlement. The purpose of the Fairness Hearing will be for the Court to determine whether the Settlement should be approved as fair, reasonable, adequate, and in the best interests of the Settlement Class; to consider the award of attorneys' fees and expenses to Class Counsel; and to consider the request for service awards to the Representative Plaintiffs. You may attend, but you do not have to.

**18. *When and where is the Fairness Hearing?***

On \_\_\_\_\_, \_\_\_\_ at \_\_\_\_\_ pacific, a hearing will be held on the fairness of the proposed Settlement. At the hearing, the Court will be available to hear any objections and arguments concerning the proposed Settlement's fairness. The hearing will take place before the Honorable [JUDGE] in Department [NO] of the

[COURTHOUSE] of the San Francisco County Superior Court, located at 400 McAllister St, San Francisco, CA 94102. The hearing may be postponed to a different date or time or location without notice. Please check \_\_\_\_\_ .com for any updates about the Settlement generally or the Fairness Hearing specifically. If the date or time of the Fairness Hearing changes, an update to the Settlement website will be the only way you will be informed of the change.

**19. *May I speak at the hearing?***

At that hearing, the Court will be available to hear any objections and arguments concerning the fairness of the Settlement. As described above in Section 15, you may speak at the Fairness Hearing only if you have timely and validly provided a Notice of Intention to Appear.

If you have requested exclusion from the Settlement, you may not speak at the hearing.

**ADDITIONAL INFORMATION**

**20. *How do I get more information?***

To see a copy of the Settlement Agreement, the Court's Preliminary Approval Order, Class Counsel's application for attorneys' fees and costs, and the operative complaint filed in the Action, please visit the Settlement website located at: \_\_\_\_\_. Alternatively, you may contact the Claims Administrator at the email address \_\_\_\_\_ or the U.S. postal (mailing) address: \_\_\_\_\_.

This description of this Action is general and does not cover all of the issues and proceedings that have occurred. In order to see the complete file you should visit the Clerk's office at 400 McAllister Street, San Francisco, CA 94102. The Clerk will tell you how to obtain the file for inspection and copying at your own expense.

**21. *What if my address or other information has changed or changes after I submit a Claim Form?***

It is your responsibility to inform the Claims Administrator of your updated information. You may do so at the address below:

GAP PRICING LITIGATION

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\*\*\*\*

**DO NOT ADDRESS ANY QUESTIONS ABOUT THE SETTLEMENT OR THE LITIGATION TO THE CLERK OF THE COURT OR THE JUDGE.**

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

By: Order of  
HONORABLE [JUDGE]  
JUDGE OF THE SUPERIOR COURT



**EXHIBIT C**  
**EMAIL NOTICE**

To: \_\_\_\_\_

From: \_\_\_\_\_

Re: LEGAL NOTICE OF SETTLEMENT OF CLASS ACTION

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**IF YOU MADE ONE OR MORE IN-STORE OR ONLINE PURCHASES AT A GAP OUTLET, GAP FACTORY STORE OR BANANA FACTORY STORE IN THE UNITED STATES BETWEEN MAY 24, 2010 AND [MONTH], [DAY], [YEAR] YOU MAY BE ELIGIBLE TO RECEIVE AN AWARD TO USE IN-STORE OR ONLINE WITH ANY OF THESE STORES IN THE FUTURE FOR FUTURE PURCHASES.**

**Why did I get this notice?** A settlement (“Settlement”) has been proposed in a class action lawsuit pending in the San Francisco County Superior Court (“Court”) titled *Andrews et al. v. The Gap, Inc., Gap (Apparel) LLC, Gap International Sales, Inc., Banana Republic LLC, and Banana Republic (Apparel) LLC* (“Action”). According to available records, you might be a “Class Member.” The purpose of this Email Notice is to inform you of the Action and the Settlement so that you may decide what steps to take in relation to it.

**What is the Action about?** Plaintiffs Carmen Andrews, Laurie Munning, Michael Pallagrosi and Caron Coladonato allege that The Gap, Inc., Gap (Apparel) LLC, Gap International Sales, Inc., Banana Republic LLC, and Banana Republic (Apparel) LLC (“Gap” or “Defendants”) engaged in deceptive advertising by advertising purportedly improper reference prices on merchandise. Gap denies wrongdoing and liability and both sides disagree on how much, if anything, the Class could have recovered after trial. **No court has decided which side is right. But both sides agreed to provide benefits to Gap Outlet, Gap Factory Store and Banana Republic Factory Store customers and resolve the case.**

**Am I a Class Member?** You are a “Class Member” if between May 24, 2010 and [Month] [Day], [Year], (the “Class Period”) you purchased any product in-store or online from a Gap Outlet, Gap Factory Store or Banana Republic Factory Store in the United States.

**What relief does the Settlement provide?** If you are a Class Member, you are eligible to receive a Settlement Purchase Certificate or Settlement Purchase Certificates, depending on your total qualifying purchases, good for purchase online or in-store at any Gap Outlet, Gap Factory Store or Banana Republic Factory Store in the United States, for \$6 or \$12 in Settlement Purchase Certificates to use for purchase(s) (no minimum purchase required) or discount off of a purchase(s), subject to the additional conditions explained later in this notice.

. If you received this Email Notice and timely complete and submit a valid Claim Form, you shall receive one (1) Settlement Purchase Certificate for \$6 for any purchase or off any purchase (no minimum purchase required). Class Members with purchases from a Gap Outlet, Gap Factory Store or Banana Republic Factory store of \$90 or more during the Class Period may receive an additional \$6 Settlement Purchase Certificate.

To receive more a second Settlement Purchase Certificate, you must timely complete and submit a valid Claim Form, and submit proof of such purchase(s). A Claim Form is available by clicking [HERE](#). The deadline to submit a Claim Form is \_\_\_\_\_. If you wish to submit a Claim Form, your Class Member ID is \_\_\_\_\_.

**What are my other options?** If you don't want to be legally bound by the Settlement, you must exclude yourself by \_\_\_\_\_, or you won't be able to sue Gap about the legal claims in the Action ever again. If you exclude yourself, you cannot receive a Settlement Purchase Certificate from this Settlement. If you stay in the Settlement, you may object to it by \_\_\_\_\_. The detailed notice available at \_\_\_\_\_ explains how to request exclusion or object. The Court will hold a hearing on \_\_\_\_\_ at \_\_\_\_\_ to consider whether to approve the Settlement and a request by the lawyers representing all Class Members (DeNittis Osefchen Prince, P.C., the Law Office of Todd M. Friedman, P.C. and the Law Office of Daniel Hattis) for \$2,970,000 in attorneys' fees and costs, and for the class representatives' (Carmen Andrews, Laurie Munning, Michael Pallagrosi and Caron Coladonato) request for \$2,500 each for their services. You may ask to appear at the hearing, but you don't have to.

**More information?** For complete information about the Settlement, to view the Settlement Agreement, related Court documents and Claim Form, and to learn more about how to exercise your various options under the Settlement, visit \_\_\_\_\_. You may also write to the Claims Administrator at the email address \_\_\_\_\_ or the postal address \_\_\_\_\_.

**EXHIBIT D**  
**PUBLICATION NOTICE**

**IF YOU MADE ONE OR MORE IN-STORE OR ONLINE PURCHASES AT A GAP OUTLET, GAP FACTORY STORE OR BANANA REPUBLIC FACTORY STORE IN THE UNITED STATES BETWEEN MAY 24, 2010 AND [MONTH], [DAY], [YEAR] YOU MAY BE ELIGIBLE TO RECEIVE AN AWARD TO USE IN-STORE OR ONLINE WITH ANY OF THESE STORES IN THE FUTURE FOR FUTURE PURCHASES.**

**For more information, including the detailed Notice and Settlement Agreement, visit**

\_\_\_\_\_.

A settlement has been reached in a class action lawsuit involving allegations that Gap Outlet, Gap Factory Store or Banana Republic Factory Store (collectively, "Gap") used false or misleading reference prices. Gap vigorously denies the allegations, and the court has not decided who is right. If, you have made an in-store or online purchase from Gap Outlet, Gap Factory Store or Banana Republic Factory Store between May 24, 2010 and \_\_\_\_\_, and have not received a refund or credit for all of your purchases, you may be able to receive one or more \$6 Settlement Vouchers if you submit a Claim Form.

If you did not receive direct notice of this Settlement via email, or did receive direct notice and want to obtain a Settlement Voucher(s), you must submit a Claim Form. To receive a Voucher, you must file a qualifying claim. Claim Forms are available at the website above and must be filed by \_\_\_\_\_. If you don't want to be legally bound by the settlement, you must exclude yourself by \_\_\_\_\_, or you won't be able to sue Gap about the legal claims in the action ever again. If you exclude yourself, you cannot receive a voucher from this settlement. If you stay in the settlement, you may object to it by \_\_\_\_\_. The detailed notice available at the website above explains how to request exclusion or object. The Court will hold a hearing on \_\_\_\_\_ to consider whether to approve the Settlement.

**EXHIBIT E**  
**CLAIM FORM**

**Gap Pricing Litigation CLAIM FORM**

**YOU MUST SUBMIT YOUR CLAIM FORM NO LATER THAN \_\_\_\_\_.**

**PERSONAL INFORMATION.** Please legibly print or type the following information requested below. *This information will be used to deliver your Settlement Purchase Certificate or Settlement Purchase Certifications and communicate with you if any problems arise with your claim.*

Class Member Number (if available): \_\_\_\_\_

Name (first, middle, and last): \_\_\_\_\_

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

City, State, and ZIP code: \_\_\_\_\_

Email Address: \_\_\_\_\_

Telephone Number: (\_\_\_\_\_) \_\_\_\_\_

**CONFIRMATION OF CLASS MEMBERSHIP.** I declare that I believe that, during the period of time between May 24, 2010 and [Date], I purchased in-store or online from a Gap Outlet, Gap Factory Store or a Banana Republic Factory Store in the United States an item or items where a higher reference price was displayed, and that my purchases during this period totaled (*select one*):

€ less than \$90.00 (Tier 1).

€ \$90.00 or more, and I have attached proof of my purchase(s) (Tier 2).

[Note for Claims Administrator: the following data entry form should be shown to all Claimants. Claimants should be able to add rows as needed.]

Please provide information about the purchases that you are claiming above:

Approximate Month and Year of Purchase	Approximate Location (City) of Purchase	Approximation of Total Spent on Claimed Items

€ [Click here to add an additional row.](#)

[Note for Claims Administrator: after the Class Member elects the relevant tier, regardless of whether the Class Member provides a Class Member Number, the online Claim Form should provide a means for the Class Member to upload pictures of receipts. If the Class Member does not upload receipts, but has elected Tier 2, the following disclosure should be provided.]

You have not uploaded any proofs of purchase or receipts. If you would like to mail them to the Claims Administrator so as to support your claim, please send them to \_\_\_\_\_.

*The Claims Administrator and/or Gap may verify your claim.*

**SELECTION OF FORM OF SETTLEMENT PURCHASE CERTIFICATE.** If, under the terms of the Settlement Agreement, I may select the form of Settlement Purchase Certificate(s) I am to receive, I choose:

Tier 1

€ 1 Settlement Purchase Certificate good for \$6 for any purchase or off any purchase (no minimum purchase required), or

Tier 2

€ 2 Settlement Purchase Certificates good for a total value of \$12 for any purchase or off any purchase (no minimum purchase required)

*The full terms and conditions for each type of Settlement Purchase Certificate are in Section 1.31 of the Settlement Agreement.*

**EMAIL ADDRESS FOR SETTLEMENT PURCHASE CERTIFICATE DELIVERY.** Please confirm the email address to which you would like the Settlement Purchase certificate(s) delivered.

[Note to the Claims Administrator: insert the email address that was provided earlier in the form, for reference, in the blank space below.]

Would you like your Settlement Purchase Certificate delivered to \_\_\_\_\_? €Yes €No

If "no," please provide the email address to which you would like the Settlement Purchase Certificate (s) delivered:

\_\_\_\_\_.

**ACKNOWLEDGEMENT.** I have received notice of the class action Settlement in this case and I am a member of the class of persons described in the notice. I agree to release all the claims, known and unknown, stated in Section 2.9 of the Settlement Agreement. I submit to the jurisdiction of the Superior Court of the State of California, County of San Francisco with regard to my claim and for purposes of enforcing the release of claims stated in the Settlement Agreement. I am aware that I can obtain a copy of the full notice and Settlement Agreement at \_\_\_\_\_ or by writing the Claims Administrator at the email address \_\_\_\_\_ or the postal address \_\_\_\_\_. I agree to furnish additional information to support this claim if required to do so.

**IF SUBMITTED ELECTRONICALLY:**

I agree that by submitting this Claim Form I certify under the penalty of perjury of the laws of the State of California that the foregoing is true and correct to the best of my knowledge and that checking this box constitutes my electronic signature on the date of its submission.

**IF SUBMITTED BY U.S. MAIL:**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

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

Signature: \_\_\_\_\_



**EXHIBIT F**  
**EXEMPLAR PURCHASE CERTIFICATE**

**EXHIBIT G**  
**[PROPOSED] FINAL ORDER AND JUDGMENT**

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN FRANCISCO**

<p>CARMEN ANDREWS, LAURIE MUNNING, MICHAEL PALLAGROSI and CARON COLADONATO, on behalf of themselves and all others similarly situated,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>THE GAP, INC., GAP (APPAREL) LLC and GAP INTERNATIONAL SALES, INC., BANANA REPUBLIC, LLC and BANANA REPUBLIC (APPAREL), LLC;</p> <p style="text-align: center;">Defendants.</p>	<p>CGC-18-567237</p> <p style="text-align: center;"><b>[PROPOSED] FINAL APPROVAL ORDER AND JUDGMENT</b></p>
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On \_\_\_\_\_ (month) \_\_\_\_ (day), this Court heard Plaintiffs Carmen Andrews, Laurie Munning, Michael Pallagrosi and Caron Coladonato’s (“Plaintiffs”) motion for final approval of the class action settlement. This Court reviewed: (a) the motion and the supporting papers, including, the Settlement Agreement and Release (“Agreement” or “Settlement”); (b) any objections filed with or presented to the Court; (c) the Parties’ responses to any objections; and (d) counsels’ arguments. Based on this review and the findings below, the Court found good cause to grant the motion.

**FINDINGS:**

1. Unless otherwise specified, defined terms in Agreement have the same definition as used in this Final Order and Judgment.

1           2.       The Court finds the Settlement was entered into in good faith, that it is fair,  
2 reasonable and adequate, and that it satisfies the standards and applicable requirements for final  
3 approval of this class action settlement under California law, including the provisions of California  
4 Code of Civil Procedure section 382 and California Rules of Court, Rule 3.769.

5           3.       The Parties adequately performed their obligations under the Agreement.

6           4.       Defendants The Gap, Inc., Gap (Apparel) LLC, Gap International Sales, Inc.,  
7 Banana Republic LLC, and Banana Republic (Apparel) LLC, (collectively “Defendants” or “Gap”),  
8 provided notice to Class Members in compliance with Section 3.3 of the Agreement, California  
9 Code of Civil Procedure section 382, California Rules of Court 3.766 and 3.769, the California and  
10 United States Constitutions, and any other applicable law. The notice: (i) fully and accurately  
11 informed Class Members about the lawsuit and Settlement; (ii) provided sufficient information so  
12 that Class Members were able to decide whether to accept the benefits offered, opt-out and pursue  
13 their own remedies, or object to the proposed Settlement; (iii) provided procedures for Class  
14 Members to file written objections to the proposed Settlement, to appear at the hearing, and to state  
15 objections to the proposed Settlement; and (iv) provided the time, date and place of the final fairness  
16 hearing.

17           5.       An award of \$2,970,000.00 in attorneys’ fees and costs to Class Counsel is fair and  
18 reasonable in light of the nature of this case, Class Counsel’s experience and efforts in prosecuting  
19 this Action, and the benefits obtained for the Class.

20           6.       An incentive award to Plaintiffs Carmen Andrews, Laurie Munning, Michael  
21 Pallagrosi, Caron Coladonato in the amount of \$2,500.00 (each) is fair and reasonable in light of:  
22 (a) Plaintiffs’ risks (including financial, professional, and emotional) in commencing this action as  
23 the class representative; (b) the time and effort spent by Plaintiffs in litigating this action as the  
24 class representative; and (c) Plaintiffs’ public interest service.

25 **IT IS ORDERED THAT:**

26           7.       **Class Members.** For Settlement purposes, the Class Members are defined as:

27                   All United States citizens who made one or more in-store or online  
28                   purchase(s) at a Gap Outlet, Gap Factory Store or a Banana Republic

1 Factory Store located in the United States between May 24, 2010  
and the date of Preliminary Approval

2 **8. Binding Effect of Order.** This order applies to all claims or causes of action settled  
3 under the Agreement, and binds all class members, including those who did not properly request  
4 exclusion under paragraph 7 of the Preliminary Approval and Provisional Class Certification Order.  
5 This order does not bind persons who filed timely and valid requests for exclusion. Attached as  
6 Exhibit A is a list of persons who properly requested to be excluded from the Settlement.

7 **9. Release.** Plaintiffs and all Class Members who did not properly request exclusion  
8 are: (1) deemed to have released and discharged Gap from all claims arising out of or asserted in  
9 this Action and claims released under the Agreement; and (2) barred and permanently enjoined  
10 from asserting, instituting, or prosecuting, either directly or indirectly, these claims.

11 **10. Class Relief.** Gap will issue the appropriate Settlement Purchase Certificate(s) to  
12 each Class Member who is an Authorized Claimant or is otherwise entitled to a Settlement Purchase  
13 Certificate under Sections 2.1 and 2.2) of the Agreement, according to the timeline set forth in  
14 Section 2.3 of the Agreement.

15 **11. Attorney's Fees and Costs.** Class Counsel is awarded \$2,970,000.00 total in fees  
16 and costs. Gap must pay Class Counsel this amount according to the timeline set forth in Section  
17 2.5 of the Agreement.

18 **12. Incentive Awards.** Plaintiff Carmen Andrews, Laurie Munning, Michael  
19 Pallagrosi and Caron Coladonato are awarded \$10,000.00 in total, as an incentive award. . Gap  
20 must pay Plaintiffs this amount according to the timeline set forth in Section 2.4 of the  
21 Agreement. Gap must pay Plaintiffs this amount according to the timeline set forth in Section 2.4  
22 of the Agreement.

23 **13. Claims Administrator Costs.** The Claims Administrator \_\_\_\_\_ is  
24 awarded \$770,000.00 total in costs. Gap must pay the Claims Administrator this amount according  
25 to the timeline set forth in Section 2.5 of the Agreement.  
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**14. Judgment.** The Court finds that there is no reason for delay and directs the Clerk to enter judgment in accordance with the terms of this Order as of the date of this Order.

**15. Court's Jurisdiction.** Pursuant to the parties' request, California Code of Civil Procedure section 664.6, and California Rule of Court 3.769(h), the Court retains jurisdiction over this action and the parties until final performance of the Agreement.

**IT IS SO ORDERED.**

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

\_\_\_\_\_

JUDGE OF THE SUPERIOR COURT