

# EXHIBIT 10

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

IN RE JUUL LABS, INC., MARKETING,  
SALES PRACTICES, AND PRODUCTS  
LIABILITY LITIGATION

CASE NO. 19-md-02913-WHO

This Document Relates to:  
All Class Actions

**[PROPOSED] ORDER GRANTING  
MOTION FOR FINAL APPROVAL OF  
CLASS ACTION SETTLEMENT AND  
JUDGMENT**

1 Class Plaintiffs<sup>1</sup> have moved the Court for final approval of a proposed class action  
2 settlement with Defendant JUUL Labs, Inc. (“JLI”), on behalf of itself and the Released Parties,  
3 the terms and conditions of which are set forth in the Class Settlement Agreement filed with the  
4 Court on December 19, 2022, Dkt. 3724. The Court previously granted preliminary approval to  
5 the proposed settlement and directed notice to the Settlement Class. Dkt. X.

6 For the reasons described more fully below, the Court GRANTS final approval of the  
7 Settlement.

### 8 **I. BACKGROUND**

9 Class Plaintiffs and JLI seek to resolve economic loss claims (other than antitrust claims)  
10 asserted against JLI and the Released Parties involving the manufacture, labeling, marketing, and  
11 sale of JUUL—an electronic nicotine delivery system consisting of an electronic cigarette and a  
12 nicotine pack called a JUULpod. Plaintiffs allege that Defendants created, marketed, and sold  
13 JUUL by misleading the public about the addictiveness and risks of JUUL, and by trying to  
14 expand the market by capturing and addicting individuals—specifically including minor users—  
15 who had not previously used tobacco or e-cigarette products. *See In re Juul Labs, Inc., Mktg.,*  
16 *Sales Practices, & Prods. Liab. Litig.*, 497 F. Supp. 3d 552, 574 (N.D. Cal. 2020).

17 Bradley Colgate and Kaytlin McKnight filed the first complaint in this litigation against JLI  
18 on April 26, 2018. Case No. 2018-cv-2499 (N.D. Cal) (“Colgate”) Dkt. 1. The Court denied JLI’s  
19 motion to compel arbitration and for the most part denied multiple motions to dismiss Plaintiffs’  
20 amended complaint. *See Colgate* Dkts. 40, 41, 66, 82, 98, 99, and 139; *Colgate v. JUUL Labs, Inc.*,  
21 345 F. Supp. 3d 1178, 1187 (N.D. Cal. 2018); *Colgate v. JUUL Labs, Inc.*, 402 F. Supp. 3d 728  
22 (N.D. Cal. 2019). Other individual and class cases were subsequently filed in this Court and in other  
23 jurisdictions. The Judicial Panel on Multidistrict Litigation transferred all these cases to this Court  
24 for pretrial purposes on October 2, 2019. Plaintiffs filed a consolidated class action complaint on  
25 March 1, 2020, and then amended it on April 6, 2020. Defendants again moved to dismiss, and the

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27 <sup>1</sup> The capitalized terms used in this Order shall have the same meaning as defined in the  
28 Settlement Agreement and Plan of Allocation except as otherwise noted.

1 Court denied the motions in part and granted the motions in part with leave to amend on October  
2 23, 2020. *In re JUUL Labs, Inc., Mktg. Sales Pracs. & Prods. Liab. Litig.*, 497 F. Supp. 3d 552,  
3 677. Plaintiffs filed a second amended consolidated class action complaint on November 12, 2020,  
4 Dkt. 1358, and the Court denied Defendants’ motions to dismiss that complaint on April 13, 2021.  
5 *In re JUUL Labs, Inc., Mktg. Sales Pracs. & Prods. Liab. Litig.*, 533 F. Supp. 3d 858, 862-63 (N.D.  
6 Cal. Apr. 13, 2021).

7 Discovery proceeded prior to, during, and after the motions to dismiss. Defendants produced  
8 millions of pages of documents, and Plaintiffs obtained information pursuant to interrogatories and  
9 stipulations and conducted over 100 depositions of Defendants, their employees, and third parties.  
10 The parties also engaged in expert discovery, which included reports and depositions from experts  
11 on topics including the chemistry of JUUL products, the marketing of JUUL products, and classwide  
12 injury and damages.

13 After a contested motion to certify bellwether classes asserting federal and California law  
14 claims, on June 28, 2022, the Court certified four classes<sup>2</sup> of purchasers of JUUL products,  
15 appointed Class Representatives and Class Counsel, and denied related Daubert motions. *In re*  
16 *JUUL Labs, Inc., Mktg. Sales Pracs. & Prods. Liab. Litig.*, No. 19-md-02913-WHO, Dkt. 3327,  
17 2022 WL 2343268 (N.D. Cal. June 28, 2022) (“Class Cert. Order”). On July 12, 2022, Defendants  
18 filed three Rule 23(f) petitions seeking permission to appeal from the Court’s order granting class  
19 certification. *See* Ninth Circuit Case Nos. 22-80061, 22-80062, and 22-80063. On October 24, 2022,  
20 the Ninth Circuit consolidated the cases and granted Defendants permission to appeal. *E.g.* Ninth  
21 Circuit Case No. 22-80063, Dkt. 14.

22 On May 18, 2020, the Court appointed Thomas J. Perelli as Settlement Master, who oversaw  
23 a years-long mediation process that led to the Class Settlement Agreement. Under the Class

24 \_\_\_\_\_  
25 <sup>2</sup> These were the **Nationwide Class** (All individuals who purchased, in the United States, a JUUL  
26 product); the **Nationwide Youth Class** (All individuals who purchased, in the United States, a  
27 JUUL product and were under the age of eighteen at the time of purchase); the **California Class**  
28 (All individuals who purchased, in California, a JUUL product); and the **California Youth Class**  
(All individuals who purchased, in California, a JUUL product and were under the age of eighteen  
at the time of purchase).

1 Settlement Agreement, the Class will receive \$255 million in exchange for a release of the class  
2 claims. The settlement does not include Altria Group, Inc. and related companies, so no class or  
3 individual claims against those entities will be released, and the litigation against them will  
4 continue.<sup>3</sup>

5 **II. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

6 **A. Jurisdiction**

7 This court has jurisdiction under 28 U.S.C. § 1332(d)(2).

8 **B. Notice and Administration**

9 Following the Court's Preliminary Approval Order, the Class Settlement Administrator,  
10 Epiq Systems, Inc., established a settlement website at www.JUULclassaction.com, which  
11 includes: the long-form notice (explaining the procedures for Class Members to submit claims,  
12 object, or exclude themselves), a contact information page that includes address and telephone  
13 numbers for the Class Settlement Administrator and Class Counsel, the Class Settlement  
14 Agreement, the Preliminary Approval Order, online and printable versions of the claim form and  
15 the opt out forms, and answers to frequently asked questions. In addition, the motion papers filed  
16 in connection with the Settlement and Class Plaintiffs' application for Attorneys' Fees and  
17 Expenses and Service Awards were placed on the settlement website after they were filed (which  
18 was before the opt out and objection deadline). The Class Settlement Administrator also operated  
19 a toll-free number for Settlement Class Member inquiries.

20 Notice of the Settlement was provided by: (1) direct notice via email to those Settlement  
21 Class Members for whom an email address was available; (2) direct notice via postcard mailed to  
22 those Settlement Class Members for whom a physical mailing address was available but an email  
23 address was not available; (3) publication notice of the Settlement, which comprised \_\_\_\_\_  
24 impressions, targeted at likely Settlement Class Members served across relevant internet websites  
25 and social media platforms; and (4) publication on the settlement website.

26 \_\_\_\_\_  
27 <sup>3</sup> In separate agreements, JLI has resolved the claims brought by other claimants in the MDL,  
28 including individuals who asserted claims for personal injury, school district and local government  
entities, and Native American tribal entities.

1 In total, the Notice Plan is estimated to have reached at least 80% of Settlement Class  
2 Members. *See, e.g., Ellison v. Steven Madden, Ltd.*, No. CV115935PSGAGR, 2013 WL  
3 12124432, at \*3 (C.D. Cal. May 7, 2013) (approving a notice plan reaching 77%); *In re:*  
4 *Whirlpool Corp. Front-loading Washer Prod. Liab. Litig.*, No. 1:08-WP-65000, 2016 WL  
5 5338012, at \*9 (N.D. Ohio Sept. 23, 2016) (approving notice plan reaching approximately 77.5  
6 percent of Class Members).

7 The Court finds that the Notice Plan provided the best practicable notice to the Settlement  
8 Class Members and satisfied the requirements of due process.

9 Settlement Class Members were given until DATE to object to or exclude themselves from  
10 the proposed Settlement. X Settlement Class Members timely submitted objections and X  
11 individuals timely submitted requests to be excluded from the Settlement Class. As of DATE, X  
12 Claim Forms have been received by the Class Settlement Administrator.

13 **C. Certification of the Settlement Class**

14 For purposes of the Settlement only and this Final Approval Order and Judgment, Class  
15 Plaintiffs have moved to certify the following Settlement Class: “All individuals who purchased,  
16 in the United States, a JUUL product from brick and mortar or online retailers before December 6,  
17 2022.” Excluded from the Settlement Class are: (a) the judges in this MDL and any other judges  
18 that have presided over the litigation, including the coordinated proceeding captioned *JUUL Labs*  
19 *Product Cases*, Judicial Counsel Coordination Proceeding No. 5052, pending in the Superior  
20 Court of California, County of Los Angeles, Department 11, Settlement Master Thomas J. Perrelli,  
21 and their staff, and immediate family members; (b) Defendants, their employees, officers,  
22 directors, legal representatives, heirs, successors, and wholly or partly owned subsidiaries or  
23 affiliated companies; (c) Class Counsel and their employees; (d) any individuals who purchased  
24 JUUL products only secondarily from non-retailers; and (e) all individuals who timely and  
25 properly excluded themselves from the Settlement Class.<sup>4</sup>

26 \_\_\_\_\_  
27 <sup>4</sup> The list of individuals that timely and properly submitted exclusion requests and are therefore  
28 not members of the Settlement Class are identified in Exhibit X to the Declaration of NAME.

1           The Court finds that the prerequisites of Rule 23 have been satisfied for certification of the  
2 Settlement Class for purposes of Settlement because: Settlement Class Members are so numerous  
3 that joinder of all members is impracticable; there are questions of law and fact common to the  
4 Settlement Class; the claims and defenses of the Settlement Class Representatives are typical of  
5 the claims and defenses of the Settlement Class; the Settlement Class Representatives have fairly  
6 and adequately protected the interests of the Settlement Class with regard to the claims of the  
7 Settlement Class; common questions of law and fact predominate over questions affecting only  
8 individual Settlement Class Members, rendering the Settlement Class sufficiently cohesive to  
9 warrant a class settlement; and the certification of the Settlement Class is superior to individual  
10 litigation and/or settlement as a method for the fair and efficient resolution of this matter.

11           The Court previously certified a nearly identical nationwide class under RICO and a class of  
12 California JUUL purchasers under California law. The Settlement Class is co-extensive with the  
13 certified class, except that the claims of the Settlement Class apply to JLI on a nationwide basis,  
14 includes an end date for the Settlement Class (as is necessary to settlement administration), and  
15 includes purchases of Juul accessories and products in addition to JUULpods and devices. The  
16 slight differences between the litigation class and the proposed Settlement Class do not alter the  
17 Court's previous analysis, except insofar as the predominance and superiority analysis  
18 prerequisites operate differently and are easier to meet in the settlement context. *See In re Hyundai*  
19 *& Kia Fuel Econ. Litig.*, 926 F.3d 539, 558 (9th Cir. 2019). The bases for the Court's prior  
20 certification order are applicable to the certification of the Settlement Class and the Court  
21 incorporates its reasoning herein.

22           The Court appoints Bradley Colgate, Joseph DiGiacinto on behalf of C.D., Lauren Gregg,  
23 Tyler Krauel, and Jill Nelson on behalf of L.B. as the Settlement Class Representatives and Dena  
24 Sharp of Girard Sharp LLP as Class Counsel.

25           **D. Final Approval of Settlement**

26           A court may approve a proposed class action settlement only "after a hearing and on  
27 finding that it is fair, reasonable, and adequate after considering whether: (A) the class  
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1 representatives and class counsel have adequately represented the class; (B) the proposal was  
2 negotiated at arm's length; (C) the relief provided for the class is adequate, taking into account: (i)  
3 the costs, risks, and delay of trial and appeal; (ii) the effectiveness of any proposed method of  
4 distributing relief to the class, including the method of processing class-member claims; (iii) the  
5 terms of any proposed award of attorney's fees, including timing of payment; and (iv) any  
6 agreement required to be identified under Rule 23(e)(3); and (D) the proposal treats class members  
7 equitably relative to each other.” Fed. R. Civ. P. 23(e)(2).<sup>5</sup> In reviewing the proposed settlement,  
8 the Court need not address whether the settlement is ideal or the best outcome, but only whether  
9 the settlement is fair, free of collusion, and consistent with plaintiff's fiduciary obligations to the  
10 class. *See Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1027 (9th Cir. 1998).

11 For the reasons further detailed below, the Court finds that the proposed settlement is fair,  
12 reasonable, and adequate under the Rule 23(e)(2) factors. Defendants dispute whether the  
13 manufacture, marketing, advertising and sale of the JUUL products was unlawful, unfair,  
14 deceptive and/or in violation of other state and federal laws. There would also have been a battle  
15 of the experts regarding consumer understanding of JUUL marketing and advertising and  
16 regarding the computation of restitution/damages, if any. Further, JLI was prepared to assert an  
17 arbitration defense against a large portion of the class. Proceeding to trial as against JLI and the  
18 Released Parties would have been costly, recovery was not guaranteed, and there was the

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19 <sup>5</sup> Prior to the amendments to Rule 23, which took effect December 1, 2018, the Ninth Circuit had  
20 enumerated a similar list of factors to consider in evaluating a proposed class settlement. *See*  
21 *Churchill Vill., L.L.C. v. Gen. Elec.*, 361 F.3d 566, 575 (9th Cir. 2004) (enumerating the following  
22 factors: “(1) the strength of the plaintiffs’ case; (2) the risk, expense, complexity, and likely  
23 duration of further litigation; (3) the risk of maintaining class action status throughout the trial; (4)  
24 the amount offered in settlement; (5) the extent of discovery completed and the stage of the  
25 proceedings; (6) the experience and views of counsel; (7) the presence of a governmental  
26 participant; and (8) the reaction of the class members to the proposed settlement”). In the notes  
27 accompanying the Rule 23 amendments, the Advisory Committee explained that the amendments  
28 were not designed “to displace any factor, but rather to focus the court and the lawyers on the core  
concerns of procedure and substance that should guide the decision whether to approve the  
proposal.” Accordingly, this Court applies the framework of Rule 23 while “continuing to draw  
guidance from the Ninth Circuit’s factors and relevant precedent.” *Hefler v. Wells Fargo & Co.*,  
No. 16-cv-05479-JST, 2018 WL 6619983, at \*4 (N.D. Cal. Dec. 17, 2018), *aff’d sub nom. Hefler*  
*v. Pekoc*, 802 F. App’x 285 (9th Cir. 2020).

1 possibility of protracted appeals and the potential for bankruptcy.

2 Counsel for all Parties are highly experienced; they provided detailed declarations  
3 explaining why they supported the Settlement, and there is no factual basis to support any  
4 allegation of collusion or self-dealing.

5 **1. Settlement Class Representatives and Class Counsel Have Adequately**  
6 **Represented the Settlement Class.**

7 In the Preliminary Approval Order, this Court found that the Settlement Class  
8 Representatives and Class Counsel adequately represented the interests of the certified classes.  
9 This Court has seen no evidence to contradict its previous finding, and the Court reconfirms it  
10 here with respect to Settlement Class Representatives and Class Counsel, who have vigorously  
11 prosecuted this action through discovery, motion practice, mediation, and preparations for trial.  
12 Class Counsel “possessed sufficient information to make an informed decision about settlement.”  
13 *Hefler*, 2018 WL 6619983 \*6.

14 **2. The Settlement Was Negotiated at Arm’s Length.**

15 The Court finds that the Settlement is the product of serious, non-collusive, arm’s length  
16 negotiations by experienced counsel with the assistance of a well-respected, experienced, Court-  
17 appointed Settlement Master, Thomas J. Perrelli. *See, e.g., G. F. v. Contra Costa Cty.*, 2015 WL  
18 4606078, at \*13 (N.D. Cal. July 30, 2015) (noting that “[t]he assistance of an experienced  
19 mediator in the settlement process confirms that the settlement is non-collusive”); *Hefler*, 2018  
20 WL 6619983 \*6 (noting that the settlement “was the product of arm’s length negotiations through  
21 two full-day mediation sessions and multiple follow-up calls” supervised by a mediator). Before  
22 agreeing on the terms of the Settlement, the Parties engaged in extensive factual investigation,  
23 which included dozens of depositions, the production and review of millions of pages of  
24 documents, extensive written discovery, robust motion practice, and expert discovery. The record  
25 was thus sufficiently developed that the Parties were fully informed as to the viability of the  
26 claims and able to adequately evaluate the strengths and weaknesses of their respective positions  
27 and risks to both sides if the case did not settle.

1 The Court has independently and carefully reviewed the record for any signs of collusion  
2 and self-dealing, and finds no such signs. Specifically, the Court finds that Class Counsel did not  
3 compromise the claims of the Settlement Class in exchange for higher fees as there has been no  
4 agreement concerning attorneys' fees or otherwise disadvantaging the Settlement Class.

5 **3. The Cash Payments Provide Adequate Recovery to the Class.**

6 In the Rule 23(e) analysis, “[t]he relief that the settlement is expected to provide to class  
7 members is a central concern.” Fed. R. Civ. P. 23(e)(2)(C)-(D) advisory committee’s note to 2018  
8 amendment. “The Court therefore examines ‘the amount offered in settlement.’” *Hefler*, 2018 WL  
9 6619983 \*8 (quoting *Hanlon*, 150 F.3d at 1026).

10 JLI has agreed to pay \$255 million on behalf of itself and the Released Parties, which will  
11 be used as a common fund to pay cash benefits to Settlement Class Members as set forth in the  
12 Plan of Allocation. Settlement Class Members who submit Eligible Claims will therefore have the  
13 opportunity to receive substantial payments corresponding to their JUUL purchases. In addition,  
14 because the Settlement does not release claims against Defendant Altria and related entities,  
15 against whom the litigation will remain pending, there remains the possibility of additional  
16 recoveries to benefit the Settlement Class. Based on the record evidence and argument the parties  
17 submitted in connection with the Settlement, as well as the familiarity the Court has developed  
18 with this case, the Court finds that this monetary recovery is fair, reasonable, and adequate given  
19 the risks of proceeding to trial and the maximum recovery potentially available to Settlement  
20 Class Members if the Class Representatives had prevailed at trial.

21 **4. The Risk of Continuing Litigation.**

22 The amount provided for the in the Settlement is also reasonable in light of the risks of  
23 continued litigation. The Ninth Circuit has, for example, granted the Defendants’ Rule 23(f)  
24 petition and Class Plaintiffs therefore face the risk that the Ninth Circuit would reverse or modify  
25 the Court’s class certification decision. There were also substantial questions as to whether  
26 Plaintiffs would be able to prove at trial that JLI’s and other parties’ practices were fraudulent,  
27 unlawful or unfair, and that JLI and other defendants should be held liable. Both sides believed  
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1 they had persuasive facts to support their positions, and there is limited precedent available  
2 regarding the Parties' competing theories. Trial would have involved a clash of expert analysis as  
3 to whether the marketing, advertising and sales of JUUL products were unlawful, unfair or  
4 fraudulent, the methods of calculating damages/restitution, and ultimately what damages and/or  
5 restitution, if any, should be awarded. JLI was prepared to assert an arbitration defense against a  
6 large portion of the class. And even if Class Plaintiffs succeeded at trial, appeals would  
7 undoubtedly have followed. Finally, there is the risk that one or more of the Defendants would file  
8 for bankruptcy protection, thereby slowing or even eliminating any recovery.

9 **5. Attorneys' Fees and Expenses.**

10 The Parties have reached no agreements regarding the amounts of attorneys' fees,  
11 expenses, and service awards to be paid. *See, e.g., Hyundai.*, 926 F.3d at 569-70 (rejecting fairness  
12 objection because class counsel "did not reach an agreement with the automakers regarding the  
13 amount of attorney's fees to which they were entitled," which "[p]rovid[es] further assurance that  
14 the agreement was not the product of collusion"). The payment of attorneys' fees, expenses, and  
15 service awards, if any, is subject to approval of the Court based on a finding that such amounts are  
16 fair and reasonable.

17 **6. Other Agreements.**

18 The Court is required to consider "any agreements required to be identified under Rule  
19 23(e)(3)." The Court has reviewed the Class Settlement Agreement and relevant accompanying  
20 materials, and has been made aware that JLI (on behalf of itself and the Released Parties) has  
21 agreed to fund parallel settlement programs to provide recoveries for other claimants in this MDL  
22 and the parallel JCCP proceedings, including individuals who asserted claims for personal injury,  
23 and school district and local government entities, as well as Native American tribal entities. Under  
24 the supervision of Special Master Perrelli, the amount of the Class Settlement Fund was  
25 negotiated separately from the amounts for the other settlements, with co-lead counsel Dena Sharp  
26 representing the Class, and the other co-lead counsel in the MDL representing interests of the  
27 personal injury and government entity plaintiffs. The Court is also aware that the settlement  
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1 provides for the creation of a trust to hold assets on behalf of the Class, which benefits the Class,  
2 as do the protections the settlement contemplates in the event of bankruptcy or non-payment.

3 Certain of the Class Plaintiffs have asserted personal injury claims, and thus will be  
4 eligible to apply to share in the amounts allocated to the resolution of personal injury claims.  
5 Personal injury claimants will receive no favorable treatment compared to other class members.  
6 All personal injury claims will be paid from funds set aside to resolve personal injury claims,  
7 while the economic loss claims asserted by the Settlement Class will be paid from the Net  
8 Settlement Fund. Only after a diligent effort to identify all class members and distribute to them  
9 the full amount of the class settlement fund will the Parties confer regarding the disposition of any  
10 residual funds, the distribution of which would be subject to the Court’s approval and a finding  
11 that the Parties first exhausted all reasonable efforts to distribute remaining funds to Settlement  
12 Class members. Under the terms of the Agreement, the Settlement Fund is non-reversionary and  
13 no portion of the Settlement Fund or Net Settlement Fund will revert to JLI or any other Released  
14 Party.

15 **7. The Plan of Allocation is Reasonable and Treats Class Members**  
16 **Equitably Relative to Each Other**

17 The claims process and distribution method are reasonable. Settlement Class Members  
18 who seek benefits under the Settlement need only submit a simple claim form, and the form is  
19 prepopulated if their purchase information is known to JLI because they made purchases on the  
20 JUUL website. *See* 4 William B. Rubenstein, *Newberg on Class Actions* § 12:18 (5th ed. 2011)  
21 (noting that “a claiming process is inevitable” in certain settlements such as those involving  
22 “defective consumer products sold over the counter.”). Further, the claim process is no more  
23 onerous than would be required after trial.

24 The method for distributing funds to Eligible Claimants is also reasonable. “[A]n  
25 allocation formula need only have a reasonable, rational basis, particularly if recommended by  
26 experienced and competent counsel.” *Rieckborn v. Velti PLC*, 2015 WL 468329, at \*8 (N.D. Cal.

1 Feb. 3, 2015) (citation omitted). The Court finds that the Plan of Allocation is fair, reasonable, and  
2 adequate and is hereby approved.

3 Under the Plan of Allocation, all Settlement Class Members who submit claims will  
4 receive cash payments based on their *pro rata* allocation of the Net Settlement Fund. The Plan of  
5 Allocation provides higher payments for those who first purchased in the earlier years of the class  
6 period or when they were underage. *See In re MyFord Touch Consumer Litig.*, No. 13-cv-03072-  
7 EMC (N.D. Cal. Mar. 28, 2019), ECF No. 526 at 4-5 (granting approval of settlement plan that  
8 pays a lower dollar amount in relation to the comparative weakness of certain claims). The larger  
9 payments for those who made their initial purchases earlier is consistent with the evidence about  
10 changes in relevant warnings over time, which led the Court to note in its class certification order  
11 that “JLI will be free to argue at the appropriate points (on summary judgment, trial, post-trial)  
12 that a reasonable consumer who purchased after a certain date could not have been misled by its  
13 representations or omissions about its products given the other information in the market or given  
14 the addition of the ‘black-box’ nicotine warning on JUUL’s packaging.” *In re JUUL Labs, Inc.*  
15 *Mkt’g, Sales Pracs., and Prods. Liab. Litig.*, 2022 WL 2343268, at \*30 (N.D. Cal. June 28, 2022).  
16 The enhanced payments for those who began purchasing when underage is based on Plaintiffs’  
17 full refund theory of recovery as to their youth targeting claims, as opposed to the price premium  
18 damages model applicable to other claims. *See id.* at \*17 (holding “Plaintiffs’ full refund model,  
19 with respect to the Youth Classes, supports certification” because such sales were allegedly  
20 illegal). Further, it is rational to provide the enhancements for all purchases by such persons, even  
21 after the warnings were augmented or the purchasers reached adulthood, because of the addictive  
22 nature of the JUUL Products.

23 Setting a cap on the recoveries by claimants who lack proof of purchase while claims that  
24 are accompanied by proof of purchase will not be capped is also reasonable. The use of a cap for  
25 Claimants without proof of purchases ensures a fair distribution and serves to disincentivize  
26 illegitimate or exaggerated claims. *See, e.g., In re Groupon, Inc.*, No. 11md2238 DMS (RBB),  
27 2012 WL 13175871, at \*6 (S.D. Cal. Sep. 28, 2012) (holding requirement of a voucher number or  
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1 other proof of purchase serves “to ensure that money is fairly distributed for valid claim.”) Such a  
 2 cap is a common feature of consumer class action settlements. *See, e.g., Broomfield v. Craft Brew*  
 3 *All., Inc.*, No. 17-cv-01027-BLF, 2020 WL 1972505, at \*30 (N.D. Cal. Feb. 5, 2020) (finally  
 4 approving settlement with cap on no-proof claims); *Fitzhenry-Russell v. Coca-Cola Co.*, No. 5:17-  
 5 cv-00603-EJD, 2019 WL 11557486, at \*7 (N.D. Cal. Oct. 3, 2019) (approving settlement with cap  
 6 for claims without proof of purchase, stating that such a claim process “would be no different than  
 7 that required after trial.”); *Bruno v. Quten Research Inst., LLC*, No. SACV 11-00173 DOC(Ex),  
 8 2013 WL 990495, at \*2 (C.D. Cal. Mar. 13, 2013) (finally approving settlement with claims  
 9 limited to \$10.65 (e.g., 3 bottles) without proof of purchase, with no cap on claims accompanied  
 10 by a proof of purchase, for example a receipt or product packaging).

11 Settlement Class Members can elect their preferred method of payment, including mailed  
 12 check, direct deposit, PayPal, prepaid MasterCard, or Amazon gift card. After an initial  
 13 distribution, if there are substantial funds from uncashed payments and it is economically rational  
 14 to do so, the monies will be redistributed to the Settlement Class Members who made claims and  
 15 accepted their initial distribution payments where economically feasible. Only if residual funds  
 16 remain thereafter will they be otherwise distributed, subject to the Court’s approval.

### 17 8. The Response of Class Members

18 Out of an estimated minimum of X Settlement Class Members, there were X opt-outs and  
 19 X objections. In comparison, as of DATE Settlement Class Members have submitted an estimated  
 20 X valid Claims. *See* Decl. of NAME, Dkt. X at X. These figures represent a positive response. *See*  
 21 *Churchill Village, LLC v. General Electric*, 361 F.3d 566, 577 (9th Cir. 2004) (explaining that a  
 22 court may infer appropriately that a class action settlement is fair, adequate, and reasonable when  
 23 few class members object to it); *Zepeda v. PayPal, Inc.*, 2017 WL 1113293, at \*16 (N.D. Cal.  
 24 Mar. 24, 2017) (holding “the indisputably low number of objections and opt-outs, standing alone,  
 25 presents a sufficient basis upon which a court may conclude that the reaction to settlement by the  
 26 class has been favorable); *Cruz v. Sky Chefs, Inc.*, 2014 WL 7247065, at \*5 (N.D. Cal. Dec. 19,  
 27 2014) (“A court may appropriately infer that a class action settlement is fair, adequate, and  
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1 reasonable when few class members object to it.”); *see also, e.g., In re Carrier IQ, Inc., Consumer*  
2 *Privacy Litig.*, 2016 WL 4474366, at \*4 (N.D. Cal. Aug. 25, 2016) (stating that, “[i]n an analysis  
3 of settlements where notice relied on media notice exclusively, the claims rate ranged between  
4 0.002% and 9.378%, with a median rate of 0.023%”).

5 **E. Releases and Effect of This Order**

6 **1. Releases by Settlement Class Members**

7 By operation of this Order and Judgment, on the date specified in the Class Settlement  
8 Agreement, Settlement Class Members, including the Settlement Class Representatives, release  
9 and forever discharge and hold harmless the Released Parties of and from any and all Settlement  
10 Class Released Claims which the Settlement Class Member ever had, now have, or will have in  
11 the future. The Settlement Class Released Claims shall not release any Settlement Class  
12 Member’s: (i) claim(s) for personal injury against the Released Defendants; (ii) claims arising  
13 under the antitrust laws; (iii) claim(s) against any non-settling Defendants; (iv) claim(s) arising  
14 from the purchase of any JUUL product after December 6, 2022; or (v) right(s) to enforce the  
15 Class Settlement Agreement. Settlement Class Members shall not release their claims if either the  
16 Effective Date does not occur or the Settlement Amounts are not paid.

17 **2. Waiver of Provisions of California Civil Code § 1542**

18 By operation of this Order and Judgment, with respect to the Settlement Class Released  
19 Claims, Class Plaintiffs, the Released Parties, and Settlement Class Members shall be deemed to  
20 have waived and relinquished, to the fullest extent permitted by law, the provisions, rights and  
21 benefits conferred by any law of any state of the United States, or principle of common law or  
22 otherwise, which is similar, comparable, or equivalent to section 1542 of the California Civil  
23 Code, which provides:

24 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH  
25 THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR  
26 SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF  
27 EXECUTING THE RELEASE, AND THAT, IF KNOWN BY HIM OR  
28 HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER  
SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Plaintiffs, JLI (on behalf of itself and the Released Parties), and Settlement Class Members

1 understand and acknowledge the significance of these waivers of California Civil Code section  
2 1542 and any other applicable federal or state statute, case law, rule or regulation relating to  
3 limitations on releases.

4 The Settlement Class Released Claims of the Settlement Class are dismissed with  
5 prejudice and without costs. Accordingly, the Second Amended Consolidated Class Action  
6 Complaint and any other complaints in the litigation asserting Settlement Class Released Claims  
7 are hereby dismissed with prejudice and without costs.

### 8 3. Compliance with Class Action Fairness Act

9 The record establishes that the Class Settlement Administrator served the required notices  
10 under the Class Action Fairness Act of 2005, 28 U.S.C. § 1715, with the documentation required  
11 by 28 U.S.C. § 1715(b)(1-8).

#### 12 F. Costs of Administering the Class Settlement

13 The Class Settlement Administrator has submitted an invoice for its expenses incurred as  
14 of DATE, totaling \$. The Class Settlement Administrator has stated that it expects to incur  
15 additional amounts through the completion of its work and the distribution of settlements funds, in  
16 the amount of \$. The Court finds that such amounts are reasonable and authorizes the total  
17 payment (*i.e.* including costs previously incurred and future costs) of up to \$ to the Class  
18 Settlement Administrator, though in no event shall the Class Settlement Administrator receive  
19 payment exceeding its actual, documented out-of-pocket costs.

20 The Court also authorizes total payment of up to \$ per year for previously incurred and  
21 future costs related to the administration of the Trust (including all expenses and compensation  
22 payable under the terms of the Trust). Payments up to such amount are reasonable given the role  
23 of the Trust in protecting the Class Settlement Fund from being subject to reduction or clawback  
24 in the event JLI were to file for bankruptcy. In no event shall payments related to the  
25 administration of the Trust exceed the Class Settlement Fund's share of the actual, documented  
26 out-of-pocket costs for administering the Trust.

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**G. Other Effects of This Order**

No action taken by the Parties, either previously or in connection with the negotiations or proceedings connected with the Settlement Agreement, shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses heretofore made or an acknowledgment or admission by any Party of any fault, liability or wrongdoing of any kind whatsoever to any other Party. Neither the Settlement Agreement nor any act performed or document executed pursuant to or in furtherance of the Settlement: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any claim made by the Settlement Class Members or Class Counsel, or of any wrongdoing or liability of the persons or entities released under this Order and Judgment and the Settlement Agreement, or (b) is or may be deemed to be, or may be used as an admission of, or evidence of, any fault or omission of any of the persons or entities released under this Order and Judgment and the Settlement Agreement, in any proceeding in any court, administrative agency, or other tribunal. JLI's and the Released Parties' agreement not to oppose the entry of this Order and Judgment shall not be construed as an admission or concession that class certification was or would be appropriate in the litigation outside of the context of settlement or would be appropriate in any other action.

Except as provided in this Order, Plaintiffs shall take nothing against the Released Parties by the Released Claims. This Order shall constitute a final judgment binding the Parties and Settlement Class Members with respect to the Released Claims.

No distributions shall be made the Settlement Fund, and any account holding the Settlement Fund, without the written authorization of Class Counsel.

Defendants will have no role in, nor will they be held liable in any way for, the determination of monetary relief to be accorded each Claimant. No Settlement Class Member or any other person will sue or have any claim or cause of action against the Settlement Class Representatives, Class Counsel or any person designated by Class Counsel, Co-Lead Counsel or the Class Settlement Administrator arising from or relating to the Settlement, the Released Claims, the litigation, or determinations or distributions made substantially in accordance with the

1 Settlement or Orders of the Court, including this Final Approval Order and Judgment.

2 Without affecting the finality of the judgment hereby entered, the Court reserves exclusive  
3 jurisdiction over the implementation of the Class Settlement Agreement. In the event the Effective  
4 Date does not occur in accordance with the terms of the Class Settlement Agreement, then this  
5 Order and any judgment entered thereon shall be rendered null and void and shall be vacated, and  
6 in such event, all orders and judgments entered and releases delivered in connection herewith shall  
7 be null and void and the Parties shall be returned to their respective positions ex ante.

8 Without further order of the Court, the Parties may agree to reasonable extensions of time  
9 to carry out any provisions of the Settlement Agreement.

10 There is no just reason for delay in the entry of this Judgment, and immediate entry by the  
11 Clerk of the Court is expressly directed.

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14 Dated: \_\_\_\_\_, 2023

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Hon. William H. Orrick  
U.S. District Judge

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