

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE BROILER CHICKEN ANTITRUST
LITIGATION

Case No. 1:16-cv-08637

This Document Relates To:

Honorable Thomas M. Durkin
Magistrate Judge Jeffrey T. Gilbert

All Commercial and Institutional Indirect
Purchaser Plaintiff Actions

**DECLARATION OF ADAM J. ZAPALA IN SUPPORT OF COMMERCIAL AND
INSTITUTIONAL INDIRECT PURCHASER PLAINTIFFS' UNCONTESTED MOTION
FOR PRELIMINARY APPROVAL OF SETTLEMENTS WITH DEFENDANTS HOUSE
OF RAEFORD, KOCH FOODS, MOUNTAIRE, O.K. FOODS, SANDERSON FARMS,
SIMMONS FOODS, AGRI STATS, CASE FARMS, CLAXTON, FOSTER FARMS,
PERDUE, AND WAYNE FARMS; APPROVAL OF AMENDED HARRISON POULTRY
SETTLEMENT; AND APPROVAL OF CIPPS' SETTLEMENT NOTICE PROGRAM ¹**

I, Adam J. Zapala, declare and state as follows:

1. I am a partner at Cotchett, Pitre & McCarthy, LLP. During the pendency of this litigation, my firm has acted as Co-Lead Class Counsel, along with Gustafson Gluek PLLC, to the Commercial and Institutional Indirect Purchaser Plaintiffs ("CIPPs"). I make this declaration

¹ The "Settling Defendants" include: Harrison, Poultry Inc. ("Harrison Poultry"), House of Raeford Farms, Inc. ("House of Raeford"); Koch Foods, Inc., JCG Foods of Alabama, LLC., JCG Foods of Georgia, LLC, and Koch Meat Co., Inc. (collectively "Koch Foods"); Mountaire Farms, LLC and Mountaire Farms of Delaware, Inc. (collectively "Mountaire"); O.K. Foods, Inc., O.K. Farms, Inc., and O.K. Industries, Inc. (collectively, "O.K. Foods"); Sanderson Farms, LLC (f/k/a Sanderson Farms, Inc.), Sanderson Farms Foods, LLC (f/k/a Sanderson Farms, Inc. (Foods Division)), Sanderson Farms Production, LLC (f/k/a Sanderson Farms, Inc. (Production Division)), and Sanderson Farms Processing, LLC (f/k/a Sanderson Farms, Inc. (Processing Division)) (collectively "Sanderson Farms"); Simmons Foods, Inc. and Simmons Prepared Foods, Inc. (collectively "Simmons Foods"); Agri Stats, Inc. ("Agri Stats"); Case Foods, Inc., Case Farms, LLC, and Case Farms Processing, Inc. (collectively "Case Foods"); Norman W. Fries, Inc., d/b/a Claxton Poultry Farms ("Claxton"); Foster Farms, LLC and Foster Poultry Farms (collectively "Foster Farms"); Perdue Farms, Inc. and Perdue Foods LLC (collectively "Perdue"); and Wayne Farms, LLC ("Wayne Farms").

based on my personal knowledge and if called as a witness, I could and would competently testify to the matters stated herein.

2. I submit this Declaration in support of CIIPPs' Motion for Preliminary Approval of the Settlements reached with House of Raeford, Koch Foods, Mountaire, O.K. Foods, Sanderson Farms, Simmons, Agri Stats, Case Foods, Claxton, Foster Farms, Perdue and Wayne Farms; Approval of Amended Harrison Poultry Settlement (collectively, the "Settlements" or "Round 2 Settlements"); and Approval of CIIPPs' Settlement Notice Program, filed concurrently herewith.

3. On behalf of the CIIPPs, I—along with my Co-Lead Counsel—personally conducted numerous rounds of settlement negotiations with counsel for the Settling Defendants. These negotiations culminated with the signing of the Settlement Agreements over the course of several months in 2023 and 2024.

4. The settlements with Harrison Poultry, House of Raeford, Koch Foods, Mountaire, O.K. Foods, Sanderson Farms, and Simmons, are substantially similar to each other and to settlements previously reached and approved by this Court in connection with the Round 1 Settlements. CIIPPs have agreed to release certain Released Claims against the Released Parties (as defined in the settlement agreements) arising from the conduct alleged in the Complaint. In exchange, the Settling Defendants have agreed to settlement payments, injunctive relief (compliance), and to provide cooperation should any other Defendant proceed to trial.

5. A true and correct copy of the settlement agreement between CIIPPs and House of Raeford is attached hereto as **Exhibit A**. As the settlement terms reveal, House of Raeford agreed to pay \$5,750,000. CIIPPs estimate that House of Raeford's market share for the sale of Broilers to the CIIPP class constitutes 4.05%. Thus, this settlement has a value of \$1,419,753.09 per market share point.

6. A true and correct copy of the settlement agreement between CIIPPs and Koch Foods is attached hereto as **Exhibit B**. Koch Foods agreed to pay \$13,500,000. CIIPPs estimate that Koch Foods' market share for the sale of Broilers to the CIIPP class constitutes 9.75%. Thus, this settlement has a value of \$1,384,615 per market share point.

7. A true and correct copy of the settlement agreement between CIIPPs and Mountaire is attached hereto as **Exhibit C**. Mountaire agreed to pay \$9,700,000. CIIPPs estimate that Mountaire's market share for the sale of Broilers to the CIIPP class constitutes 8.84%. Thus, this settlement has a value of \$1,097,285.07 per market share point.

8. A true and correct copy of the settlement agreement between CIIPPs and O.K. Foods is attached hereto as **Exhibit D**. O.K. Foods agreed to pay \$4,500,000. CIIPPs estimate that O.K. Foods' market share for the sale of Broilers to the CIIPP class constitutes 1.27%. Thus, this settlement has a value of \$3,543,307.09 per market share point.

9. A true and correct copy of the settlement agreement between CIIPPs and Simmons Foods is attached hereto as **Exhibit E**. Simmons Foods agreed to pay \$4,250,000. CIIPPs estimate that Simmons Foods' market share for the sale of Broilers to the CIIPP class constitutes 2.88%. Thus, this settlement has a value of \$1,475,694.44 per market share point.

10. A true and correct copy of the settlement agreement between CIIPPs and Sanderson Farms is attached hereto as **Exhibit F**. Sanderson Farm's agreed to pay \$750,000. CIIPPs estimate that Sanderson Farms' market share for the sale of Broilers to the CIIPP class constitutes 12.24%. Thus, the settlement has a value of \$61,274,50 per market share point. While this settlement has a lower per market share point value than others, it must be viewed in light of the October 25, 2023, full defense verdict obtained by Sanderson Farms at the Direct Purchaser Plaintiff trial. *See* ECF No. 7014.

11. A true and correct copy of the amended settlement agreement between CIIPPs and Harrison Poultry is attached hereto as **Exhibit G**. Harrison Poultry paid \$2,800,000.00 pursuant to the terms of the Settlement Agreement preliminarily approved by the Court on July 25, 2023 (ECF No. 6694).. CIIPPs estimate that Harrison Poultry's market share for the sale of Broilers to the CIIPP class constitutes 0.83%. Thus, the settlement has a value of \$3,373,493.98 per market share point.

12. The Amended Harrison Poultry Settlement clarifies that the settlement is on behalf of the Certified Class; substitutes "Certified Class" for "Settlement Class" wherever the latter term appears in the Settlement Agreement; makes clear that the Certified Class excludes all persons and entities included in the Exclusion List (ECF No. 6566-5); and does not provide for a second opt-out opportunity. The Amended Harrison Poultry Settlement is identical to the preliminarily approved Harrison agreement in all other material respects.

13. In the aggregate, the settlements with Harrison Poultry, House of Raeford, Koch Foods, Mountaire, O.K. Foods, Sanderson Farms, and Simmons provide monetary consideration in the amount of forty-one million, two hundred fifty thousand dollars (\$41,250,000). When combined with prior settlements between CIIPPs and other, previously settling Defendants, these Settlements bring the total monetary recovery for the CIIPP class to \$145,140,000.00. (ECF No. 6634-1 at ¶ 7). With the exception of the more modest settlement with Sanderson Farms, fresh from its trial victory against the Track 1 Direct Purchaser Plaintiff Class and Track 1 Direct Action Plaintiffs, these Settlements have values per market share point between \$1,097,285.07 and \$3,543,307.09 – well within the per market share point range obtained in the previous settlements obtained by CIIPPs.

14. Prior to our clients filing this case, we commenced and pursued an extensive

investigation of the Broiler market and conduct of the Defendants underlying the allegations in CIIPPs' Consolidated Amended Complaint (ECF No. 179). We have litigated this case vigorously and comprehensively since then. By the time we agreed to settle with the Settling Defendants, we were well aware of the strengths and weaknesses of each side's positions. In addition to our extensive pre-filing investigation, we had: (a) extensively briefed oppositions to the motions to dismiss, on which we largely prevailed; (b) committed significant resources to analysis and review of 8.5 million documents produced in discovery; (c) took and defended over 100 depositions; (d) argued numerous motions; (e) worked extensively with experts to submit class certification and merits expert reports and rebuttal reports; (f) moved for and obtained certification of the CIIPP Certified Classes; (g) opposed motions for summary judgment; (h) opposed *Daubert* motions to exclude CIIPPs' experts; and (i) prepared for a March 12, 2024 trial against six Defendants – House of Raeford, Koch Foods, Mountaire, O.K. Foods, Simmons Foods, and Sanderson Farms. As a result, we have had the benefit of an extremely well-developed record in our negotiations with the Settling Defendants and their attorneys.

15. CIIPPs reached agreements in principle with House of Raeford, Koch Foods, Mountaire, O.K. Foods, Simmons Foods, and Sanderson Farms in the weeks leading up to the scheduled March 12, 2024, trial, with the last of the agreements reached with O.K. Foods on or around February 16, 2024. Since then, we have worked with counsel for these Settling Defendants to memorialize the settlements in the written agreements reflected in Exhibits A-F, along with the Amended Harrison Poultry Settlement (Exhibit G).

16. In deciding whether to continue post-trial and appellate efforts against Agri Stats, Case Foods, Claxton, Foster Farms, Perdue, and Wayne Farms, all of whom prevailed against CIIPPs at summary judgment, CIIPPs Co-Lead Class Counsel considered the strength of the

parties' respective claims and defenses, and the substantial benefits that the settlements will provide to the Class. Among other things, these Defendants, as prevailing parties, have agreed not to seek their litigation costs as against the CIIPP classes. Given the enormous length and complexity of this litigation, the potentially recoverable costs in this matter are substantial and Co-Lead Class Counsel believe that the Settlements are in the best interest of the CIIPPs.

17. Thus, as to Agri Stats, Case Foods, Claxton, Foster Farms, Perdue and Wayne Farms, CIIPPs have agreed not to appeal the adverse summary judgment ruling. In exchange, Agri Stats, Case Foods, Claxton, Foster Farms, Perdue, and Wayne Farms agree to forego collecting any taxable costs from CIIPPs.

18. A true and correct copy of the settlement agreement between CIIPPs and Agri Stats is attached hereto as **Exhibit H**.

19. A true and correct copy of the settlement agreement between CIIPPs and Case Foods is attached hereto as **Exhibit I**.

20. A true and correct copy of the settlement agreement between CIIPPs and Claxton is attached hereto as **Exhibit J**.

21. A true and correct copy of the settlement agreement between CIIPPs and Foster Farms is attached hereto as **Exhibit K**.

22. A true and correct copy of the settlement agreement between CIIPPs and Perdue is attached hereto as **Exhibit L**.

23. A true and correct copy of the settlement agreement between CIIPPs and Wayne Farms is attached hereto as **Exhibit M**.

24. A true and correct copy of the CIIPPs' proposed plan of allocation is attached hereto as **Exhibit N**.

25. As highlighted above in paragraph 15, before entering into all of the Round 2 Settlements, Co-Lead Counsel were well-informed of the facts, benefits, risks, and consequences of the proposed Settlements. Co-Lead Counsel thoroughly evaluated the relative strengths and weaknesses of our respective litigation positions in relation to these Settlements.

26. The resulting separate settlement negotiations with each of the Settling Defendants were the product of intensive, hard fought, arm's-length negotiations and many rounds of give-and-take between CIIPPs' Co-Lead Counsel and counsel for the Settling Defendants. During the negotiations, Co-Lead Counsel held a number of telephonic meetings, exchanged information and settlement proposals, debated many issues, and negotiated many terms of the settlement, including (for the monetary Settlements) the amount of payment, the timing of payment, potential conditions on payment, and potential cooperation and injunctive relief. Each side had the opportunity to be fully informed of the relative strengths and weaknesses of their positions, litigation risks and issues involving the ability to pay. Some of the Round 2 Settlements were reached through a supervised mediation process. Throughout these negotiations, the Settling Defendants were represented by their own experienced, sophisticated counsel.

27. There was no collusion or preference among counsel for the parties at any time during these negotiations. To the contrary, the negotiations were contentious, hard-fought, and fully informed. CIIPPs sought to obtain the greatest monetary benefit possible from each of the Defendants. Furthermore, there was no discussion or agreement at any time regarding the amount of attorneys' fees CIIPPs' counsel would ask the Court to award in this case.

28. I have personally prosecuted numerous antitrust class actions as lead counsel or in other leadership positions. I have negotiated many settlements during those years. In my opinion, and in the opinion of my esteemed Co-Lead Counsel, the proposed Settlement Agreements are

fair, reasonable, and adequate. The Settlements provide substantial benefits to the Class and avoid the delay and uncertainty of continuing protracted litigation with the Settling Defendants.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on February 12, 2025, in Burlingame, California.

/s/ Adam J. Zapala
ADAM J. ZAPALA

EXHIBIT A

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

*IN RE BROILER CHICKEN ANTITRUST
LITIGATION*

No. 1:16-cv-08637 TMD

Hon. Thomas M. Durkin

Magistrate Judge Jeffrey T. Gilbert

This Document Relates To:

All Commercial and Institutional Indirect
Purchaser Plaintiff Actions

**SETTLEMENT AGREEMENT BETWEEN
COMMERCIAL AND INSTITUTIONAL INDIRECT PURCHASER PLAINTIFFS
AND HOUSE OF RAEFORD FARMS, INC.**

This Settlement Agreement (“Settlement Agreement” or “Agreement”) is made and entered into as of the Execution Date, by and between House of Raeford Farms, Inc. (“House of Raeford” or “Settling Defendant”) on the one hand, and the Commercial and Institutional Indirect Purchaser Plaintiffs (“Plaintiffs” or “CIIPPs”),¹ individually and on behalf of a class of indirect purchasers of Broilers,² on the other hand, which Agreement is subject to court approval in the above-captioned action (the “Action”). CIIPPs, on behalf of the Certified Class, as more fully described herein, and House of Raeford are referred to herein collectively as the “Parties” or individually as a “Party.”

¹ As used herein, “CIIPPs” means Sargent’s Restaurant and Lounge; Fargo Stopping Center, LLC; Wildwood Tavern LLC; Bodega Brew Pub, Inc.; Sullott Corporation; Chicken Joe’s LLC; Eat This, Inc.; Alpine Special Treatment Center, Inc.; Tennis Bums, LLC; Alabama Joe’s 2, Inc.; Tani Sushi Bistro, LLC; France 44 Foods, Inc.; Alliance Healthcare System, Inc.; Little Figs, Inc.; Da Big Blue Enterprises Corp.; Floersch IGA, Inc.; Avanti’s of Phoenix, Inc.; Midtown Bar and Grill LLC; Mookie’s Southern Cuisine LLC; Eowyn, LLC; Peppers Grill & Bar, Inc.; Daliano’s, Inc.; Sumner County Restaurant & Creamery LLC; Bashara & Company, LC; Tic-Tac-O; Brix Tavern, LLC; Pancho’s Taqueria, Inc.; Legacy 5, LLC; Roost Fried Chicken LLC; Oregano Italian, LLC; Bordenaro’s Pizza, Inc.; Telavi Hospitality, Inc.; and FB Mall, LLC.

² Unless otherwise indicated, all capitalized terms shall have the meaning ascribed in the Definitions in Section I.

RECITALS

A. Plaintiffs are prosecuting the Action on their own behalf and on behalf of the Certified Class (as hereinafter defined).

B. Plaintiffs have alleged, among other things, that House of Raeford entered into a contract, combination or conspiracy in restraint of trade, the purpose and effect of which was to suppress competition and to allow House of Raeford to charge supra-competitive prices for Broilers during the Class Period, in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1, as well as various state antitrust, unfair competition, unjust enrichment, and consumer protection laws.

C. House of Raeford vigorously and affirmatively rejects Plaintiffs' Claims and has alleged numerous defenses to Plaintiffs' Claims.

D. This Settlement Agreement shall not be deemed or construed to be an admission or evidence of any violation of any statute, law, rule, or regulation or of any liability or wrongdoing by House of Raeford or of the truth of any of Plaintiffs' Claims, nor shall it be deemed or construed to be an admission or evidence of House of Raeford's defenses.

E. Co-Lead Counsel have conducted an investigation into the facts and law regarding the Action and the possible legal and factual defenses thereto and have concluded that a settlement with House of Raeford according to the terms set forth herein is fair, reasonable, adequate, and beneficial to and in the best interests of the Certified Class, as defined herein, given the uncertainties, risks, and costs of continued litigation.

F. Despite its belief that it is not liable for, and has strong defenses to, Plaintiffs' Claims, House of Raeford desires to settle the Action to avoid the further expense, inconvenience, disruption, and burden of this litigation and any other present or future litigation arising out of the facts that gave rise to the Action, to avoid the risks inherent in uncertain complex litigation and trial, and thereby to put to rest this controversy.

G. House of Raeford has entered into a Second Amended Judgment Sharing Agreement with other Defendants, which Co-Lead Counsel have reviewed, and which is addressed in Paragraph II(D)(5) below.

H. Arm's-length settlement negotiations have taken place between Co-Lead Counsel and the Settling Defendant's Counsel, and the settlement was reached as a result of those negotiations.

I. CIIPPs and Co-Lead Counsel believe that the Settlement Fund (as hereinafter defined) reflects fair, reasonable, and adequate compensation for the Certified Class (as hereinafter defined) to release, settle and discharge their claims that they were overcharged by the alleged anticompetitive conduct of which they accuse House of Raeford.

J. The Parties to this Agreement desire to fully and finally settle and compromise this Action and all potential Released Claims by Releasing Parties against the Released Parties as set forth below to avoid the costs and risks of protracted litigation and trial.

IT IS HEREBY AGREED, in consideration of the foregoing, the terms and conditions set forth below, and other good and valuable consideration, by and among the Settling Parties, that the Action and all Released Claims are finally and fully settled and compromised and that the Action shall be dismissed in its entirety with prejudice as to the Released Parties and without cost to the Released Parties, other than those costs set forth in this Settlement Agreement, subject to approval of the Court pursuant to Rule 23 of the Federal Rules of Civil Procedure, upon and subject to the following terms and conditions:

I. DEFINITIONS

A. Certified Class Definition

1. “Certified Class” means the CIIPP litigation classes—both the state damages classes and the nationwide injunctive relief class—certified by the Court’s May 27, 2022, Order (ECF No. 5644). The foregoing classes exclude all persons and entities that previously filed a valid exclusion from the litigation class.

B. General Definitions

1. “Action” means the putative class action filed by CIIPPs in the above-captioned proceeding.

2. “Affiliate” means with respect to any person, entity or company, any person, entity, or company that, directly or indirectly, controls, is controlled by or is under common control with such person, entity or company.

3. “Broilers” are chickens raised for meat consumption to be slaughtered before the age of 13 weeks, and which may be sold in a variety of forms, including fresh or frozen, and whole or in parts, but excluding chicken that is grown, processed, and sold according to halal, kosher, free range, or organic standards. “Broilers” does not include dark meat chicken products, such as chicken thighs. The definition also does not include certain “further processed” products, which include any chicken meat that has been breaded, cooked, or “formed,” such as patties, or nuggets; or products made from mechanically separated meat such as chicken sausages; or products that are ground, sliced, diced, or cubed. Marinated, seasoned, frozen and portioned products, that are not otherwise further processed, are included within the definition of Broilers.

4. “Claims” mean any and all, known or unknown, actual or potential causes of action, claims, contentions, allegations, assertions of wrongdoing, suits, damages, losses, or

demands for recoveries, remedies, or fees complained of, relating to, referred to, or arising from the conduct alleged in the Action or which could have been alleged in the Action, whether class, individual, or otherwise in nature.

5. “Class Member” means each member of the Certified Class that did not timely and properly exclude itself from the Certified Class, subject to Section I(A)(1).

6. “Settlement Notice” means the notice to the Class, that is approved by the Court, in accordance with Section II(G)(3) below.

7. “Class Period” means the period from and including January 1, 2009, through July 31, 2019.

8. “Co-Conspirator” means those entities named as co-conspirators in the Operative Complaint.

9. “Co-Lead Counsel” and “Class Counsel” mean, collectively, the law firms of Gustafson Gluek PLLC and Cotchett, Pitre & McCarthy, LLP, Commercial and Institutional Indirect Purchaser Plaintiffs’ Co-Lead Class Counsel.

10. “Complaint” or “Operative Complaint” means the Seventh Amended Consolidated Class Action Complaint in the Action, ECF Nos. 3929 and 3931.

11. “Court” or “District Court” means the United States District Court for the Northern District of Illinois and the Honorable Thomas M. Durkin or his successor, or any other Court in which the Action is proceeding.

12. “Date of Final Approval” means the date on which Final Approval as provided for in Section II(G)(8) occurs.

13. “Date of Preliminary Approval” means the date on which the Court enters an order granting preliminary approval to this Settlement Agreement, pursuant to Rule 23(e) of

the Federal Rules of Civil Procedure, as provided in Section II(G)(2) below.

14. “Defendant” or “Defendants” means any or all of the Defendants named in the Operative Complaint.

15. “Execution Date” means the date on which this Settlement Agreement is entered into and executed by all Parties.

16. “Escrow Account” means the account with the Escrow Agent that holds the Settlement Fund.

17. “Escrow Agent” means the bank into which the Settlement Fund shall be deposited and maintained as set forth in Section II(C) of this Agreement.

18. “Fairness Hearing” means a hearing on the settlement proposed in this Settlement Agreement held by the Court to determine whether the proposed settlement is fair, reasonable, and adequate, and whether it should be finally approved by the Court.

19. “Final Approval” shall mean the satisfaction of all the conditions set forth in Section II(G)(8).

20. “Indirect Purchaser State” means Arizona, California, District of Columbia, Florida, Hawaii, Illinois, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, West Virginia, and Wisconsin.

21. “Net Settlement Fund” means the Settlement Fund, plus accrued interest and income, less any award of attorneys’ fees, Service Awards, and reimbursement of expenses and less applicable taxes, tax preparation expenses, and costs of Settlement Notice and settlement administration as provided for in this Settlement Agreement, that may be awarded or approved by

the Court.

22. “Notice” means the notice in accordance with Section III(M).

23. “Order and Final Judgment” means the order and final judgment of the Court approving the Settlement Agreement, as described in Section II(G)(6) below.

24. “Parties” or “Settling Parties” means Settling Defendant and the Class, as represented by CIPPs.

25. “Plaintiffs” means the Commercial and Institutional Indirect Purchaser Plaintiffs (“CIPPs”).

26. “Released Claims” means any and all existing or potential Claims, demands, claims, actions, suits, and causes of action, whether class, individual, or otherwise in nature (whether or not any Class Member has objected to the settlement or makes a claim upon or participates in the Settlement Fund, whether directly, indirectly, representatively, derivatively or in any other capacity) that the Releasing Parties (defined below) ever had, now have, or hereafter can, shall, or may ever have on account of, or in any way arising out of, any and all known and unknown, foreseen and unforeseen, suspected or unsuspected, actual or contingent, liquidated or unliquidated, claims, demands, actions, suits, causes of action, injuries, or damages arising from or in connection with any act or omission through the date of Preliminary Approval, relating to or referred to in the Action or arising from the factual predicate of the Action. For the avoidance of doubt, “Released Claims” includes all claims that have been asserted, or could have been asserted, in the Action, including all claims in any way arising out of or relating to the purchase of Broilers produced, processed or sold by House of Raeford or any of the other Defendants or Co-Conspirators. Notwithstanding the above, “Released Claims” does not include: (a) claims asserted against any other Defendant or alleged Co-Conspirator other than the Released

Parties; (b) damages claims under the state or local laws of any jurisdiction other than an Indirect Purchaser State; or (c) any wholly-unrelated claims based on: (1) product defect or breach of warranty; (2) breach of contract (except such breaches relating to anticompetitive actions and/or unfair or inflated pricing); or (3) purchases of Broilers by persons or entities other than the Releasing Parties. The reservation of claims set forth in (a) through (c) of this Section I(B)(26) does not impair or diminish the right of the Released Parties to deny any such claims or to assert any and all defenses to such claims. “Released Claims” does not include those claims that cannot be released under Federal law.

27. “Released Party or Parties” means jointly and severally, individually and collectively, House of Raeford, any and all of its past and current corporate parents (including holding companies), members, subsidiaries, Affiliates, divisions, departments, joint ventures, predecessors, successors, assigns and any and all of their respective heirs, executors, devisees, administrators, officers, executives, directors, stockholders, employees, partners, members, managers, agents, attorneys, advisors, auditors, accountants, contractors, servants, representatives and insurers. “Released Parties” includes any person or entity identified in the previous sentence in relation to House of Raeford that has been or in the future may be identified in the Action as a “Co- Conspirator.” Notwithstanding the foregoing, “Released Parties” does not include any other Defendant or alleged Co-Conspirator, either explicitly or as a third-party beneficiary.

28. “Releasing Parties” means jointly and severally, individually and collectively, Plaintiffs, the Certified Class, and each Class Member, on behalf of themselves and any person or entity claiming by or through them, including without limitation, their respective predecessors; successors; assigns; and any and all past, present, and future parents, owners,

subsidiaries, divisions, departments, Affiliates, heirs, executors, devisees, administrators, officers, directors, stockholders, employees, partners, members, managers, principals, agents, attorneys, legal or other advisors, auditors, accountants, contractors, servants, representatives and insurers.

29. “Settling Defendant” and “House of Raeford” mean House of Raeford Farms, Inc.

30. “Settling Defendant’s Counsel” means Henry W. Jones, Jr., Jordan Price Wall Gray Jones & Carlton, PLLC.

31. “Settlement Amount” means the cash payment of FIVE MILLION SEVEN HUNDRED AND FIFTY THOUSAND dollars (\$5,750,000.00), as more specifically described in Section II(C)(1), below.

32. “Settlement Fund” means the funds described in Section II(c) of this Settlement Agreement, plus accrued interest, in the separate Escrow Account for the settlement contemplated by this Settlement Agreement established in accordance with Section II(a) below.

II. SETTLEMENT

A. The Parties’ Efforts to Effectuate this Settlement Agreement. The Parties will cooperate in good faith and use their best efforts to seek the Court’s Preliminary Approval and Final Approval of the Settlement Agreement.

B. Litigation Standstill. Effective with the Execution Date, and except to the extent expressly authorized in this Agreement, CIPPs and their counsel shall cease all litigation activities against House of Raeford in the Action, and House of Raeford and its counsel shall cease all litigation activities against CIPPs in the Action, provided, however, that both CIPPs and House of Raeford may seek appropriate discovery in the Action from other persons or entities. Upon execution of this agreement, the parties will inform the Court of the fact of the settlement agreement and the forthcoming motion for preliminary approval. The CIPPs agree that any and

all experts retained by them will not testify or submit a report on behalf of any other plaintiff or in any trial other than a trial in which the CIIPPs are a party. None of the foregoing provisions shall be construed to prohibit CIIPPs from seeking appropriate discovery or testimony at trial from non-settling Defendants or co-conspirators or any other person other than Settling Defendant. House of Raeford shall, in turn, cease all litigation activities against CIIPPs related to the defense of claims against House of Raeford in the Action. None of the foregoing provisions shall be construed to prohibit House of Raeford from defending itself against the claims of non-settling plaintiffs.

C. Performance By Settling Defendant and CIIPPs

1. **Settlement Payment.** In exchange for the full consideration described in this Settlement Agreement, House of Raeford shall pay the Settlement Amount in United States dollars, and in immediately available funds. The Parties agree that the Settlement Amount is the only amount to be paid by House of Raeford and shall be inclusive of the Certified Class recovery amounts, any service awards to Plaintiffs for the work Plaintiffs performed on behalf of the Certified Class (“Service Awards”) as awarded by the Court, fees (including attorneys’ fees and any other fees), and costs (including costs related to Settlement Notice and settlement administration).

a. The Settlement Amount shall be paid by House of Raeford into the Escrow Account for the Settlement Fund established in Section II(E)(1) by wire transfer, pursuant to instructions from the Escrow Agent or Co-Lead Counsel. The Settlement Payment shall be made within 10 business days of the Execution Date.

b. Each Class Member and each Releasing Party shall look solely to the Net Settlement Fund for full and complete settlement and satisfaction by House of Raeford

and the Released Parties, as provided herein, of all Released Claims and shall not be entitled to another payment or relief from the Released Parties.

c. Except as provided by order of the Court, no member of the Certified Class shall have any interest in the Settlement Fund or any portion thereof. CIIPPs, members of the Certified Class, and their counsel will be reimbursed solely out of the Settlement Fund for all expenses including, but not limited to, attorneys' fees and expenses, Service Awards, and the costs of notice of the Settlement Agreement to members of the Certified Class. House of Raeford and the other Released Parties shall not be liable for any costs, fees, or expenses of any of CIIPPs' and Co-Lead Counsel's attorneys, experts, advisors, or representatives, but all such costs and expenses as approved by the Court shall be paid out of the Settlement Fund.

2. **Compliance.** Settling Defendant asserts that its business practices do not constitute a per se or other violation of Section 1 of the Sherman Act with respect to the sale of Broilers. The parties agree that Settling Defendant will not, for a period of 24 months from the date of the entry of Final Judgment, engage in conduct that constitutes a per se violation of Section 1 of the Sherman Act with respect to the sale of Broilers.

3. **Cooperation.**

a. When reasonably requested by CIIPPs, House of Raeford agrees to use reasonable efforts (within the scope and terms of the Evidentiary Stipulation between House of Raeford and the Plaintiffs for the September 2023 trial), to authenticate and provide foundation for admissibility of documents and/or things produced in the Action by House of Raeford (not to exceed fifty (50) documents), where the facts indicate that the documents and/or things at issue are authentic and that such foundation is proper. House of Raeford agrees to take steps to undertake this cooperation in a timely fashion.

b. To the extent that House of Raeford(a) responds to written discovery, (b) makes Rule 34 document productions, or (c) provides other plaintiffs in the Action with formal document or information proffers in conjunction with a settlement with those plaintiffs, House of Raeford will serve or otherwise provide CIIPPs a copy of such materials within seven (7) days of their production to any other plaintiff.

D. Release and Covenant Not to Sue

1. **Release.** Upon the occurrence of the Date of Final Approval, and in consideration of the terms set forth in this Agreement, the Releasing Parties shall be deemed to have, and by operation of law and of the Order and Final Judgment shall have, hereby fully, finally, and forever completely compromised, settled, released, acquitted, resolved, relinquished, waived, and discharged the Released Parties of all Released Claims.

2. **Covenant Not to Sue.** The Releasing Parties covenant not to sue, directly or indirectly, or otherwise seek to establish liability against, the Released Parties for any transaction, event, circumstance, action, failure to act, or occurrence of any sort or type arising out of or related to the Released Claims, including, without limitation, seeking to recover damages or other relief relating to any of the Released Claims. This Paragraph shall not apply to any action to enforce this Settlement Agreement.

3. **Full Release.** The Parties to this Agreement expressly agree and confirm that the Released Claims as set forth in Section I(B)(26) shall be interpreted as broadly as possible and to the fullest extent permitted by law and constitute a full and final release by the Releasing Parties of the Released Parties for the Released Claims.

4. **Waiver.** In addition to Section II(D)(3), the Releasing Parties shall be deemed to have, and by operation of the Order and Final Judgment shall have, with respect to the

subject matter of the Released Claims, expressly waived and released the provisions, rights, and benefits of Section 1542 of the California Civil Code (providing, “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.”) and Section 20-7-11 of the South Dakota Codified Laws (providing, “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.”)

The Releasing Parties shall further be deemed to have, and by operation of the Order and Final Judgment shall have, expressly waived all similar provisions, statutes, regulations, rules, or principles of law or equity of any other state or applicable jurisdiction, or principle of common law. The Releasing Parties acknowledge that they are aware that they may hereafter discover facts in addition to, or different from, those facts which they now know or believe to be true with respect to the subject matter of the Released Claims, but that it is their intention to fully, finally, and forever release, acquit, relinquish and discharge the Released Parties of all Released Claims, and, upon the Date of Final Approval, shall be deemed to have, and by operation of the Order and Final Judgment, shall have, forever released, acquitted, relinquished, and discharged the Released Parties of all Released Claims, known or unknown, suspected or unsuspected, contingent or non- contingent, whether or not concealed or hidden, without regard to the subsequent discovery or existence of any such additional or different facts.

The Releasing Parties intend and, by operation of the Order and Final Judgment, shall be deemed to have acknowledged that the foregoing waiver was separately bargained for and a key element of the settlement of which this waiver and release is a part. The foregoing release of unknown, unanticipated, unsuspected, unforeseen, and unaccrued losses or claims is contractual, and not a mere recital.

5. **Effect of this Settlement Agreement on Final Judgment as to Other Defendants.** CIIPPs have been provided with a copy of the Second Amended Judgment Sharing Agreement entered into by certain Defendants dated February 25, 2020 (hereinafter referred to as “Defendants’ Agreement”). The defined terms in Defendants’ Agreement shall have the same meaning when used in this Settlement Agreement. CIIPPs agree that notwithstanding anything to the contrary contained in this Settlement Agreement, CIIPPs shall reduce the dollar amount collectable from the parties to the Defendants’ Agreement pursuant to any Final Judgment by a percentage equal to the Sharing Percentage of House of Raeford, calculated pursuant to Section 4 and Exhibits A and B of Defendants’ Agreement (as illustrated by the Appendix to Defendants’ Agreement) as if House of Raeford had not settled, had been found liable on the claim, and was a Sharing Party with respect to the Final Judgment. Notwithstanding the provision in Section I(B)(27) with respect to third-party beneficiaries, CIIPPs agree that this undertaking is also for the benefit of any Defendant that is a party to the Defendants’ Agreement and that this undertaking may be enforced by any or all of such Defendants as third-party beneficiaries hereof. Any ambiguity in this Section or inconsistency between this Settlement Agreement and the Defendants’ Agreement shall be resolved in favor of Defendants’ Agreement, including, without limitation, Sections 6.D.1 and 6.D.2 thereof. CIIPPs further represent and warrant that they have not reached any agreement to provide any portion of the settlement proceeds provided hereunder to any person

or entity that is not explicitly identified as a releasor in this Settlement Agreement, except for proceeds received by CIIPPs' attorneys for payment of attorneys' fees. CIIPPs shall use their best efforts to ensure that the Settlement Agreement constitutes a Qualified Settlement under Defendants' Agreement and to effectuate the intent of the parties to the Defendants' Agreement to treat the Settlement Agreement as a Qualified Settlement, including (as may be necessary) to make any amendments to this Settlement Agreement to reflect the intent to treat the Settlement Agreement as a Qualified Settlement.

As part of this settlement agreement and because of the CIIPPs' views of the Defendants' Second Amended Judgment Sharing Agreement, CIIPPs will eliminate damages arising from House of Raeford's sales of Broilers from the case that CIIPPs present at the March 12, 2024 trial, as against the signatories to the Second Amended Judgment Sharing Agreement. As a result of the foregoing, the other Defendants named in this action that are signatories to the Second Amended Judgment Sharing Agreement shall not be liable for any damages arising from House of Raeford's sales of Broilers. CIIPPs entered into this settlement agreement based on the foregoing understanding of Defendants' Second Judgment Sharing Agreement. Consistent with the foregoing, CIIPPs state that any liability and damages arising from House of Raeford's sale of Broilers is not joint and several as against the other Defendants included as signatories to the Second Amended Judgment Sharing Agreement.

If, as is contemplated under this agreement, CIIPPs do not seek liability and damages for House of Raeford's sales at March 12, 2024 trial as against the other signatories to the Defendants' Agreement, or if CIIPPs use a special verdict form at trial that separately identifies and excludes the applicable House of Raeford's sales from the scope of any verdict and judgment that may result from the March 12, 2024 trial, CIIPPs state that it will not be necessary

to apply the House of Raeford percentage as a discount to any trial verdict under the terms of Defendants' Agreement. CIIPPs entered into this settlement agreement based on the foregoing understanding of Defendants' Agreement.

E. Settlement Fund Administration. The Settlement Fund shall be administered pursuant to the provisions of this Settlement Agreement and subject to the Court's continuing supervision and control, until the funds in the Settlement Fund are fully distributed, as follows:

1. The Settlement Fund shall be established within an Escrow Account and administered by an Escrow Agent designated by Co-Lead Counsel.

2. Except as provided herein, the Certified Class, Co-Lead Counsel, House of Raeford, and the Released Parties shall have no financial obligation or liability for any fees, costs, or expenses related to providing Settlement Notice to the Certified Class or obtaining approval of the settlement or administering the settlement. Such fees, costs, or expenses shall be paid solely from the Settlement Fund, subject to any necessary Court approval.

3. Co-Lead Counsel, after obtaining an order of Preliminary Approval, may withdraw from the Settlement Fund up to \$600,000.00 to pay the costs for Settlement Notice and administration and for Preliminary Approval and Final Approval, provided that Plaintiffs will make their best efforts to share the costs of notice among other Defendants whose settlements are covered by the notice in proportion to the amount of the Settlement Fund for each such Defendant.

4. Co-Lead Counsel shall use best efforts to send out notice to the Certified Class as soon as is reasonably practicable after Preliminary Approval. In the event that Court-ordered notice and administration costs exceed \$600,000.00, Plaintiffs and Co-Lead Counsel may apply to the Court to pay such additional notice and administration costs from the Settlement Fund. Up to \$600,000.00 of the Settlement Notice and administration costs actually expended pursuant

to this Settlement Agreement shall be nonrefundable in the event that, for any reason, this Settlement Agreement is terminated or does not receive Final Approval, provided that Plaintiffs will make their best efforts to share the costs of notice among other Defendants whose settlements are covered by the notice in proportion to the amount of the Settlement Fund for each such Defendant.

5. If there are other settlements at the time of, or within a reasonable amount of time after, the preliminary approval of this Settlement Agreement, Co-Lead Counsel shall endeavor to ensure that Settlement Notice and claims administration costs shall be paid from the settlement funds in this and such other settlement agreements consistent with any such other settlement agreements and the approval of the Court.

6. Under no circumstances will House of Raeford or the Released Parties be required to pay more or less than the Settlement Amount pursuant to this Settlement Agreement. For purposes of clarification, the payment of any fee and expense award, the Settlement Notice and administrative costs (including payment of any applicable fees to Escrow Agent), any Service Awards to Plaintiffs, payments to Class Members and any other fees and costs associated with the implementation of this Settlement Agreement shall be exclusively paid from the Settlement Fund.

7. No other funds shall be paid or disbursements made from the Settlement Fund without an order of the Court, and in the event of any such order of the Court authorizing payments or disbursements above \$500,000, any such additional payments or disbursements shall be refunded to House of Raeford in the event that the Settlement Agreement is terminated or does not receive Final Approval and thereafter is rescinded pursuant to Section II(G)(9).

8. The Escrow Agent shall, to the extent practicable, invest the funds deposited in the Settlement Fund in discrete and identifiable instruments backed by the full faith and credit

of the United States Government, or fully insured by the United States Government or any agency thereof, and shall reinvest the proceeds of these instruments as they mature in similar instruments at their then-current market rates. Any cash portion of the Settlement Fund not invested in instruments of the type described in the first sentence of this Section II(E)(8) shall be maintained by the Escrow Agent, and not commingled with any other funds or monies, in a federally insured bank account. Subsequent to payment into the Settlement Fund pursuant to Section II(C)(1), neither House of Racford, any other Released Party, nor Settling Defendant's Counsel shall bear any responsibility or risk related to the Settlement Fund or the Net Settlement Fund.

9. The Parties agree that the Settlement Fund and the Net Settlement Fund are each intended to be a "Qualified Settlement Fund" within the meaning of Treasury Regulation § 1.468B-1 and, to that end, the Parties shall cooperate with each other and shall not take a position in any filing or before any tax authority that is inconsistent with such treatment. In addition, Co-Lead Counsel shall timely make such elections as necessary or advisable to carry out the provisions of this Section, including the relation-back election (as defined in Treas. Reg. § 1.468B-1(j)) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of Interim Co-Lead Counsel to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur. All provisions of this Settlement Agreement shall be interpreted in a manner that is consistent with the Settlement Funds being a "Qualified Settlement Fund" within the meaning of Treas. Reg. § 1.468B-1.

10. The Escrow Agent, as administrator of the Qualified Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall be solely responsible for filing tax returns for the Escrow Account and paying from the Escrow Account any Taxes, as defined

below, owed with respect to the Escrow Account. Neither House of Raeford, any other Released Party, nor the Settling Defendant's Counsel shall have any liability or responsibility of any sort for filing any tax returns or paying any Taxes or expenses with respect to the Qualified Settlement Fund.

11. All: (i) taxes on the income of the Settlement Fund ("Taxes") and (ii) expenses and costs incurred in connection with the taxation of the Settlement Fund (including, without limitation, reasonable expenses of tax attorneys and accountants) shall timely be paid by the Escrow Agent out of the Settlement Fund. The Class Members shall be solely responsible for paying any and all federal, state, and local income taxes due on any distribution made to them pursuant to this Agreement.

12. After the Date of Final Approval, the Net Settlement Fund shall be disbursed in accordance with a plan of distribution to be approved by the Court. The Class Members shall look solely to the Net Settlement Fund for settlement and satisfaction of any and all Released Claims from Released Parties and shall not be entitled to any other payment or relief from the Released Parties. The timing of a motion to approve a plan of distribution of the Net Settlement Fund created by this Settlement Agreement shall be in the discretion of Co-Lead Counsel, and may be combined with a plan to distribute proceeds from other settlements in this Action.

F. Reversion

1. Settling Defendant shall have no right to reversion.

G. Approval of Settlement Agreement and Dismissal of Released Claims

1. **Cooperation.** Plaintiffs and House of Raeford shall use their reasonable best efforts to effectuate this Settlement Agreement, including cooperating in seeking the Court's

approval of the Settlement Agreement, the giving of appropriate Settlement Notice under Federal Rules of Civil Procedure 23(c) and (e) by Co-Lead Counsel, and the complete and final dismissal with prejudice of the Action as to House of Raeford only.

2. **Motion for Preliminary Approval.** Plaintiffs shall submit to the District Court a motion, at such time deemed appropriate in the discretion of Co-Lead Counsel (but as soon as is reasonably practicable after the Execution Date), requesting entry of an order preliminarily approving this Settlement Agreement (“Preliminary Approval Order”). House of Raeford shall not oppose and shall reasonably cooperate in such motion. A reasonable time before filing such motion, Co-Lead Counsel shall provide the Settling Defendant’s Counsel with a draft of such motion for review. To the extent that House of Raeford objects to any aspect of the motion, it shall communicate such objection to Co-Lead Counsel and the Parties shall meet and confer to resolve any such objection. The proposed Preliminary Approval Order shall provide that, *inter alia*:

a. the settlement proposed in the Settlement Agreement has been negotiated at arm’s-length and is preliminarily determined to be fair, reasonable, adequate, and in the best interests of the Class;

b. after Settlement Notice has been carried out, a hearing on the settlement proposed in this Settlement Agreement shall be held by the Court to determine whether the proposed settlement is fair, reasonable, and adequate, and whether it should be finally approved by the Court (the “Fairness Hearing”);

c. Class Members who wish to object to this Agreement must submit an appropriate and timely written statement of the grounds for objection;

d. Class Members who wish to appear in person to object to this Agreement may do so at the Fairness Hearing pursuant to directions by the Court; and

e. All proceedings in the above-captioned action with respect to House of Raeford and CIIPPs are stayed until further order of the Court, except as may be necessary to implement the settlement or comply with the terms thereof.

3. **Settlement Notice.** The Settlement Notice shall provide for a right to object to the proposed settlement. The timing of a motion to direct or approve Settlement Notice of this Settlement Agreement shall be in the discretion of Co-Lead Counsel, and may be combined with class notice of other settlements in this Action. A reasonable time before filing such motion, Co-Lead Counsel shall provide the Settling Defendant's Counsel with a draft of such motion for review.

4. **Cost of Settlement Notice.** The costs of providing Class Notice to Class Members shall be paid by the Escrow Agent from the Settlement Fund pursuant to Section II(E)(2) and (3).

5. **CAFA Notice.** Within ten (10) days of the filing of this Settlement Agreement in court in connection with the above-mentioned motion for Preliminary Approval, House of Raeford will provide to the appropriate state officials and the appropriate federal official the notice required by the Class Action Fairness Act of 2005, 28 U.S.C. § 1715(b) ("CAFA"). Co-Lead Counsel and the claims administrator for CIIPPs shall provide reasonable assistance to House of Raeford with preparation and issuance of such notice.

6. **Final Judgment.** If this Settlement Agreement is preliminarily approved by the Court, the Class, through Co-Lead Counsel and in accordance with any schedule set forth in the Court's Preliminary Approval, shall seek entry of an Order and Final Judgment. A reasonable time before filing such motion, Co-Lead Counsel shall provide the Settling Defendant's Counsel with a draft of such motion for review. To the extent that House of Raeford objects to any aspect

of the motion, it shall communicate such objection to Co-Lead Counsel and the Parties shall meet and confer to resolve any such objection. The motion for Final Approval shall seek an entry of an Order and Final Judgment that, inter alia:

a. finally approves this Settlement Agreement and its terms as being a fair, reasonable, and adequate settlement as to the Class Members within the meaning of Rule 23 of the Federal Rules of Civil Procedure and directing its consummation according to its terms and conditions, without material modification of those terms and conditions;

b. determines that the Settlement Notice constituted, under the circumstances, the most effective and practicable notice of this Settlement Agreement and the Fairness Hearing, and constituted due and sufficient notice for all other purposes to all persons or entities entitled to receive notice;

c. orders that all Claims made by CIPPs against House of Raeford in the Action, be dismissed with prejudice and, except as expressly provided for in this Settlement Agreement, without further costs or fees;

d. incorporates the Releases set forth in Section II(D) of this Agreement and makes the Releases effective as of the date of the Final Order and Final Judgment;

e. enjoins members of the Certified Class from suing, directly or indirectly, any of the Released Parties for any of the Released Claims;

f. confirms that House of Raeford has provided the appropriate notice pursuant to CAFA;

g. reserves to the Court continuing and exclusive jurisdiction over the settlement and this Settlement Agreement, including the administration and consummation of this Agreement;

h. determines under Federal Rule of Civil Procedure 54(b) that there is no just reason for delay and directs that the judgment of dismissal as to the Released Parties shall be final and entered forthwith; and

i. orders that the Net Settlement Fund may be disbursed as provided in the Final Approval Order or other order of the Court. The Parties shall use all reasonable best efforts to obtain Final Approval of the Settlement Agreement without modification to any of its material terms and conditions.

7. Class Counsel Fees and Expenses; No Other Costs.

a. Except as otherwise provided in Section II(C)(1) of this Settlement Agreement and elsewhere, the Released Parties shall have no responsibility for any other payments, fees or costs, including Co-Lead Counsel's attorneys' fees, costs, and expenses, Service Awards, or the fees, costs, and expenses of any Plaintiff's or Class Member's respective attorneys, experts, advisors, or representatives; provided, however, that with respect to the Action, including this Settlement Agreement, House of Raeford shall bear its own costs and attorneys' fees.

b. At their discretion and after Final Approval and proper notice to Class Members and opportunity to object, Class Counsel may seek from the Settlement Fund, separately or in conjunction with other settlements, a court order granting attorneys' fees, reimbursement of costs and expenses, and Service Awards for the class representatives (to compensate for the time and expense they have incurred in bringing this Action). Any such attorneys' fees, reimbursement of costs and expenses, and Service Awards will be paid out of the Settlement Fund, and House of Raeford shall have no obligation to pay any fees or expenses of Co-Lead Counsel.

c. The procedure for and the allowance or disallowance by the Court of any applications by Co-Lead Counsel for attorneys' fees and expenses or the expenses of or

Service Awards to Plaintiffs to be paid out of the Settlement Fund are not part of or a condition to the settlement set forth herein, and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the settlement and the Settlement Agreement, and any order or proceeding relating to any application for attorneys' fees or expenses or Service Awards shall not operate to terminate or cancel this Settlement Agreement or the releases set forth herein, or affect or delay the Final Approval of this settlement and Settlement Agreement.

d. Within a reasonable time period as deemed appropriate by Co-Lead Counsel after any order by the Court awarding attorneys' fees, expenses, or Service Awards, the Escrow Agent shall pay the approved attorneys' fees, costs, and service award via wire transfer from the Settlement Fund as directed by Co-Lead Counsel. In the event the amount of attorneys' fees, costs, or service award is reduced on appeal, Co-Lead Counsel shall, within 30 days of such appellate order, cause the difference in the amount paid and the amount awarded on appeal to be returned to the Settlement Fund.

8. **When Settlement Becomes Final.** The settlement contemplated by this Settlement Agreement shall become final on the date that: (a) the Court has entered the Order and Final Judgment approving this Settlement Agreement, and all of its material terms and conditions, in accordance with Section II(G)(6) above, under Rule 23(e) of the Federal Rules of Civil Procedure and dismissing the Action as against House of Raeford with prejudice as to all Class Members and without costs except as set forth herein; and (b) the time for appeal or to seek permission to appeal from the Court's approval of this Settlement Agreement and entry of the Order and Final Judgment, as described in Section II(G)(6) above, has expired with no appeal having been filed or, if appealed, approval of this Settlement Agreement and the Order and Final

Judgment has been affirmed in all material respects by the court of last resort to which such appeal has been taken and such affirmance is no longer subject to further appeal or review. “Final Approval” shall mean the satisfaction of all the conditions set forth in this Section II(G)(8). The Parties agree that neither the provisions of Rule 60 of the Federal Rules of Civil Procedure, nor the All Writs Act, 28 U.S.C. § 1651, nor any extensions of time in petitioning for a writ of certiorari under Rule 13 of the Rules of the Supreme Court of the United States, shall be taken into account in determining the above-stated times.

9. Termination and Rescission.

a. **Rejection or Alteration of Settlement Terms.** If the Court declines to grant a Preliminary Approval Order or Order and Final Judgment (as set forth in Sections II(G)(2) or II(G)(6) above, respectively); or if the Court approves this Settlement Agreement in a materially modified form; or if after the Court’s approval, such approval is materially modified or set aside on appeal; or Final Approval is not obtained; or if the Court enters the Final Order and Judgment and appellate review is sought and on such review such Final Order and Judgment is not affirmed (collectively “Triggering Events”), then House of Raeford and Plaintiffs shall each, in their respective sole and absolute discretion, have the option to rescind, cancel, or terminate this Settlement Agreement in its entirety by providing written Notice of their election to do so (“Termination Notice”) to the other Party within fifteen (15) calendar days of any of the Triggering Events. For purposes of Section II(G)(6)(b) and this Section II(G)(9)(a), a material modification includes, but is not limited to, any modification to the Settlement Amount or a material change to the scope of the Released Claims. In no way shall CIIPPs have the right to rescind, cancel or terminate this Settlement Agreement if the Court fails or refuses to grant any requested attorneys’ fees, any costs, or any Service Awards to Class Representatives..

b. **Effect of Termination or Rescission of Settlement.** In the event this Settlement Agreement is rescinded or terminated by a Termination Notice, then: (i) within fifteen (15) calendar days thereafter, the Settlement Fund, including accrued interest, less taxes and tax expenses that have been paid or that have accrued and will be payable at some later date, and less expenses and costs that have been disbursed pursuant to Sections II(E)(3)-(4), shall be refunded by the Escrow Agent to House of Raeford pursuant to written instructions from House of Raeford's Counsel to Co-Lead Counsel; and (ii) the Parties shall be deemed to have reverted to their respective status in the Action as of the day before the Execution Date, and without waiver of any positions asserted in the Action as of the day before the Execution Date, shall then resume proceedings in the Court, the Court having retained jurisdiction over the settlement and related matters and, except as otherwise expressly provided in this Settlement Agreement, the Parties shall proceed in all respects as if this Settlement Agreement had not been executed.

10. **No Admission.**

a. House of Raeford denies all allegations of wrongdoing in the Action. Nothing in this Settlement Agreement or its contents, nor any statements, negotiations, documents, or discussions associated with it, constitutes an admission by House of Raeford or any other Released Party as to the merits of the allegations that have been, could have been, or could be made in the Action, or an admission by Plaintiffs or the Certified Class of the validity of any defenses that have been, could have been, or could be asserted by House of Raeford or any other Released Party.

b. This Settlement Agreement, its terms, and any agreement or order relating thereto, shall not be deemed to be, and shall not be offered by any of the Parties to be, received in any civil, criminal, administrative, or other proceeding, or utilized in any manner

whatsoever as a presumption, a concession, or an admission of any fault, wrongdoing, or liability whatsoever on the part of House of Raeford or any other Released Party; provided, however, that nothing contained in this Section II(G)(10) shall prevent this Settlement Agreement (or any agreement or order relating thereto) from being used, offered, or received in evidence in any proceeding to approve, enforce, or otherwise effectuate the Settlement Agreement (or any agreement or order relating thereto) or the Order and Final Judgment, or in which the reasonableness, fairness, or good faith of any Party participating in the settlement (or any agreement or order relating thereto) is in issue. This Settlement Agreement may, however, be filed and used in other proceedings, where relevant, to demonstrate the fact of its existence and of this settlement, including, but not limited to, the filing of the Settlement Agreement and/or the Order and Final Judgment in any other action that may be brought against any Released Party in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith settlement, waiver, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

III. MISCELLANEOUS

A. Entire Agreement. This Settlement Agreement constitutes the entire, complete and integrated agreement between the Parties pertaining to the settlement of the Action as to House of Raeford, and the release of the Released Parties, and supersedes any and all prior and contemporaneous undertakings, communications, representations, understandings, negotiations, and discussions (either oral or written) of the Parties in connection therewith. All terms of the Settlement Agreement are contractual and not mere recitals. The Parties agree that this Settlement Agreement may be modified only by a written instrument signed by the Parties and that no party will assert any claim against another based on any alleged agreement affecting

or relating to the terms of this Settlement Agreement not in writing and signed by the Parties.

B. Inurement. This Settlement Agreement constitutes a binding and enforceable agreement as to the terms contained herein. The terms of this Settlement Agreement are and shall be binding upon and, to the fullest extent possible, insure to the benefit of the successors, assigns, and heirs of each of the Releasing Parties and the Released Parties, and upon all other persons or entities claiming any interest in the subject matter hereto through any of the Settling Parties, Releasing Parties, or Released Parties, including any Class Members. Without limiting the generality of the foregoing, upon Final Approval, each and every covenant and agreement herein by the CIPPs shall be binding upon all members and potential members of the Certified Class and Releasing Parties who did not validly exclude themselves from the Certified Class.

C. Modification. This Settlement Agreement may be modified or amended only by a writing executed by Co-Lead Counsel and House of Raeford or Settling Defendant's Counsel, subject (if after the Date of Preliminary Approval) to approval by the Court. Amendments and modifications may be made without notice to the Certified Class unless notice is required by law or by the Court. The waiver of any rights conferred hereunder shall be effective only if made by written instrument of the waiving Party. The waiver by any Party of any particular breach of this Agreement shall not be deemed or construed as a waiver of any other breach, whether prior subsequent or contemporaneous, of this Agreement. This Agreement does not waive or otherwise limit the Parties' rights and remedies for any breach of this Agreement. Any breach of this Agreement may result in irreparable damage to a Party for which such Party will not have an adequate remedy at law. Accordingly, in addition to any other remedies and damages available, the Parties acknowledge and agree that the Parties may immediately seek enforcement of this Settlement Agreement by means of specific performance or injunction, without the requirement of

posting a bond or other security.

D. Drafted Mutually. For the purpose of construing or interpreting this Settlement Agreement or any provision hereof, Plaintiffs, the Certified Class and House of Raeford shall be deemed to have drafted it equally, and it shall not be construed strictly for or against any party.

E. Governing Law. All terms of this Settlement Agreement shall be governed by and interpreted according to the substantive laws of Illinois without regard to its choice-of-law or conflict-of-law principles.

F. Voluntary Settlement. The Parties agree that this Settlement Agreement was negotiated in good faith by the Parties, and reflects a settlement and compromise that was reached voluntarily after consultation with competent counsel, and no Party has entered this Settlement Agreement as the result of any coercion or duress.

G. Confidentiality. The Parties agree to continue to maintain the confidentiality of all settlement discussions and materials exchanged during the settlement negotiation. However, House of Raeford and CIIPPs can inform other parties to this Action that they have reached a settlement agreement and disclose both the Settlement Amount and the cooperation obligations contained in this Settlement Agreement. Additionally, consistent with its obligations under the Defendants' Agreement, House of Raeford may share copies of this Settlement Agreement with parties to the Defendants' Agreement.

H. Jurisdiction. This Settlement Agreement is subject to the continuing and exclusive jurisdiction of the Court for any suit, action, proceeding, or dispute arising out of or relating to this Settlement Agreement or the applicability of this Settlement Agreement, including, without limitation, any suit, action, proceeding, or dispute relating to the release provisions herein. If for any reason this Settlement Agreement is rescinded, terminated, fails to obtain Final Approval or

otherwise fails to become effective, then, in such event, neither this Settlement Agreement nor any conduct required by it shall constitute or be construed as any agreement to personal jurisdiction (general or specific) or subject matter jurisdiction so as to confer the jurisdiction of the District Court over the Released Parties, nor shall it constitute any waiver of any defenses based on personal or subject matter jurisdiction.

I. Counterparts. This Settlement Agreement may be executed in counterparts by Co-Lead Counsel and Settling Defendant's Counsel, each of which shall be deemed an original and all of which taken together shall constitute the same Settlement Agreement. A facsimile, electronic or .pdf signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

J. Represented by Counsel. Plaintiffs, the Certified Class, and House of Raeford each acknowledge that they have been represented by counsel, and have made their own investigations of the matters covered by this Settlement Agreement to the extent they have deemed it necessary to do so and are not relying on any representation or warranty by the other party other than as set forth herein. The Settling Parties and their respective counsel agree that they will not seek to set aside any part of the Settlement Agreement on the grounds of mistake.

K. Authorization. Each of the undersigned attorneys represents that he or she is fully authorized to enter into and execute this Settlement Agreement, subject to Court approval; the undersigned Co-Lead Counsel represent that they are authorized to execute this Settlement Agreement on behalf of Plaintiffs and the Certified Class; and the undersigned Settling Defendant's Counsel represent that they are authorized to execute the Settlement Agreement on behalf of House of Raeford.

L. Privilege. Nothing in this Settlement Agreement or the negotiations or proceedings

relating to it are intended to or shall be deemed to constitute a waiver of any applicable privilege or immunity, including, without limitation, the accountants' privilege, the attorney-client privilege, the joint defense privilege, the common interest privilege, and the attorney work product immunity.

M. Notice. Any notice, other than Settlement Notice, required pursuant to or in connection with this Settlement Agreement ("Notice") shall be in writing and shall be given by: (1) hand delivery; (2) registered or certified mail, return receipt requested, postage prepaid; or (3) UPS or similar overnight courier, with a courtesy copy by electronic mail, addressed, in the case of notice to any Plaintiff or Class Member, to Co-Lead Counsel at their addresses set forth below, and, in the case of notice to House of Raeford, to the Settling Defendants' Counsel at the addresses set forth below, or such other addresses as Co-Lead Counsel or Settling Defendants' Counsel may designate, from time to time, by giving notice to all Parties in the manner described in this Section III(M).

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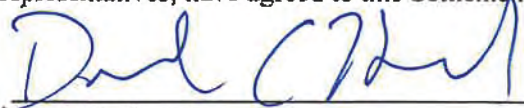
For Settling Defendant House of Raeford:

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N. **Headings.** All headings contained in this Settlement Agreement are for reference purposes only and are not intended to affect in any way the meaning or interpretation of this Settlement Agreement.

IN WITNESS WHEREOF, the Parties hereto, through their fully authorized representatives, have agreed to this Settlement Agreement as of the Execution Date.



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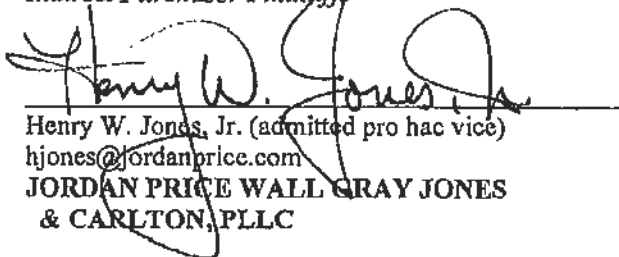
Dated: 8/27/24



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Dated: 8/27/24

*Lead Counsel for Commercial and Institutional
Indirect Purchaser Plaintiffs*



Henry W. Jones, Jr. (admitted pro hac vice)
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**JORDAN PRICE WALL GRAY JONES
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Dated: August 23, 2024

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Counsel for House of Raeford Farms, Inc.

EXHIBIT B

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

*IN RE BROILER CHICKEN ANTITRUST
LITIGATION*

No. 1:16-cv-08637 TMD

Hon. Thomas M. Durkin

Magistrate Judge Jeffrey T. Gilbert

This Document Relates To:

All Commercial and Institutional Indirect
Purchaser Plaintiff Actions

**SETTLEMENT AGREEMENT BETWEEN
COMMERCIAL AND INSTITUTIONAL INDIRECT PURCHASER PLAINTIFFS AND
THE KOCH FOODS DEFENDANTS**

This Settlement Agreement (“Settlement Agreement” or “Agreement”) is made and entered into as of the ____ day of August, 2024 (“Execution Date”), by and between Koch Foods, Incorporated, JCG Foods of Alabama, LLC, JCG Foods of Georgia, LLC, and Koch Meat Co., Inc., (collectively, “Koch Foods” or “Settling Defendant”), on the one hand, and the Commercial and Institutional Indirect Purchaser Plaintiffs (“Plaintiffs” or “CIIPPs”),¹ individually and on behalf of a class of indirect purchasers of Broilers,² on the other hand, which Agreement is subject to court approval in the above- captioned action (the “Action”). The Certified Class, as represented

¹ As used herein, “CIIPPs” means Sargent’s Restaurant and Lounge; Fargo Stopping Center, LLC; Wildwood Tavern LLC; Bodega Brew Pub, Inc.; Sullott Corporation; Chicken Joe’s LLC; Eat This, Inc.; Alpine Special Treatment Center, Inc.; Tennis Bums, LLC; Alabama Joe’s 2, Inc.; Tani Sushi Bistro, LLC; France 44 Foods, Inc.; Alliance Healthcare System, Inc.; Little Figs, Inc.; Da Big Blue Enterprises Corp.; Floersch IGA, Inc.; Avanti’s of Phoenix, Inc.; Midtown Bar and Grill LLC; Mookie’s Southern Cuisine LLC; Eowyn, LLC; Peppers Grill & Bar, Inc.; Daliano’s, Inc.; Sumner County Restaurant & Creamery LLC; Bashara & Company, LC; Tic-Tac-O; Brix Tavern, LLC; Pancho’s Taqueria, Inc.; Legacy 5, LLC; Roost Fried Chicken LLC; Oregano Italian, LLC; Bordenaro’s Pizza, Inc.; Telavi Hospitality, Inc.; and FB Mall, LLC.

² Unless otherwise indicated, all capitalized terms shall have the meaning ascribed in the Definitions in Section I.

by CIIPPs, and Koch Foods are referred to herein collectively as the “Parties” or individually as a “Party.”

RECITALS

A. Plaintiffs are prosecuting the Action on their own behalf and on behalf of the Certified Class (as hereinafter defined).

B. Plaintiffs have alleged, among other things, that Koch Foods entered into a contract, combination or conspiracy in restraint of trade, the purpose and effect of which was to suppress competition and to allow Koch Foods to charge supra-competitive prices for Broilers during the Class Period, in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1, as well as various state antitrust, unfair competition, unjust enrichment, and consumer protection laws.

C. Koch Foods denies all allegations that it engaged in a conspiracy or illegal conduct.

D. This Settlement Agreement shall not be deemed or construed to be an admission or evidence of any violation of any statute, law, rule, or regulation or of any liability or wrongdoing by Koch Foods or of the truth of any of Plaintiffs’ allegations nor shall it be deemed or construed to be an admission or evidence of Koch Foods’ defenses.

E. Co-Lead Counsel have conducted an investigation into the facts and law regarding the Action and the possible legal and factual defenses thereto and have concluded that a settlement with Koch Foods according to the terms set forth herein is fair, reasonable, adequate, and beneficial to and in the best interests of the Certified Class, given the uncertainties, risks, and costs of continued litigation.

F. Despite Koch Foods’ belief that it did nothing wrong or illegal, that it has legitimate defenses to any claims that could be asserted by CIIPPs against it, and that it would prevail at trial, Koch Foods desires to settle the Action to avoid the further expense, inconvenience, disruption,

and burden of this litigation and any other present or future litigation arising out of the facts that gave rise to the Action, to avoid the risks inherent in uncertain complex litigation and trial, and thereby to put to rest this controversy.

G. Koch Foods has entered into a Second Amended Judgment Sharing Agreement with other Defendants, which Co-Lead Counsel have reviewed, and which is addressed in Paragraph II(D)(5) below.

H. Arm's-length settlement negotiations, including in mediation, have taken place between Co-Lead Counsel and the Settling Defendant and its Counsel, the settlement was reached as a result of those negotiations and mediation, and this Settlement Agreement embodies all of the terms and conditions of the settlement.

I. CIIPPs and Co-Lead Counsel believe that the Settlement Fund (as hereinafter defined) reflects fair, reasonable, and adequate compensation for the Certified Class (as hereinafter defined) to release, settle and discharge, without limitation, their claims that they were overcharged by the alleged anticompetitive conduct of which they accuse Koch Foods.

J. The Parties to this Agreement desire to fully and finally settle and compromise this Action and all potential Released Claims by Releasing Parties against the Released Parties as set forth below to avoid the costs and risks of protracted litigation and trial.

K. Both Parties wish to preserve all arguments, defenses and responses to all claims in the Action, including all arguments, defenses and responses to any litigation class proposed and/or represented by CIIPPs, in the event this settlement does not obtain Final Approval.

IT IS HEREBY AGREED, in consideration of the foregoing, the terms and conditions set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, by and among the Settling Parties, that the Action and all Released Claims are finally and fully settled and compromised, and that the Action shall be dismissed in its entirety

with prejudice as to Koch Foods and without cost to Koch Foods, other than any costs set forth in this Settlement Agreement, subject to approval of the Court pursuant to Rule 23 of the Federal Rules of Civil Procedure, upon and subject to the following terms and conditions:

I. DEFINITIONS

A. Certified Class Definition

1. “Certified Class” means the CIIPP litigation classes—both the state damages classes and the nationwide injunctive relief class—certified by the Court’s May 27, 2022, Order (ECF No. 5644). The foregoing classes exclude all persons and entities included in the Exclusion List. (ECF. No. 6566-5).

B. General Definitions

1. “Action” means the class action filed by CIIPPs in the above-captioned proceeding.

2. “Affiliate” means with respect to any person, entity or company, any person, entity, or company that, directly or indirectly, controls, is controlled by or is under common control with such person, entity or company, including, without limitation, affiliates that share common ownership.

3. “Broilers” means chickens raised for meat consumption to be slaughtered before the age of 13 weeks, and which may be sold in a variety of forms, including fresh or frozen, and whole or in parts, but excluding chicken that is grown, processed, and sold according to halal, kosher, free range, or organic standards. “Broilers” does not include dark meat chicken products, such as chicken thighs. The definition also does not include certain “further processed” products, which include any chicken meat that has been breaded, cooked, or “formed,” such as patties, or nuggets; or products made from mechanically separated meat such as chicken sausages; or

products that are ground, sliced, diced, or cubed. Marinated, seasoned, frozen and portioned products, that are not otherwise further processed, are included within the definition of Broilers.

4. “Class Member” means each member of the Certified Class.

5. “Class Notice” means the notice to the Certified Class that is approved by the Court, in accordance with Section II(G)(3) below.

6. “Class Period” means the period from and including January 1, 2009, through July 31, 2019.

7. “Co-Conspirator” means those entities named as co-conspirators in the Complaint.

8. “Co-Lead Counsel” and “Class Counsel” mean, collectively, the law firms of Gustafson Gluek PLLC and Cotchett, Pitre & McCarthy, LLP, Commercial and Institutional Indirect Purchaser Plaintiffs’ Co-Lead Class Counsel.

9. “Complaint” or “Operative Complaint” means the Seventh Amended Consolidated Class Action Complaint in the Action, ECF Nos. 3929 and 3931.

10. “Court” or “District Court” means the United States District Court for the Northern District of Illinois and the Honorable Thomas M. Durkin or his successor, or any other Court in which the Action is proceeding.

11. “Date of Final Approval” means the date on which Final Approval as provided for in Section II(G)(8) occurs.

12. “Date of Preliminary Approval” means the date on which the Court enters an order granting preliminary approval to this Settlement Agreement, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, as provided in Section II(G)(2) below.

13. “Defendant” or “Defendants” means any or all of the Defendants named in

the Operative Complaint.

14. “Execution Date” means the date on which this Settlement Agreement is entered into and executed by all Parties.

15. “Escrow Account” means the account with the Escrow Agent that holds the Settlement Fund.

16. “Escrow Agent” means the bank into which the Settlement Fund shall be deposited and maintained as set forth in Section II(E) of this Agreement.

17. “Fairness Hearing” means a hearing on the settlement proposed in this Settlement Agreement held by the Court to determine whether the proposed settlement is fair, reasonable, and adequate, and whether it should be finally approved by the Court.

18. “Final Approval” shall mean the satisfaction of all the conditions set forth in Section II(G)(8).

19. “Indirect Purchaser State” means Arizona, California, District of Columbia, Florida, Hawaii, Illinois, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, West Virginia, and Wisconsin.

20. “Net Settlement Fund” means the Settlement Fund, plus accrued interest and income, less any award of attorneys’ fees, service awards, and reimbursement of expenses and less applicable taxes, tax preparation expenses, and costs of Class Notice and settlement administration as provided for in this Settlement Agreement, that may be awarded or approved by the Court.

21. “Notice” means the notice in accordance with Section III(M).

22. “Order and Final Judgment” means the order and final judgment of the

Court approving the Settlement Agreement, as described in Section II(G)(6) below.

23. “Parties” or “Settling Parties” means Settling Defendant and the Certified Class, as represented by CIPPs.

24. “Plaintiffs” means the Commercial and Institutional Indirect Purchaser Plaintiffs (“CIPPs”).

25. “Released Claims” means any and all existing or potential claims, demands, actions, suits, causes of action, contentions, allegations, assertions of wrongdoing, injuries, losses, damages, or demands for recoveries, remedies, fees or expenses, whether class, individual, or otherwise in nature (whether or not any Class Member has objected to the Settlement Agreement or makes a claim upon or participates in the Settlement Fund, whether directly, indirectly, representatively, derivatively or in any other capacity) that the Releasing Parties (defined below) ever had, now have, or hereafter can, shall, or may ever have on account of, or in any way arising out of, any and all known and unknown, foreseen and unforeseen, suspected or unsuspected, actual or contingent, liquidated or unliquidated, claims, demands, actions, suits, causes of action, contentions, allegations, assertions of wrongdoing, injuries, losses, damages, or demands for recoveries, remedies, fees or expenses (including but not limited to treble or punitive damages, interest, and attorney’s or professional’s fees, costs and expenses) and whether in tort, in contract, or otherwise, arising from or in connection with any act or omission through the date of Preliminary Approval, relating to or referred to in the Action, or the subject matter of the Action, or arising from or related to the factual predicate of the Action. For the avoidance of doubt, “Released Claims” includes, without limitation, all claims that have been asserted, or could have been asserted, in the Action against the Released Parties, including all claims in any way arising out of or relating to the purchase of Broilers produced, processed or sold by Koch Foods or any of the other Defendants or Co-Conspirators. Notwithstanding the above, “Released Claims” does not

include: (a) claims asserted against any other Defendant or alleged Co-Conspirator other than the Released Parties; (b) damages claims under the state or local laws of any jurisdiction other than an Indirect Purchaser State; or (c) any wholly-unrelated claims based on: (1) product defect or breach of warranty; (2) breach of contract (except such breaches relating to anticompetitive actions and/or unfair or inflated pricing); or (3) purchases of Broilers by persons or entities other than the Releasing Parties. The reservation of claims set forth in subsections (a) through (c) of this Section I(B)(25) does not impair or diminish the right of the Released Parties to deny any such claims or to assert any and all defenses to such claims.

26. “Released Party or Parties” means jointly and severally, individually and collectively, Koch Foods, any and all of its past or current, direct or indirect corporate parents (including holding companies), subsidiaries, related entities, Affiliates, associates, divisions, departments, joint ventures, predecessors, successors, assigns and any and all of their respective past, present, and future, direct or indirect officers, directors, employees, trustees, partners, managing directors, shareholders, managers, members, attorneys, equity holders, agents, beneficiaries, executors, insurers, advisors, assigns, heirs, legal or other representatives, including but not limited to, Joe Grendys, Mark Kaminsky and Lance Buckert. “Released Parties” includes any person or entity identified in the previous sentence in relation to Koch Foods that has been or in the future may be identified in the Action as a “Co-Conspirator.” Notwithstanding the foregoing, “Released Parties” does not include any other Defendant or alleged Co-Conspirator, either explicitly or as a third-party beneficiary.

27. “Releasing Parties” means jointly and severally, individually and collectively, Plaintiffs, the Certified Class, and each Class Member, on behalf of themselves and any person or entity claiming by or through them, including without limitation, their respective past or current, direct or indirect corporate parents (including holding companies), subsidiaries,

related entities, Affiliates, associates, divisions, departments, joint ventures, predecessors, successors, assigns and any and all of their respective past, present, and future, direct or indirect officers, directors, employees, trustees, partners, managing directors, shareholders, managers, members, attorneys, equity holders, agents, beneficiaries, executors, insurers, advisors, assigns, heirs, legal or other representatives.

28. “Settling Defendant” and “Koch Foods” mean Koch Foods, Incorporated, JCG Foods of Alabama, LLC, JCG Foods of Georgia, LLC, and Koch Meat Co., Inc.

29. “Settling Defendant’s Counsel” means Armstrong Teasdale LLP, and attorneys associated therewith.

30. “Settlement Amount” means the cash payment of THIRTEEN MILLION FIVE HUNDRED THOUSAND DOLLARS (\$13,500,000.00), as more specifically described in Section II(C)(1), below.

31. “Settlement Fund” means the funds described in Section II(C) of this Settlement Agreement, plus accrued interest, in the separate Escrow Account for the settlement contemplated by this Settlement Agreement established in accordance with Section II(E) below.

II. SETTLEMENT

A. The Parties’ Efforts to Effectuate this Settlement Agreement. The Parties will cooperate in good faith and use their reasonable best efforts to seek the Court’s Preliminary Approval and Final Approval of the Settlement Agreement.

B. Litigation Standstill. Effective with the Execution Date, and except to the extent expressly authorized in this Agreement, CIIPPs and their counsel shall cease all litigation activities against Koch Foods in the Action, and Koch Foods and its counsel shall cease all litigation activities against CIIPPs in the Action, provided, however, that both CIIPPs and Koch Foods may seek appropriate discovery in the Action from other persons or entities. Upon execution of this

agreement, the Parties will inform the Court of the fact of the settlement agreement and the forthcoming motion for preliminary approval. None of the foregoing provisions shall be construed to prohibit CIPPs from seeking appropriate discovery or testimony at trial from non-settling Defendants or co-conspirators or any other person other than Settling Defendant. Koch Foods shall, in turn, cease all litigation activities against CIPPs related to the defense of claims against Koch Foods in the Action. None of the foregoing provisions shall be construed to prohibit Koch Foods from defending itself against the claims of non-settling plaintiffs.

C. Performance By Settling Defendant and CIPPs

1. **Settlement Payment.** In exchange for the full consideration described in this Settlement Agreement, Koch Foods shall pay the Settlement Amount in United States dollars, and in immediately available funds. The Parties agree that the Settlement Amount is the only amount to be paid by Koch Foods and shall be inclusive of, without limitation, the Certified Class recovery amounts, any service awards to Plaintiffs for the work Plaintiffs performed on behalf of the Certified Class (“Service Awards”) as awarded by the Court, fees (including attorneys’ fees and any other fees), expenses, and costs (including, without limitation, costs related to Class Notice and settlement administration).

a. The Settlement Amount shall be paid by Koch Foods into the Escrow Account for the Settlement Fund established in Section II(E)(1) by wire transfer, pursuant to instructions from the Escrow Agent or Co-Lead Counsel. The Settlement Payment shall be made within 5 business days (i) of the Court’s grant of Preliminary Approval or (ii) after Co-Lead Counsel has provided wire instructions to Koch Foods, whichever occurs later.

b. Each Class Member and each Releasing Party shall look solely to the Net Settlement Fund for full and complete settlement and satisfaction by Koch Foods and the

Released Parties, as provided herein, of all Released Claims and shall not be entitled to any other payment or relief from the Released Parties.

c. Except as provided by order of the Court, no member of the Certified Class shall have any interest in the Settlement Fund or any portion thereof. CIIPPs, Class Members, and their counsel will be reimbursed solely out of the Settlement Fund for all expenses including, but not limited to, attorneys' fees and expenses, Service Awards, and the costs of notice of the Settlement Agreement to potential members of the Certified Class. Koch Foods and the other Released Parties shall not be liable for any costs, fees, or expenses of any of CIIPPs' and Co-Lead Counsel's attorneys, experts, advisors, or representatives, but all such costs and expenses as approved by the Court shall be paid out of the Settlement Fund.

2. **Compliance.** The parties agree that Settling Defendant will not, for a period of 24 months from the date of the entry of Final Judgment, engage in conduct that constitutes a per se violation of Section 1 of the Sherman Act with respect to the sale of Broilers.

3. **Cooperation.** When reasonably requested by CIIPPs, Koch Foods agrees to use reasonable efforts to authenticate and provide foundation for admissibility of a reasonable number of documents and/or things produced in the Action (not to exceed 50), where they can do so in good faith by either declarations or affidavits. For avoidance of doubt, CIIPPs shall provide to Koch Foods a list of no more than 50 documents and/or things produced in the Action and Koch Foods agrees to use reasonable efforts to authenticate and provide foundation for admissibility for the documents on this list. If Koch Foods cannot in good faith authenticate and provide foundation for admissibility for all documents on the list, CIIPPs shall not be permitted to provide additional documents to Koch Foods. Koch Foods agrees to take steps to undertake this cooperation in a timely fashion. The cooperation obligations set forth in this paragraph regarding authentication and admissibility shall be the full extent of any further obligations by Koch Foods or any of its

officers, directors, employees, or agents to provide evidence in, or otherwise cooperate in connection with the CIIPPs' Track One Trial (regardless of the date on which such trial proceeds or concludes). Among other things, and for avoidance of doubt, CIIPPs waive their right to issue or enforce any trial subpoenas to Koch Foods or any of its officers, directors, employees, or agents.

D. Release and Covenant Not to Sue

1. **Release.** Upon the occurrence of the Date of Final Approval, and in consideration of the terms set forth in this Agreement, the Releasing Parties shall be deemed to have, and by operation of law and of the Order and Final Judgment shall have, hereby fully, finally, and forever completely compromised, settled, released, acquitted, resolved, relinquished, waived, and discharged the Released Parties of all Released Claims.

2. **Covenant Not to Sue.** The Releasing Parties covenant not to sue, directly or indirectly, or otherwise seek to establish liability against, the Released Parties for any transaction, event, circumstance, action, failure to act, or occurrence of any sort or type arising out of or related to the Released Claims, including, without limitation, seeking to recover damages or other relief relating to any of the Released Claims. This Paragraph shall not apply to any action to enforce this Settlement Agreement.

3. **Full Release.** The Parties to this Agreement expressly agree and confirm that the Released Claims as set forth in Section I(B)(25) shall be interpreted as broadly as possible and to the fullest extent permitted by law and constitute a full and final release by the Releasing Parties of the Released Parties for the Released Claims.

4. **Waiver.** In addition to Section II(D)(3), the Releasing Parties shall be deemed to have, and by operation of the Order and Final Judgment shall have, with respect to the subject matter of the Released Claims, expressly waived and released the provisions, rights, and benefits of Section 1542 of the California Civil Code (providing, "A GENERAL RELEASE DOES

NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.”) and Section 20-7-11 of the South Dakota Codified Laws (providing, “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.”).

The Releasing Parties shall further be deemed to have, and by operation of the Order and Final Judgment shall have, expressly waived all similar provisions, statutes, regulations, rules, or principles of law or equity of any other state or applicable jurisdiction, or principle of common law. The Releasing Parties acknowledge that they are aware that they may hereafter discover facts in addition to, or different from, those facts which they now know or believe to be true with respect to the subject matter of the Released Claims, but that it is their intention to fully, finally, and forever release, acquit, relinquish and discharge the Released Parties of all Released Claims, and, upon the Date of Final Approval, shall be deemed to have, and by operation of the Order and Final Judgment, shall have, forever released, acquitted, relinquished, and discharged the Released Parties of all Released Claims, known or unknown, foreseen or unforeseen, suspected or unsuspected, actual, contingent or non-contingent, or liquidated or unliquidated, whether or not concealed or hidden, without regard to the subsequent discovery or existence of any such additional or different facts. The Releasing Parties intend and, by operation of the Order and Final Judgment, shall be deemed to have acknowledged that the foregoing waiver was separately bargained for and a key element of the Settlement Agreement of which this waiver and release is a part. The foregoing

release of (without limitation) unknown, unanticipated, unsuspected, unforeseen, contingent, unliquidated and unaccrued losses or claims is contractual, and not a mere recital.

5. **Effect of this Settlement Agreement on Final Judgment as to Other Defendants.** CIIPPs have been provided with a copy of the Second Amended Judgment Sharing Agreement entered into by certain Defendants dated February 25, 2020 (hereinafter referred to as “Defendants’ Agreement”). The defined terms in Defendants’ Agreement shall have the same meaning when used in this Settlement Agreement. CIIPPs agree that notwithstanding anything to the contrary contained in this Settlement Agreement, CIIPPs shall reduce the dollar amount collectable from the parties to the Defendants’ Agreement pursuant to any Final Judgment by a percentage equal to the Sharing Percentage of Koch Foods, calculated pursuant to Section 4 and Exhibits A and B of Defendants’ Agreement (as illustrated by the Appendix to Defendants’ Agreement) as if Koch Foods had not settled, had been found liable on the claim, and was a Sharing Party with respect to the Final Judgment. CIIPPs agree that this undertaking is also for the benefit of any Defendant that is a party to the Defendants’ Agreement and that this undertaking may be enforced by any or all of such Defendants as third-party beneficiaries hereof. Any ambiguity in this Section or inconsistency between this Settlement Agreement and the Defendants’ Agreement shall be resolved in favor of Defendants’ Agreement, including, without limitation, Sections 6.D.1 and 6.D.2 thereof. CIIPPs further represent and warrant that they have not reached any agreement to provide any portion of the settlement proceeds provided hereunder to any person or entity that is not explicitly identified as a Releasing Party in this Settlement Agreement, except for proceeds received by CIIPPs’ attorneys for payment of attorneys’ fees and expenses. CIIPPs shall use their best efforts to ensure that the Settlement Agreement constitutes a Qualified Settlement under Defendants’ Agreement and to effectuate the intent of the parties to the Defendants’ Agreement to treat the Settlement Agreement as a Qualified Settlement, including (as may be necessary) to make any

amendments to this Settlement Agreement to reflect the intent to treat the Settlement Agreement as a Qualified Settlement.

E. Settlement Fund Administration. The Settlement Fund shall be administered pursuant to the provisions of this Settlement Agreement and subject to the Court's continuing supervision and control, until the funds in the Settlement Fund are fully distributed, as follows:

1. The Settlement Fund shall be established within an Escrow Account and administered by an Escrow Agent designated by Co-Lead Counsel.

2. Except as provided herein, the Certified Class, Co-Lead Counsel, Koch Foods, and the Released Parties shall have no financial obligation or liability for any fees, costs, or expenses related to providing notice to the Certified Class or obtaining approval of the settlement or administering the settlement. Such fees, costs, or expenses shall be paid solely from the Settlement Fund, subject to any necessary Court approval.

3. Co-Lead Counsel, after obtaining an order of Preliminary Approval, may withdraw from the Settlement Fund up to \$600,000.00 to pay the costs for Class Notice and administration and for Preliminary Approval and Final Approval.

4. Co-Lead Counsel shall use best efforts to send out notice to the Certified Class as soon as is reasonably practicable after Preliminary Approval. In the event that Court-ordered notice and administration costs exceed \$600,000.00, Plaintiffs and Co-Lead Counsel may apply to the Court to pay such additional notice and administration costs from the Settlement Fund. Up to \$600,000.00 of the Class Notice and administration costs actually expended pursuant to this Settlement Agreement shall be nonrefundable in the event that, for any reason, this Settlement Agreement is terminated or does not receive Final Approval.

5. If there are other settlements at the time of, or within a reasonable amount of time after, the preliminary approval of this Settlement Agreement, Co-Lead Counsel shall

endeavor to ensure that Class Notice and claims administration costs shall be paid from the Settlement Fund in this and such other settlement agreements consistent with any such other settlement agreements and the approval of the Court.

6. Under no circumstances will Koch Foods or the Released Parties be required to pay more or less than the Settlement Amount pursuant to this Settlement Agreement. For purposes of clarification, the payment of any fee and expense award, the Class Notice and administrative costs (including payment of any applicable fees to Escrow Agent), any Service Awards to Plaintiffs, payments to Class Members and any other fees and costs associated with the implementation of this Settlement Agreement shall be exclusively paid from the Settlement Fund.

7. No other funds shall be paid or disbursements made from the Settlement Fund without an order of the Court, and in the event of any such order of the Court authorizing payments or disbursements above \$600,000.00, any such additional payments or disbursements shall be refunded to Koch Foods in the event that the Settlement Agreement is terminated or does not receive Final Approval and thereafter is rescinded pursuant to Section II(G)(9).

8. The Escrow Agent shall, to the extent practicable, invest the funds deposited in the Settlement Fund in discrete and identifiable instruments backed by the full faith and credit of the United States Government, or fully insured by the United States Government or any agency thereof, and shall reinvest the proceeds of these instruments as they mature in similar instruments at their then-current market rates. Any cash portion of the Settlement Fund not invested in instruments of the type described in the first sentence of this Section II(E)(8) shall be maintained by the Escrow Agent, and not commingled with any other funds or monies, in a federally insured bank account. Subsequent to payment into the Settlement Fund pursuant to Section II(C)(1), neither Koch Foods, any other Released Party, nor Settling Defendant's Counsel shall bear any responsibility or risk related to the Settlement Fund or the Net Settlement Fund.

9. The Parties agree that the Settlement Fund and the Net Settlement Fund are each intended to be a “Qualified Settlement Fund” within the meaning of Treasury Regulation § 1.468B-1 and, to that end, the Parties shall cooperate with each other and shall not take a position in any filing or before any tax authority that is inconsistent with such treatment. In addition, Co-Lead Counsel shall timely make such elections as necessary or advisable to carry out the provisions of this Section, including the relation-back election (as defined in Treas. Reg. § 1.468B-1(j)) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of Co-Lead Counsel to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur. All provisions of this Settlement Agreement shall be interpreted in a manner that is consistent with the Settlement Fund being a “Qualified Settlement Fund” within the meaning of Treas. Reg. § 1.4688-1.

10. The Escrow Agent, as administrator of the Qualified Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall be solely responsible for filing tax returns for the Escrow Account and paying from the Escrow Account any Taxes, as defined below, owed with respect to the Escrow Account. Neither Koch Foods, any other Released Party, nor the Settling Defendant’s Counsel shall have any liability or responsibility of any sort for filing any tax returns or paying any Taxes or expenses with respect to the Settlement Fund and Net Settlement Fund.

11. All: (i) taxes on the income of the Settlement Fund (“Taxes”) and (ii) expenses and costs incurred in connection with the taxation of the Settlement Fund (including, without limitation, reasonable expenses of tax attorneys and accountants) shall timely be paid by the Escrow Agent out of the Settlement Fund. The Class Members shall be solely responsible for paying any and all federal, state, and local income taxes due on any distribution made to them

pursuant to this Agreement.

12. After the Date of Final Approval, the Net Settlement Fund shall be disbursed in accordance with a plan of distribution to be approved by the Court. The Class Members shall look solely to the Net Settlement Fund for settlement and satisfaction of any and all Released Claims from Released Parties and shall not be entitled to any other payment or relief from the Released Parties. The timing of a motion to approve a plan of distribution of the Net Settlement Fund created by this Settlement Agreement shall be in the discretion of Co-Lead Counsel, and may be combined with a plan to distribute proceeds from other settlements in this Action.

F. Reversion

1. This settlement is non-reversionary.

G. Approval of Settlement Agreement and Dismissal of Released Claims

1. **Cooperation.** Plaintiffs and Koch Foods shall use their reasonable best efforts to effectuate this Settlement Agreement, including cooperating in seeking the Court's approval of the Settlement Agreement, the giving of appropriate Class Notice under Federal Rules of Civil Procedure 23(c) and (e) by Co-Lead Counsel, and the complete and final dismissal with prejudice of the Action as to Koch Foods only.

2. **Motion for Preliminary Approval.** Plaintiffs shall submit to the District Court a motion, at such time deemed appropriate in the discretion of Co-Lead Counsel (but as soon as is reasonably practicable after the Execution Date), requesting entry of an order preliminarily approving this Settlement Agreement ("Preliminary Approval Order"). Koch Foods shall not oppose and shall reasonably cooperate in such motion. A reasonable time before filing such motion, Co-Lead Counsel shall provide the Settling Defendant's Counsel with a draft of such motion for review. To the extent that Koch Foods objects to any aspect of the motion, it shall

communicate such objection to Co-Lead Counsel and the Parties shall meet and confer to resolve any such objection. The proposed Preliminary Approval Order shall provide that, inter alia:

a. the settlement proposed in the Settlement Agreement has been negotiated at arm's-length and is preliminarily determined to be fair, reasonable, adequate, and in the best interests of the Certified Class;

b. after Class Notice has been carried out, a hearing on the settlement proposed in this Settlement Agreement shall be held by the Court to determine whether the proposed settlement is fair, reasonable, and adequate, and whether it should be finally approved by the Court (the "Fairness Hearing");

c. Class Members who wish to object to this Agreement must submit an appropriate and timely written statement of the grounds for objection;

d. Class Members who wish to appear in person to object to this Agreement may do so at the Fairness Hearing pursuant to directions by the Court; and

e. All proceedings in the above-captioned action with respect to Koch Foods and CIPPs are stayed until further order of the Court, except as may be necessary to implement the settlement or comply with the terms thereof.

3. **Class Notice.** The Class Notice shall provide for a right to object to the proposed settlement. The timing of a motion to direct or approve Class Notice of this Settlement Agreement shall be in the discretion of Co-Lead Counsel, and may be combined with class notice of other settlements in this Action. A reasonable time before filing such motion, Co-Lead Counsel shall provide the Settling Defendant's Counsel with a draft of such motion for review and comment.

4. **Cost of Class Notice.** The costs of providing Class Notice to Class

Members shall be paid by the Escrow Agent from the Settlement Fund pursuant to Section II(E). Koch Foods shall not have any responsibility, financial obligation, or liability for any fees, costs, or expenses related to providing notice to the Certified Class or obtaining approval of the settlement or administering the settlement. Such fees, costs, or expenses shall be paid solely from the Settlement Fund, subject to any necessary Court approval.

5. **CAFA Notice.** Within ten (10) days of the filing of this Settlement Agreement in court in connection with the above-mentioned motion for Preliminary Approval, Koch Foods will provide to the appropriate state officials and the appropriate federal official the notice required by the Class Action Fairness Act of 2005, 28 U.S.C. § 1715(b) (“CAFA”). Co-Lead Class Counsel shall provide such assistance as is reasonably necessary and such information as is reasonably available to comply with 28 U.S.C. § 1715(b)(7)(A).

6. **Final Judgment.** If this Settlement Agreement is preliminarily approved by the Court, the Certified Class, through Co-Lead Counsel and in accordance with any schedule set forth in the Court’s Preliminary Approval, shall seek entry of an Order and Final Judgment. A reasonable time before filing such motion, Co-Lead Counsel shall provide the Settling Defendant’s Counsel with a draft of such motion for review. To the extent that Koch Foods objects to any aspect of the motion, it shall communicate such objection to Co-Lead Counsel and the Parties shall meet and confer to resolve any such objection. The motion for Final Approval shall seek an entry of an Order and Final Judgment that, inter alia:

a. finally approves this Settlement Agreement and its terms as being a fair, reasonable, and adequate settlement as to the Class Members within the meaning of Rule 23 of the Federal Rules of Civil Procedure and directing its implementation, performance, and consummation according to its terms and conditions, without material modification of those terms and conditions;

b. determines that the Class Notice constituted, under the circumstances, the most effective and practicable notice of this Settlement Agreement and the Fairness Hearing, and constituted due and sufficient notice for all other purposes to all persons or entities entitled to receive notice;

c. dismisses the Action with prejudice as to Koch Foods in all class action complaints asserted by CIIPPs without further costs or fees;

d. incorporates the Releases set forth in Section II(D) of this Agreement and makes the Releases effective as of the date of the Final Order and Final Judgment;

e. enjoins CIIPPs and Class Members from suing, directly or indirectly, any of the Released Parties for any of the Released Claims;

f. confirms that Koch Foods has provided the appropriate notice pursuant to CAFA;

g. reserves to the Court continuing and exclusive jurisdiction over the Settlement Agreement for all purposes;

h. determines under Federal Rule of Civil Procedure 54(b) that there is no just reason for delay and directs that the judgment of dismissal as to Koch Foods shall be final and appealable and entered forthwith; and

i. orders that the Net Settlement Fund may be disbursed as provided in the Final Approval Order or other order of the Court. The Parties shall use all reasonable best efforts to obtain Final Approval of the Settlement Agreement without modification to any of its material terms and conditions.

7. Class Counsel Fees and Expenses; No Other Costs.

a. Except as otherwise provided in Section II(C)(1) of this Settlement

Agreement, the Released Parties shall have no responsibility for any other payments, fees or costs, including Co-Lead Counsel's attorneys' fees, costs, and expenses, Service Awards, or the fees, costs, and expenses of any Plaintiff's or Class Member's respective attorneys, experts, advisors, or representatives; provided, however, that with respect to the Action, including this Settlement Agreement, Koch Foods shall bear its own costs and attorneys' fees.

b. At their discretion and after Final Approval and proper notice to Class Members and opportunity to object, Class Counsel may seek from the Settlement Fund, separately or in conjunction with other settlements, a court order granting attorneys' fees, reimbursement of costs and expenses, and Service Awards for the class representatives (to compensate for the time and expense they have incurred in bringing this Action). Any such attorneys' fees, reimbursement of costs and expenses, and Service Awards will be paid out of the Settlement Fund, and Koch Foods shall have no responsibility, financial obligation or liability for any such fees, costs, payments, or expenses beyond the Settlement Fund.

c. The procedure for and the allowance or disallowance by the Court of any applications by Co-Lead Counsel for attorneys' fees and expenses or the expenses of or Service Awards to Plaintiffs to be paid out of the Settlement Fund are not part of or a condition to the settlement set forth herein, and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the settlement and the Settlement Agreement, and any order or proceeding relating to any application for attorneys' fees or expenses or Service Awards shall not operate to terminate or cancel this Settlement Agreement or the releases set forth herein, or affect or delay the Final Approval of this settlement and Settlement Agreement.

d. Within a reasonable time period as deemed appropriate by Co-Lead Counsel after any order by the Court awarding attorneys' fees, expenses, or Service Awards, the

Escrow Agent shall pay the approved attorneys' fees, costs, and Service Award via wire transfer from the Settlement Fund as directed by Co-Lead Counsel. In the event the amount of attorneys' fees, costs, or Service Award is reduced on appeal, Co-Lead Counsel shall, within 30 days of such appellate order, cause the difference in the amount paid and the amount awarded on appeal to be returned to the Settlement Fund.

8. **When Settlement Becomes Final.** The settlement contemplated by this Settlement Agreement shall become final on the date that: (a) the Court has entered the Order and Final Judgment approving this Settlement Agreement, and all of its material terms and conditions, in accordance with Section II(G)(6) above, under Rule 23(e) of the Federal Rules of Civil Procedure and dismissing the Action as against Koch Foods with prejudice and without costs except as set forth herein; and (b) the time for appeal or to seek permission to appeal from the Court's approval of this Settlement Agreement and entry of the Order and Final Judgment, as described in Section II(G)(6) above, has expired with no appeal having been filed or, if appealed, approval of this Settlement Agreement and the Order and Final Judgment has been affirmed in all material respects by the court of last resort to which such appeal has been taken and such affirmance is no longer subject to further appeal or review. "Final Approval" shall mean the satisfaction of all the conditions set forth in this Section II(G)(8). The Parties agree that neither the provisions of Rule 60 of the Federal Rules of Civil Procedure, nor the All Writs Act, 28 U.S.C. § 1651, nor any extensions of time in petitioning for a writ of certiorari under Rule 13 of the Rules of the Supreme Court of the United States, shall be taken into account in determining the above-stated times.

9. **Termination and Rescission.**

a. **Rejection or Alteration of Settlement Terms.** If the Court declines to grant a Preliminary Approval Order or Order and Final Judgment (as set forth in Sections II(G)(2) or II(G)(6) above, respectively); or if the Court approves this Settlement Agreement in a

materially modified form; or if after the Court's approval, such approval is materially modified or set aside on appeal; or Final Approval is not obtained; or if the Court enters the Final Order and Judgment and appellate review is sought and on such review such Final Order and Judgment is not affirmed (collectively "Triggering Events")), then Koch Foods and Plaintiffs shall each, in their respective sole and absolute discretion, have the option to rescind, cancel, or terminate this Settlement Agreement in its entirety by providing written Notice of their election to do so ("Termination Notice") to the other Party within twenty-one (21) calendar days of any of the Triggering Events. For purposes of Section II(G)(6)(a) and this Section II(G)(9)(a), a material modification includes, but is not limited to, any modification to the Settlement Amount or a material change to the scope of the Released Claims. In no way shall CIIPPs have the right to rescind, cancel or terminate this Settlement Agreement if the Court fails or refuses to grant any requested attorneys' fees, any costs, or any Service Awards to Class Representatives.

b. **Effect of Termination or Rescission of Settlement.** In the event this Settlement Agreement is rescinded or terminated by a Termination Notice, then: (i) within fifteen (15) calendar days thereafter, the Settlement Fund, including accrued interest, less taxes and tax expenses that have been paid or that have accrued and will be payable at some later date, and less expenses and costs that have been disbursed pursuant to Sections II(E)(3)-(4), shall be refunded by the Escrow Agent to Koch Foods pursuant to written instructions from Settling Defendant's Counsel to Co-Lead Counsel; and (ii) the Parties shall be deemed to have reverted to their respective status in the Action as of the day before the Execution Date, and without waiver of any positions asserted in the Action as of the day before the Execution Date, shall then resume proceedings in the Court, the Court having retained jurisdiction over the settlement and related matters and, except as otherwise expressly provided in this Settlement Agreement, the Parties shall proceed in all respects as if this Settlement Agreement had not been executed.

10. **No Admission.**

a. Koch Foods denies all allegations of wrongdoing in the Action.

Whether or not Preliminary Approval is granted, Final Judgment is entered or this Settlement Agreement is terminated, the Parties expressly agree nothing in this Settlement Agreement or its contents, nor any statements, negotiations, documents, or discussions associated with it, constitutes an admission by Koch Foods or any other Released Party as to the merits of the allegations that have been, could have been, or could be made in the Action, or an admission by Plaintiffs or the Certified Class of the validity of any defenses that have been, could have been, or could be asserted by Koch Foods or any other Released Party.

b. This Settlement Agreement, its terms, and any agreement or order relating thereto, shall not be deemed to be, and shall not be offered by any of the Parties to be, received in any civil, criminal, administrative, or other proceeding, or utilized in any manner whatsoever as a presumption, a concession, or an admission of any fault, wrongdoing, or liability whatsoever on the part of Koch Foods or any other Released Party; provided, however, that nothing contained in this Section II(G)(10) shall prevent this Settlement Agreement (or any agreement or order relating thereto) from being used, offered, or received in evidence in any proceeding to approve, enforce, or otherwise effectuate the Settlement Agreement (or any agreement or order relating thereto) or the Order and Final Judgment, or in which the reasonableness, fairness, or good faith of any Party participating in the settlement (or any agreement or order relating thereto) is in issue. This Settlement Agreement may, however, be filed and used in other proceedings, where relevant, to demonstrate the fact of its existence and of this settlement, including, but not limited to, the filing of the Settlement Agreement and/or the Order and Final Judgment in any other action that may be brought against any Released Party in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith settlement, waiver, judgment

bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

III. MISCELLANEOUS

A. Entire Agreement. This Settlement Agreement constitutes the entire, complete and integrated agreement between the Parties and supersedes any and all prior and contemporaneous undertakings, communications, representations, understandings, negotiations, and discussions (either oral or written) between the Parties in connection therewith. All terms of the Settlement Agreement are contractual and not mere recitals. The Parties agree that this Settlement Agreement may be modified only by a written instrument signed by the Parties and that no Party will assert any claim against another based on any alleged agreement affecting or relating to the terms of this Settlement Agreement not in writing and signed by the Parties.

B. Inurement. This Settlement Agreement constitutes a binding and enforceable agreement as to the terms contained herein. The Settlement Agreement shall be binding upon and, to the fullest extent possible, inure to the benefit of the successors, assigns, and heirs of each of the Parties, the Class Members, the Releasing Parties and the Released Parties, and upon all other persons or entities claiming any interest in the subject matter hereof through any of the Settling Parties, Releasing Parties, or Released Parties, including any Class Members. Without limiting the generality of the foregoing, upon Final Approval, each and every covenant and agreement herein by the CIPPs shall be binding upon all of the Class Members and Releasing Parties.

C. Modification. This Settlement Agreement, including this Paragraph, may be modified or amended only by a writing executed by the Parties, subject (if after the Date of Preliminary Approval) to approval by the Court. Amendments and modifications may be made without notice to the Certified Class unless notice is required by law or by the Court. The waiver

of any rights conferred hereunder shall be effective only if made by written instrument of the waiving Party. The waiver by any Party of any particular breach of this Agreement shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent or contemporaneous, of this Agreement. This Agreement does not waive or otherwise limit the Parties' rights and remedies for any breach of this Agreement. Any breach of this Agreement may result in irreparable damage to a Party for which such Party will not have an adequate remedy at law. Accordingly, in addition to any other remedies and damages available, the Parties acknowledge and agree that the Parties may immediately seek enforcement of this Settlement Agreement by means of specific performance or injunction, without the requirement of posting a bond or other security.

D. Drafted Mutually. For the purpose of construing or interpreting this Settlement Agreement or any provision hereof, Plaintiffs, the Certified Class and Koch Foods shall be deemed to have drafted it equally, and it shall not be construed strictly for or against any Party.

E. Governing Law. All terms of this Settlement Agreement shall be governed by and interpreted according to the substantive laws of Illinois without regard to its choice-of-law or conflict-of-law principles.

F. Voluntary Settlement. The Parties agree that this Settlement Agreement was negotiated in good faith by the Parties, and reflects a settlement and compromise that was reached voluntarily after consultation with competent counsel, and no Party has entered this Settlement Agreement as the result of any coercion or duress.

G. Confidentiality. The Parties agree to continue to maintain the confidentiality of all settlement discussions and materials exchanged during the settlement negotiation. However, Koch Foods and CIPPs can inform other parties to this Action that they have reached a settlement agreement and disclose both the Settlement Amount and the cooperation and release obligations

contained in this Settlement Agreement. The Parties agree that they will confine their public comments, if any, concerning this settlement to no more than essentially the following: “The Parties have agreed to resolve and have settled this matter.” Additionally, consistent with its obligations under the Defendants’ Agreement, Koch Foods may share copies of this Settlement Agreement with parties to the Defendants’ Agreement, as well as with its lenders, accountants and financial advisers.

H. Jurisdiction. This Settlement Agreement is subject to the continuing and exclusive jurisdiction of the Court for any suit, action, proceeding, or dispute arising out of or relating to this Settlement Agreement or the applicability of this Settlement Agreement, including, without limitation, any suit, action, proceeding, or dispute relating to the release provisions herein; provided, however, that, as set forth in Section III(O), the release provisions herein may be pleaded as a complete defense in any appropriate jurisdiction (or arbitration) to any claim of any kind filed against a Released Party in violation of the terms of such release. If for any reason this Settlement Agreement is rescinded, terminated, fails to obtain Final Approval or otherwise fails to become effective, then, in such event, neither this Settlement Agreement nor any conduct required by it shall constitute or be construed as any agreement to personal jurisdiction (general or specific) or subject matter jurisdiction so as to confer the jurisdiction of the District Court over the Released Parties, nor shall it constitute any waiver of any defenses based on personal or subject matter jurisdiction.

I. Counterparts. This Settlement Agreement may be executed in counterparts by Co-Lead Counsel and Settling Defendant’s Counsel, each of which shall be deemed an original and all of which taken together shall constitute the same Settlement Agreement. A facsimile, electronic or .pdf signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

J. Represented by Counsel. Plaintiffs, the Certified Class, and Koch Foods each

acknowledge that they have been represented by counsel, and have made their own investigations of the matters covered by this Settlement Agreement to the extent they have deemed it necessary to do so and are not relying on any representation or warranty by the other party other than as set forth herein. The Settling Parties and their respective counsel agree that they will not seek to set aside any part of the Settlement Agreement on the grounds of mistake.

K. Authorization. Each of the undersigned attorneys represents that he or she is fully authorized to enter into and execute this Settlement Agreement, and each of its terms and conditions, subject to Court approval; the undersigned Co-Lead Counsel represent that they are authorized to execute this Settlement Agreement on behalf of Plaintiffs and the Certified Class; and the undersigned Settling Defendant's Counsel represent that they are authorized to execute the Settlement Agreement on behalf of Koch Foods.

L. Privilege. Nothing in this Settlement Agreement or the negotiations or proceedings relating to it are intended to or shall be deemed to constitute a waiver of any applicable privilege or immunity, including, without limitation, the accountants' privilege, the attorney-client privilege, the joint defense privilege, the common interest privilege, and work product immunity.

M. Notice. Any notice, other than Class Notice, required pursuant to or in connection with this Settlement Agreement ("Notice") shall be in writing and shall be given by (1) hand delivery, (2) registered or certified mail, return receipt requested, postage prepaid, or (3) UPS or similar overnight courier, together with a courtesy copy by electronic mail, addressed, in the case of notice to any Plaintiff or Class Member, to Co-Lead Counsel at their addresses set forth below, and, in the case of notice to Koch Foods, to the Settling Defendant's Counsel at the addresses set forth below, or such other addresses as Co-Lead Counsel or Settling Defendant's Counsel may designate, from time to time, by giving notice to all Parties in the manner described in this Section III(M).

For Commercial and Institutional Indirect Purchaser Plaintiffs:

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For Settling Defendant Koch Foods:

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ewolicki@atllp.com
jja@atllp.com

N. Headings. All headings contained in this Settlement Agreement are for reference purposes only and are not intended to affect in any way the meaning or interpretation of this Settlement Agreement.

O. Complete Defense. If any of the Releasing Parties hereafter sues any of the Released Parties (or brings an arbitration) for any of the Released Claims, this Settlement Agreement, when pleaded, shall be and constitute a complete defense and bar thereto.

P. Ownership of Claims. Each Releasing Party represents and warrants that it is the sole owner of any and all claims that it has or ever had against any of the Released Parties and that

it has not sold, assigned, or in any way encumbered any such claims, in whole or in part, to any person or party.

Q. Non-Disparagement. The Parties agree they will not disparage one another or their respective claims or defenses, such as by making extrajudicial public statements that disparage either the Parties or their conduct in connection with the Action. For the avoidance of doubt, the Parties agree that statements made in the Action in court filings, arguments, hearings, and trial are not subject to this provision.

R. Sole Remedy. This Settlement Agreement shall provide the sole and exclusive remedy for any and all Released Claims against any Released Party, and upon entry of Final Judgment, the Releasing Parties shall be forever barred from initiating, asserting, maintaining, or prosecuting any and all Released Claims against any Released Party.

S. Admissibility. It is agreed that this Settlement Agreement shall be admissible in any proceeding for establishing the terms of the Parties' agreement or for any other purpose with respect to implementing or enforcing this Settlement Agreement.

T. No Unstated Third-Party Beneficiaries. Except as provided in Section II.D.5 above, no provision of this Agreement shall provide any rights to, or be enforceable by, any person or entity that is not a Released Party, CIIPP, Class Member, or Co-Lead Class Counsel.

U. No Reliance. Each Party represents and warrants that, in entering into this Settlement Agreement, it has not relied on any representations by or on behalf of any other Party, other than those representations expressly set forth in writing in this Settlement Agreement.

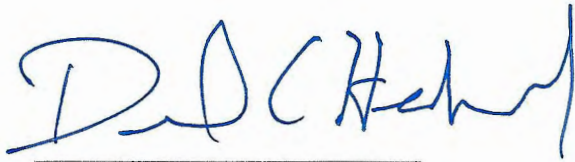
V. Intent to Be Bound. Each Party represents and warrants that it has read and understands this Agreement and that it intends to be legally bound thereby.

W. Waiver of Right to Appeal or Further Adjudication. CIIPPs will not seek to

further adjudicate at the district court, via appeal, or any other means, the orders of the Court in connection with the Action as they pertain to the CHPPs' claims as they relate to Koch Foods in their Operative Complaint.

IN WITNESS WHEREOF, the Parties hereto, through their fully authorized representatives, have agreed to this Settlement Agreement as of the Execution Date.

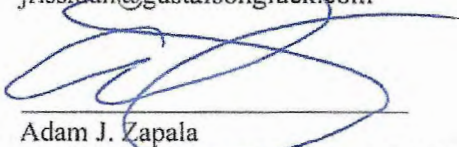
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Dated: _____

8/13/24

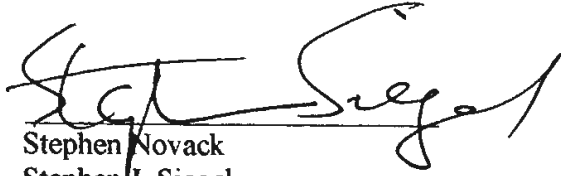


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8/13/24

Co-Lead Counsel for Commercial and Institutional Indirect Purchaser Plaintiffs



Dated: August 14, 2024

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Counsel for Defendants Koch Foods, Incorporated, JCG Foods of Alabama, LLC, JCG Foods of Georgia, LLC, and Koch Meat Co., Inc.

EXHIBIT C

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF
ILLINOIS EASTERN DIVISION**

*IN RE BROILER CHICKEN ANTITRUST
LITIGATION*

Case No. 1:16-cv-08637 (TMD/JTG)

Hon. Judge Thomas M. Durkin

Magistrate Judge Jeffrey T. Gilbert

This Document Relates To:

*All Commercial and Institutional Indirect
Purchaser Plaintiff Actions*

**SETTLEMENT AGREEMENT BETWEEN
COMMERCIAL AND INSTITUTIONAL INDIRECT PURCHASER PLAINTIFFS
AND THE MOUNTAIRE FARMS DEFENDANTS**

This Settlement Agreement (“Settlement Agreement” or “Agreement”) is made and entered into as of the Execution Date, by and between Mountaire Farms Inc., Mountaire Farms of Delaware, Inc., Mountaire Farms, LLC (collectively “Mountaire Farms” or “Settling Defendant”) on the one hand, and the Commercial and Institutional Indirect Purchaser Plaintiffs (“Plaintiffs” or “CIIPPs”),¹ individually and on behalf of a class of indirect purchasers of

¹ As used herein, “CIIPPs” means Sargent’s Restaurant and Lounge; Fargo Stopping Center, LLC; Wildwood Tavern LLC; Bodega Brew Pub, Inc.; Sullott Corporation; Chicken Joe’s LLC; Eat This, Inc.; Alpine Special Treatment Center, Inc.; Tennis Bums, LLC; Alabama Joe’s 2, Inc.; Tani Sushi Bistro, LLC; France 44 Foods, Inc.; Alliance Healthcare System, Inc.; Little Figs, Inc.; Da Big Blue Enterprises Corp.; Floersch IGA, Inc.; Avanti’s of Phoenix, Inc.; Midtown Bar & Grill; Bashara and Company; Mookie’s Southern Cuisine LLC; Eowyn, LLC; Peppers Grill & Bar, Inc.; Daliano’s, Inc.; Sumner County Restaurant & Creamery LLC; Tic-Tac-O; Brix Tavern, LLC; Pancho’s Taqueria, Inc.; Legacy 5, LLC; Roost Fried Chicken LLC; Oregano Italian, LLC; Bordenaro’s Pizza, Inc.; Telavi Hospitality, Inc.; and FB Mall, LLC.

Broilers,² on the other hand, which Agreement is subject to court approval in the above-captioned action (the “Action”). CIIPPs, on behalf of the Certified Class, and Mountaire Farms are referred to herein collectively as the “Parties” or individually as a “Party.”

RECITALS

A. Plaintiffs are prosecuting the Action on their own behalf and on behalf of the Certified Class (as hereinafter defined).

B. Plaintiffs have alleged, among other things, that Mountaire Farms entered into a contract, combination or conspiracy in restraint of trade, the purpose and effect of which was to suppress competition and to allow Mountaire Farms to charge supra-competitive prices for Broilers during the Class Period, in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1, as well as various state antitrust, unfair competition, unjust enrichment, and consumer protection laws.

C. Mountaire Farms vigorously and affirmatively rejects and denies Plaintiffs’ Claims and has alleged numerous defenses to Plaintiffs’ Claims.

D. This Settlement Agreement shall not be deemed or construed to be an admission or evidence of any violation of any statute, law, rule, or regulation or of any liability or wrongdoing by Mountaire Farms or of the truth of any of Plaintiffs’ Claims, nor shall it be deemed or construed to be an admission or evidence of Mountaire Farms’ defenses.

E. Co-Lead Counsel have conducted an investigation into the facts and law regarding the Action and the possible legal and factual defenses thereto and have concluded that a settlement with Mountaire Farms according to the terms set forth herein is fair, reasonable, adequate, and beneficial to and in the best interests of the Class, given the uncertainties, risks,

² Unless otherwise indicated, all capitalized terms shall have the meaning ascribed in the Definitions in Section I.

and costs of continued litigation.

F. Despite its belief that it is not liable for, and has strong defenses to, Plaintiffs' Claims, Mountaire Farms desires to settle the Action to avoid the further expense, inconvenience, disruption, and burden of this litigation and any other present or future litigation arising out of the facts that gave rise to the Action, to avoid the risks inherent in uncertain complex litigation and trial, and thereby to put to rest this controversy.

G. Arm's-length settlement negotiations have taken place between Co-Lead Counsel and the Settling Defendant's Counsel, and the settlement was reached as a result of those negotiations.

H. CIIPPs and Co-Lead Counsel believe that the Settlement Fund (as hereinafter defined) reflects fair, reasonable, and adequate compensation for the Certified Class (as hereinafter defined) to release, settle and discharge their claims that they were overcharged by the alleged anticompetitive conduct of which they accuse Mountaire Farms which Mountaire Farms denies.

I. The Parties to this Agreement desire to fully and finally settle and compromise this Action and all potential Released Claims by Releasing Parties against the Released Parties as set forth below to avoid the costs and risks of protracted litigation and trial.

IT IS HEREBY AGREED, in consideration of the foregoing, the terms and conditions set forth below, and other good and valuable consideration, by and among the Settling Parties, that the Action and all Released Claims are finally and fully settled and compromised and that the Action shall be dismissed in its entirety with prejudice as to the Released Parties and without cost to the Released Parties, other than those costs set forth in this Settlement Agreement, subject to approval of the Court pursuant to Rule 23 of the Federal Rules of Civil Procedure, upon and subject

to the following terms and conditions:

I. DEFINITIONS

A. Certified Class Definition

1. “Certified Class” or “Class” means the CIIPP litigation classes—both the state damages classes and the nationwide injunctive relief class—certified by the Court’s May 27, 2022, Order (ECF No. 5644). The foregoing classes exclude all persons and entities that previously filed a valid exclusion from the litigation class as set forth in ECF No. 6566-5.

B. General Definitions

1. “Action” means the putative class action filed by CIIPPs in the above-captioned proceeding.

2. “Affiliate” means with respect to any person, entity or company, any person, entity, or company that, directly or indirectly, controls, is controlled by or is under common control with such person, entity or company.

3. “Broilers” are chickens raised for meat consumption to be slaughtered before the age of 13 weeks, and which may be sold in a variety of forms, including fresh or frozen, and whole or in parts, but excluding chicken that is grown, processed, and sold according to halal, kosher, free range, or organic standards. “Broilers” does not include dark meat chicken products, such as chicken thighs. The definition also does not include certain “further processed” products, which include any chicken meat that has been breaded, cooked, or “formed,” such as patties, or nuggets; or products made from mechanically separated meat such as chicken sausages; or products that are ground, sliced, diced, or cubed. Marinated, seasoned, frozen and portioned products, that are not otherwise further processed, are included within the definition of Broilers.

4. “Claims” mean any and all, known or unknown, actual or potential causes

of action, claims, contentions, allegations, assertions of wrongdoing, suits, damages, losses, or demands for recoveries, remedies, or fees complained of, relating to, referred to, or arising from the conduct alleged in the Action or which could have been alleged in the Action, whether class, individual, or otherwise in nature.

5. “Class Member” means each member of the Certified Class that did not previously timely and properly exclude itself from the Certified Class as set forth in ECF No. 6566-5.

6. “Settlement Notice” means the notice to the Class, that is approved by the Court, in accordance with Section II(F)(3) below.

7. “Class Period” means the period from and including January 1, 2009 through July 31, 2019.

8. “Co-Conspirator” means those entities named as alleged co-conspirators in the Operative Complaint.

9. “Co-Lead Counsel” and “Class Counsel” mean, collectively, the law firms of Gustafson Gluek PLLC and Cotchett, Pitre & McCarthy, LLP, Commercial and Institutional Indirect Purchaser Plaintiffs’ Co-Lead Class Counsel.

10. “Complaint” or “Operative Complaint” means the Seventh Amended Consolidated Class Action Complaint in the Action, ECF Nos. 3929 and 3931.

11. “Court” or “District Court” means the United States District Court for the Northern District of Illinois and the Honorable Thomas M. Durkin or his successor, or any other Court in which the Action is proceeding.

12. “Date of Final Approval” means the date on which Final Approval as provided for in Section II(F)(8) occurs.

13. “Date of Preliminary Approval” means the date on which the Court enters an order granting preliminary approval to this Settlement Agreement, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, as provided in Section II(F)(2) below.

14. “Defendant” or “Defendants” means any or all of the Defendants named in the Operative Complaint.

15. “Execution Date” means the date on which this Settlement Agreement is entered into and executed by all Parties.

16. “Escrow Account” means the account with the Escrow Agent that holds the Settlement Fund.

17. “Escrow Agent” means the bank into which the Settlement Fund shall be deposited and maintained as set forth in Section II(E) of this Agreement.

18. “Fairness Hearing” means a hearing on the settlement proposed in this Settlement Agreement held by the Court to determine whether the proposed settlement is fair, reasonable, and adequate, and whether it should be finally approved by the Court.

19. “Final Approval” shall mean the satisfaction of all the conditions set forth in Section II(F)(8).

20. “Indirect Purchaser State” means Arizona, California, District of Columbia, Florida, Hawaii, Illinois, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, West Virginia, and Wisconsin.

21. “Net Settlement Fund” means the Settlement Fund, plus accrued interest and income, less any award of attorneys’ fees, Service Awards, and reimbursement of expenses

and less applicable taxes, tax preparation expenses, and costs of Settlement Notice and settlement administration as provided for in this Settlement Agreement, that may be awarded or approved by the Court.

22. “Notice” means the notice in accordance with Section III(M).

23. “Order and Final Judgment” means the order and final judgment of the Court approving the Settlement Agreement, as described in Section II(F)(6) below.

24. “Parties” or “Settling Parties” means Settling Defendant and the Class, as represented by CIIPPs.

25. “Plaintiffs” means the Commercial and Institutional Indirect Purchaser Plaintiffs (“CIIPPs”), individually as identified above in footnote 1 and on behalf of the Certified Class.

26. “Released Claims” means any and all existing or potential Claims, demands, claims, actions, suits, and causes of action, whether class, individual, or otherwise in nature (whether or not any Class Member has objected to the settlement or makes a claim upon or participates in the Settlement Fund, whether directly, indirectly, representatively, derivatively or in any other capacity) that the Releasing Parties (defined below) ever had, now have, or hereafter can, shall, or may ever have on account of, or in any way arising out of, any and all known and unknown, foreseen and unforeseen, suspected or unsuspected, actual or contingent, liquidated or unliquidated, claims, demands, actions, suits, causes of action, injuries, or damages arising from or in connection with any act or omission through the date of Preliminary Approval, relating to or referred to in the Action or arising from the factual predicate of the Action. For the avoidance of doubt, “Released Claims” includes all claims that have been asserted, or could have been asserted, in the Action, including all claims in any way arising out of or relating to

the purchase of chicken produced, processed or sold by Mountaire Farms or any of the other Defendants or Co-Conspirators. CIIPPs acknowledge and agree that the Released Claims include all claims that CIIPPs asserted or could have asserted under the laws of each of the Indirect Purchaser States, and CIIPPs expressly waive any right to appeal with respect to any and all claims for which the court entered summary judgment in favor of Mountaire Farms (ECF No. 6782, dated August 15, 2023). Notwithstanding the above, “Released Claims” does not include: (a) claims asserted against any other Defendant or alleged Co-Conspirator other than the Released Parties; (b) damages claims under the state or local laws of any jurisdiction other than an Indirect Purchaser State; or (c) any wholly-unrelated claims based on: (1) product defect or breach of warranty; (2) breach of contract (except such breaches relating to anticompetitive actions and/or unfair or inflated pricing); or (3) purchases of Broilers by persons or entities other than the Releasing Parties. The reservation of claims set forth in (a) through (c) of this Section I(B)(26) does not impair or diminish the right of the Released Parties to deny any such claims or to assert any and all defenses to such claims.

27. “Released Party or Parties” means jointly and severally, individually and collectively, Mountaire Farms, any and all of its past and current corporate parents (including holding companies), subsidiaries, affiliates, divisions, departments, joint ventures, predecessors, successors, assigns and any and all of their respective heirs, executors, devisees, administrators, officers, executives, directors, stockholders, employees, partners, members, owners, managers, agents, attorneys, advisors, auditors, accountants, contractors, servants, representatives and insurers. “Released Parties” includes any person or entity identified in the previous sentence in relation to Mountaire Farms that has been or in the future may be identified in the Action as a “Co- Conspirator.” Notwithstanding the foregoing, “Released Parties” does not include any

other Defendant or alleged Co-Conspirator, either explicitly or as a third-party beneficiary.

“Releasing Parties” means jointly and severally, individually and collectively, Plaintiffs, the Certified Class, and each Class Member, on behalf of themselves and any person or entity claiming by or through them, including without limitation, their respective predecessors; successors; assigns; and any and all past, present, and future parents, owners, subsidiaries, divisions, departments, affiliates, heirs, executors, devisees, administrators, officers, directors, stockholders, employees, partners, members, managers, principals, agents, attorneys, legal or other advisors, auditors, accountants, contractors, servants, representatives and insurers.

28. “Settling Defendant” and “Mountaire Farms” mean Mountaire Farms Inc., Mountaire Farms of Delaware, Inc., and Mountaire Farms LLC.

29. “Settling Defendant’s Counsel” means Amanda Wofford of Mountaire Farms, ArentFox Schiff LLP and the Rose Law Firm, and attorneys associated therewith those firms.

30. “Settlement Amount” means the cash payment of NINE MILLION SEVEN-HUNDRED THOUSAND dollars (\$9,700,000.000), as more specifically described in Section II(C)(1), below.

31. “Settlement Fund” means the funds described in Section II(C) of this Settlement Agreement, plus accrued interest, in the separate Escrow Account for the settlement contemplated by this Settlement Agreement established in accordance with Section II(E) below.

II. SETTLEMENT

A. The Parties’ Efforts to Effectuate this Settlement Agreement. The Parties will cooperate in good faith and use their best efforts to seek the Court’s Preliminary Approval and Final Approval of the Settlement Agreement.

B. Litigation Standstill. Effective with the Execution Date, and except to the extent expressly authorized in this Agreement, CIPPs and their counsel shall cease all litigation activities against Mountaire Farms in the Action, and Mountaire Farms and its counsel shall cease all litigation activities against CIPPs in the Action, provided, however, that both CIPPs and Mountaire Farms may seek appropriate discovery in the Action from other persons or entities. Upon execution of this agreement, the parties will inform the Court of the fact of the settlement agreement and the forthcoming motion for preliminary approval. None of the foregoing provisions shall be construed to prohibit CIPPs from seeking appropriate discovery or testimony at trial from non-settling Defendants or co-conspirators or any other person other than Settling Defendant. Mountaire Farms shall, in turn, cease all litigation activities against CIPPs related to the defense of claims against Mountaire Farms in the Action. None of the foregoing provisions shall be construed to prohibit Mountaire Farms from defending itself against the claims of non-settling plaintiffs.

C. Performance By Settling Defendant and CIPPs

1. **Settlement Payment.** In exchange for the full consideration described in this Settlement Agreement, Mountaire Farms shall pay the Settlement Amount in United States dollars, and in immediately available funds. The Parties agree that the Settlement Amount is the only amount to be paid by Mountaire Farms and shall be inclusive of the Class recovery amounts, any service awards to Plaintiffs for the work Plaintiffs performed on behalf of the Class (“Service Awards”) as awarded by the Court, fees (including attorneys’ fees and any other fees), and costs (including costs related to Settlement Notice and settlement administration).

a. The Settlement Amount shall be paid by Mountaire Farms into the Escrow Account for the Settlement Fund established in Section II(E)(1) by wire transfer,

pursuant to instructions from the Escrow Agent or Co-Lead Counsel. The Settlement Payment shall be made within 14 business days of the Execution Date, provided that Co-Lead Counsel have provided wire instructions and a signed W-9 within five (5) days of the Execution Date.

b. Each Class Member and each Releasing Party shall look solely to the Net Settlement Fund for full and complete settlement and satisfaction by Mountaire Farms and the Released Parties, as provided herein, of all Released Claims and shall not be entitled to any other payment or relief from the Released Parties.

c. Except as provided by order of the Court, no member of the Class shall have any interest in the Settlement Fund or any portion thereof. CIIPPs, members of the Class, and their counsel will be reimbursed solely out of the Settlement Fund for all expenses including, but not limited to, attorneys' fees and expenses, Service Awards, and the costs of notice of the Settlement Agreement to members of the Class. Mountaire Farms and the other Released Parties shall not be liable for any costs, fees, or expenses of any of CIIPPs' and Co-Lead Counsel's attorneys, experts, advisors, or representatives, but all such costs and expenses as approved by the Court shall be paid out of the Settlement Fund.

2. **Compliance.** Settling Defendant asserts that its business practices do not constitute a per se or other violation of Section 1 of the Sherman Act with respect to the sale of Broilers. The Parties agree that Settling Defendant will not, for a period of 24 months from the date of the entry of the Order and Final Judgment, engage in conduct that is determined in a final non-appealable judgment to constitute a per se violation of Section 1 of the Sherman Act with respect to the sale of Broilers. The Parties agree that any claim asserted by Plaintiffs of non-compliance with this provision shall not alter or affect the Release in Section II(D)(1) and/or the Waiver in Section II(D)(4).

3. **Cooperation.**

a. In the event that the settlement set forth in this Agreement between Mountaire Farms and Plaintiffs is approved by the Court but CIIPPs' claims against any other Defendant proceed to trial, Mountaire Farms agrees to use reasonable efforts, when reasonably requested by CIIPPs, to authenticate and provide foundation for admissibility of up to 50 documents and/or things produced in the Action by affidavit where it can reasonably do so in good faith. Mountaire Farms agrees to take steps to undertake this cooperation in a timely fashion.

b. To the extent that Mountaire Farms (a) responds to written discovery, (b) makes Rule 34 document productions, or (c) provides other plaintiffs in the Action with formal document or information proffers in conjunction with a settlement with those plaintiffs, Mountaire Farms will serve or otherwise provide CIIPPs a copy of such materials within seven (7) days of their production to any other plaintiff to the extent that the CIIPPs have claims remaining against any other Defendant at the time of such a response or production.

D. Release and Covenant Not to Sue

1. **Release.** Upon the occurrence of the Date of Final Approval, and in consideration of the terms set forth in this Agreement, the Releasing Parties shall be deemed to have, and by operation of law and of the Order and Final Judgment shall have, hereby fully, finally, and forever completely compromised, settled, released, acquitted, resolved, relinquished, waived, and discharged the Released Parties of all Released Claims.

2. **Covenant Not to Sue.** The Releasing Parties covenant not to sue, directly or indirectly, or otherwise seek to establish liability against, the Released Parties for any transaction, event, circumstance, action, failure to act, or occurrence of any sort or type arising

out of or related to the Released Claims, including, without limitation, seeking to recover damages or other relief relating to any of the Released Claims. This Paragraph shall not apply to any action to enforce this Settlement Agreement.

3. **Full Release.** The Parties to this Agreement expressly agree and confirm that the Released Claims as set forth in Section I(B)(26) shall be interpreted as broadly as possible and to the fullest extent permitted by law and constitute a full and final release by the Releasing Parties of the Released Parties for the Released Claims.

4. **Waiver.** In addition to Section II(D)(3), the Releasing Parties shall be deemed to have, and by operation of the Order and Final Judgment shall have, with respect to the subject matter of the Released Claims, expressly waived and released the provisions, rights, and benefits of Section 1542 of the California Civil Code (providing, “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.”) and Section 20-7-11 of the South Dakota Codified Laws (providing, “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.”).

The Releasing Parties shall further be deemed to have, and by operation of the Order and Final Judgment shall have, expressly waived all similar provisions, statutes, regulations, rules, or principles of law or equity of any other state or applicable jurisdiction, or principle of common

law. The Releasing Parties acknowledge that they are aware that they may hereafter discover facts in addition to, or different from, those facts which they now know or believe to be true with respect to the subject matter of the Released Claims, but that it is their intention to fully, finally, and forever release, acquit, relinquish and discharge the Released Parties of all Released Claims, and, upon the Date of Final Approval, shall be deemed to have, and by operation of the Order and Final Judgment, shall have, forever released, acquitted, relinquished, and discharged the Released Parties of all Released Claims, known or unknown, suspected or unsuspected, contingent or non- contingent, whether or not concealed or hidden, without regard to the subsequent discovery or existence of any such additional or different facts. The Releasing Parties intend and, by operation of the Order and Final Judgment, shall be deemed to have acknowledged that the foregoing waiver was separately bargained for and a key element of the settlement of which this waiver and release is a part. The foregoing release of unknown, unanticipated, unsuspected, unforeseen, and unaccrued losses or claims is contractual, and not a mere recital.

5. Effect of this Settlement Agreement on Final Judgment as to Other Defendants. CIIPPs have been provided with a copy of the Second Amended Judgment Sharing Agreement entered into by certain Defendants dated February 25, 2020 (hereinafter referred to as “Defendants’ Agreement”). The defined terms in Defendants’ Agreement shall have the same meaning when used in this Settlement Agreement. CIIPPs agree that notwithstanding anything to the contrary contained in this Settlement Agreement, CIIPPs shall reduce the dollar amount collectable from the parties to the Defendants’ Agreement pursuant to any Final Judgment by a percentage equal to the Sharing Percentage of Mountaire Farms, calculated pursuant to Section 4 and Exhibits A and B of Defendants’ Agreement (as illustrated by the Appendix to Defendants’ Agreement) as if Mountaire Farms had not settled, had been found liable on the

claim, and was a Sharing Party with respect to the Final Judgment. Notwithstanding the provision in Section I(B)(27) with respect to third-party beneficiaries, CIIPPs agree that this undertaking is also for the benefit of any Defendant that is a party to the Defendants' Agreement and that this undertaking may be enforced by any or all of such Defendants as third-party beneficiaries hereof. Any ambiguity in this Section or inconsistency between this Settlement Agreement and the Defendants' Agreement shall be resolved in favor of Defendants' Agreement, including, without limitation, Sections 6.D.1 and 6.D.2 thereof. CIIPPs further represent and warrant that they have not reached any agreement to provide any portion of the settlement proceeds provided hereunder to any person or entity that is not explicitly identified as a releasor in this Settlement Agreement, except for proceeds received by CIIPPs' attorneys for payment of attorneys' fees. CIIPPs shall use their best efforts to ensure that the Settlement Agreement constitutes a Qualified Settlement under Defendants' Agreement and to effectuate the intent of the parties to the Defendants' Agreement to treat the Settlement Agreement as a Qualified Settlement, including (as may be necessary) to make any amendments to this Settlement Agreement to reflect the intent to treat the Settlement Agreement as a Qualified Settlement.

As part of this Settlement Agreement, CIIPPs have agreed to eliminate damages arising from Mountaire Farms' sales of Broilers from the case as against the signatories to the Second Amended Judgment Sharing Agreement. As a result of the foregoing, the other Defendants named in this action that are signatories to the Second Amended Judgment Sharing Agreement shall not be liable for any damages arising from Mountaire Farms' sales of Broilers. CIIPPs entered into this Settlement Agreement based on the foregoing understanding of Defendants' Second Judgment Sharing Agreement. Consistent with the foregoing, CIIPPs state

that any damages arising from Mountaire Farms' sale of Broilers is not joint and several as against the other Defendants included as signatories to the Second Amended Judgment Sharing Agreement.

E. Settlement Fund Administration. The Settlement Fund shall be administered pursuant to the provisions of this Settlement Agreement and subject to the Court's continuing supervision and control, until the funds in the Settlement Fund are fully distributed, as follows:

1. The Settlement Fund shall be established within an Escrow Account and administered by an Escrow Agent designated by Co-Lead Counsel.

2. Except as provided herein, the Class, Co-Lead Counsel, Mountaire Farms, and the Released Parties shall have no financial obligation or liability for any fees, costs, or expenses related to providing Settlement Notice to the Class or obtaining approval of the settlement or administering the settlement. Such fees, costs, or expenses shall be paid solely from the Settlement Fund, subject to any necessary Court approval.

3. Co-Lead Counsel, after obtaining an order of Preliminary Approval, may withdraw from the Settlement Fund up to \$500,000.00 to pay the costs for Settlement Notice and administration and for Preliminary Approval and Final Approval.

4. Co-Lead Counsel shall use best efforts to send out notice to the Class as soon as is reasonably practicable after Preliminary Approval. In the event that Court ordered notice and administration costs exceed \$500,000.00, Plaintiffs and Co-Lead Counsel may apply to the Court to pay such additional notice and administration costs from the Settlement Fund. Up to \$500,000.00 of the Settlement Notice and administration costs actually expended pursuant to this Settlement Agreement shall be nonrefundable in the event that, for any reason, this Settlement Agreement is terminated or does not receive Final Approval.

5. If there are other settlements at the time of, or within a reasonable amount of time after, the preliminary approval of this Settlement Agreement, Co-Lead Counsel shall endeavor to ensure that Settlement Notice and claims administration costs shall be paid from the settlement funds in this and such other settlement agreements consistent with any such other settlement agreements and the approval of the Court.

6. Under no circumstances will Mountaire Farms or the Released Parties be required to pay more or less than the Settlement Amount pursuant to this Settlement Agreement. For purposes of clarification, the payment of any fee and expense award, the Settlement Notice and administrative costs (including payment of any applicable fees to Escrow Agent), any Service Awards to Plaintiffs, payments to Class Members and any other fees and costs associated with the implementation of this Settlement Agreement shall be exclusively paid from the Settlement Fund.

7. No other funds shall be paid or disbursements made from the Settlement Fund without an order of the Court, and in the event of any such order of the Court authorizing payments or disbursements above \$500,000, any such additional payments or disbursements shall be refunded to Mountaire Farms in the event that the Settlement Agreement is terminated or does not receive Final Approval and thereafter is rescinded pursuant to Section II(F)(9).

8. The Escrow Agent shall, to the extent practicable, invest the funds deposited in the Settlement Fund in discrete and identifiable instruments backed by the full faith and credit of the United States Government, or fully insured by the United States Government or any agency thereof, and shall reinvest the proceeds of these instruments as they mature in similar instruments at their then-current market rates. Any cash portion of the Settlement Fund not invested in instruments of the type described in the first sentence of this Section II(E)(8) shall

be maintained by the Escrow Agent, and not commingled with any other funds or monies, in a federally insured bank account. Subsequent to payment into the Settlement Fund pursuant to Section II(C)(1), neither Mountaire Farms, any other Released Party, nor Settling Defendant's Counsel shall bear any responsibility or risk related to the Settlement Fund or the Net Settlement Fund.

9. The Parties agree that the Settlement Fund and the Net Settlement Fund are each intended to be a "Qualified Settlement Fund" within the meaning of Treasury Regulation § 1.468B-1 and, to that end, the Parties shall cooperate with each other and shall not take a position in any filing or before any tax authority that is inconsistent with such treatment. In addition, Co- Lead Counsel shall timely make such elections as necessary or advisable to carry out the provisions of this Section, including the relation-back election (as defined in Treas. Reg. § 1.468B-1(j)) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of Co-Lead Counsel to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur. All provisions of this Settlement Agreement shall be interpreted in a manner that is consistent with the Settlement Funds being a "Qualified Settlement Fund" within the meaning of Treas. Reg. § 1.468B-1.

10. The Escrow Agent, as administrator of the Qualified Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall be solely responsible for filing tax returns for the Escrow Account and paying from the Escrow Account any Taxes, as defined below, owed with respect to the Escrow Account. Neither Mountaire Farms, any other Released Party, nor the Settling Defendant's Counsel shall have any liability or responsibility of

any sort for filing any tax returns or paying any Taxes or expenses with respect to the Qualified Settlement Fund.

11. All: (i) taxes on the income of the Settlement Fund (“Taxes”) and (ii) expenses and costs incurred in connection with the taxation of the Settlement Fund (including, without limitation, reasonable expenses of tax attorneys and accountants) shall timely be paid by the Escrow Agent out of the Settlement Fund. The Class Members shall be solely responsible for paying any and all federal, state, and local income taxes due on any distribution made to them pursuant to this Agreement.

12. After the Date of Final Approval, the Net Settlement Fund shall be disbursed in accordance with a plan of distribution to be approved by the Court. The Class Members shall look solely to the Net Settlement Fund for settlement and satisfaction of any and all Released Claims from Released Parties and shall not be entitled to any other payment or relief from the Released Parties. The timing of a motion to approve a plan of distribution of the Net Settlement Fund created by this Settlement Agreement shall be in the discretion of Co-Lead Counsel, and may be combined with a plan to distribute proceeds from other settlements in this Action.

F. Approval of Settlement Agreement and Dismissal of Released Claims

1. **Cooperation.** Plaintiffs and Mountaire Farms shall use their reasonable best efforts to effectuate this Settlement Agreement, including cooperating in seeking the Court’s approval of the Settlement Agreement, the giving of appropriate Settlement Notice under Federal Rules of Civil Procedure 23(e) by Co-Lead Counsel, and the complete and final dismissal with prejudice of the Action as to Mountaire Farms only.

2. **Motion for Preliminary Approval.** Plaintiffs shall submit to the District

Court a motion, at such time deemed appropriate in the discretion of Co-Lead Counsel (but as soon as is reasonably practicable after the Execution Date), requesting entry of an order preliminarily approving this Settlement Agreement (“Preliminary Approval Order”). Mountaire Farms shall not oppose and shall reasonably cooperate in such motion. A reasonable time before filing such motion, Co-Lead Counsel shall provide the Settling Defendant’s Counsel with a draft of such motion for review. To the extent that Mountaire Farms objects to any aspect of the motion, it shall communicate such objection to Co-Lead Counsel and the Parties shall meet and confer to resolve any such objection. The proposed Preliminary Approval Order shall provide that, inter alia:

a. the settlement proposed in the Settlement Agreement has been negotiated at arm’s-length and is preliminarily determined to be fair, reasonable, adequate, and in the best interests of the Class;

b. after Settlement Notice has been carried out, a hearing on the settlement proposed in this Settlement Agreement shall be held by the Court to determine whether the proposed settlement is fair, reasonable, and adequate, and whether it should be finally approved by the Court (the “Fairness Hearing”);

c. Class Members who wish to object to this Agreement must submit an appropriate and timely written statement of the grounds for objection;

d. Class Members who wish to appear in person to object to this Agreement may do so at the Fairness Hearing pursuant to directions by the Court; and

e. All proceedings in the above-captioned action with respect to Mountaire Farms and CIIPPs are stayed until further order of the Court, except as may be necessary to implement the settlement or comply with the terms thereof.

3. **Settlement Notice.** Settlement Notice shall provide for a right to object to the proposed settlement. The timing of a motion to direct or approve the Settlement Notice of this Settlement Agreement shall be in the discretion of Co-Lead Counsel, and may be combined with Settlement Notice of other settlements in this Action. A reasonable time before filing such motion, Co-Lead Counsel shall provide the Settling Defendant's Counsel with a draft of such motion for review.

4. **Cost of Settlement Notice.** The costs of providing Settlement Notice to Class Members shall be paid by the Escrow Agent from the Settlement Fund pursuant to Section II(E)(2) and (3).

5. **CAFA Notice.** Within ten (10) days of the filing of this Settlement Agreement in court in connection with the above-mentioned motion for Preliminary Approval, Mountaire Farms will provide to the appropriate state officials and the appropriate federal official the notice required by the Class Action Fairness Act of 2005, 28 U.S.C. § 1715(b) ("CAFA").

6. **Final Judgment.** If this Settlement Agreement is preliminarily approved by the Court, the Class, through Co-Lead Counsel and in accordance with any schedule set forth in the Court's Preliminary Approval, shall seek entry of an Order and Final Judgment. A reasonable time before filing such motion, Co-Lead Counsel shall provide the Settling Defendant's Counsel with a draft of such motion for review. To the extent that Mountaire Farms objects to any aspect of the motion, it shall communicate such objection to Co-Lead Counsel and the Parties shall meet and confer to resolve any such objection. The motion for Final Approval shall seek an entry of an Order and Final Judgment that, inter alia:

- a. finally approves this Settlement Agreement and its terms as being

a fair, reasonable, and adequate settlement as to the Class Members within the meaning of Rule 23 of the Federal Rules of Civil Procedure and directing its consummation according to its terms and conditions, without material modification of those terms and conditions;

b. determines that the Settlement Notice constituted, under the circumstances, the most effective and practicable notice of this Settlement Agreement and the Fairness Hearing, and constituted due and sufficient notice for all other purposes to all persons or entities entitled to receive notice;

c. orders that all Claims made by CIPPs against Mountaire Farms in the Action, be dismissed with prejudice and, except as expressly provided for in this Settlement Agreement, without further costs or fees;

d. incorporates the Releases set forth in Section II(D) of this Agreement and makes the Releases effective as of the date of the Final Order and Final Judgment;

e. enjoins members of the Class from suing, directly or indirectly, any of the Released Parties for any of the Released Claims;

f. confirms that Mountaire Farms has provided the appropriate notice pursuant to CAFA;

g. reserves to the Court continuing and exclusive jurisdiction over the settlement and this Settlement Agreement, including the administration and consummation of this Agreement;

h. determines under Federal Rule of Civil Procedure 54(b) that there is no just reason for delay and directs that the judgment of dismissal as to the Released Parties shall be final and entered forthwith; and

i. orders that the Net Settlement Fund may be disbursed as provided in the Final Approval Order or other order of the Court. The Parties shall use all reasonable best efforts to obtain Final Approval of the Settlement Agreement without modification to any of its material terms and conditions.

7. Class Counsel Fees and Expenses; No Other Costs.

a. Except as otherwise provided in Section II(C)(1) of this Settlement Agreement and elsewhere, the Released Parties shall have no responsibility for any other payments, fees or costs, including Co-Lead Counsel's attorneys' fees, costs, and expenses, Service Awards, or the fees, costs, and expenses of any Plaintiff's or Class Member's respective attorneys, experts, advisors, or representatives; provided, however, that with respect to the Action, including this Settlement Agreement, Mountaire Farms shall bear its own costs and attorneys' fees.

b. At their discretion and after Final Approval and proper notice to Class Members and opportunity to object, Class Counsel may seek from the Settlement Fund, separately or in conjunction with other settlements, a court order granting attorneys' fees, reimbursement of costs and expenses, and Service Awards for the class representatives (to compensate for the time and expense they have incurred in bringing this Action). Any such attorneys' fees, reimbursement of costs and expenses, and Service Awards will be paid out of the Settlement Fund, and Mountaire Farms shall have no obligation to pay any fees or expenses of Co- Lead Counsel.

c. The procedure for and the allowance or disallowance by the Court of any applications by Co-Lead Counsel for attorneys' fees and expenses or the expenses of or Service Awards to Plaintiffs to be paid out of the Settlement Fund are not part of or a condition

to the settlement set forth herein, and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the settlement and the Settlement Agreement, and any order or proceeding relating to any application for attorneys' fees or expenses or Service Awards shall not operate to terminate or cancel this Settlement Agreement or the releases set forth herein, or affect or delay the Final Approval of this settlement and Settlement Agreement.

d. Within a reasonable time period as deemed appropriate by Co-Lead Counsel after any order by the Court awarding attorneys' fees, expenses, or Service Awards, the Escrow Agent shall pay the approved attorneys' fees, costs, and service award via wire transfer from the Settlement Fund as directed by Co-Lead Counsel. In the event the amount of attorneys' fees, costs, or service award is reduced on appeal, Co-Lead Counsel shall, within 30 days of such appellate order, cause the difference in the amount paid and the amount awarded on appeal to be returned to the Settlement Fund.

8. **When Settlement Becomes Final.** The settlement contemplated by this Settlement Agreement shall become final on the date that: (a) the Court has entered the Order and Final Judgment approving this Settlement Agreement, and all of its material terms and conditions, in accordance with Section II(F)(6) above, under Rule 23(e) of the Federal Rules of Civil Procedure and dismissing the Action as against Mountaire Farms with prejudice as to all Class Members and without costs except as set forth herein; and (b) the time for appeal or to seek permission to appeal from the Court's approval of this Settlement Agreement and entry of the Order and Final Judgment, as described in Section II(F)(6) above, has expired with no appeal having been filed or, if appealed, approval of this Settlement Agreement and the Order and Final Judgment has been affirmed in all material respects by the court of last resort to which such appeal

has been taken and such affirmance is no longer subject to further appeal or review. “Final Approval” shall mean the satisfaction of all the conditions set forth in this Section II(F)(8). The Parties agree that neither the provisions of Rule 60 of the Federal Rules of Civil Procedure, nor the All Writs Act, 28 U.S.C. § 1651, nor any extensions of time in petitioning for a writ of certiorari under Rule 13 of the Rules of the Supreme Court of the United States, shall be taken into account in determining the above-stated times.

9. Termination and Rescission.

a. **Rejection or Alteration of Settlement Terms.** If the Court declines to grant a Preliminary Approval Order or Order and Final Judgment (as set forth in Sections II(F)(2) or (F)(6) above, respectively); or if the Court approves this Settlement Agreement in a materially modified form; or if after the Court’s approval, such approval is materially modified or set aside on appeal; or Final Approval is not obtained; or if the Court enters the Final Order and Judgment and appellate review is sought and on such review such Final Order and Judgment is not affirmed (collectively “Triggering Events”), then Mountaire Farms and Plaintiffs shall each, in their respective sole and absolute discretion, have the option to rescind, cancel, or terminate this Settlement Agreement in its entirety by providing written Notice of their election to do so (“Termination Notice”) to the other Party within fifteen (15) calendar days of any of the Triggering Events. For purposes of Section II(F)(6)(a) and this Section II(F)(9)(a), a material modification includes, but is not limited to, any modification to the Settlement Amount or a material change to the scope of the Released Claims. In no way shall CIPPs have the right to rescind, cancel or terminate this Settlement Agreement if the Court fails or refuses to grant any requested attorneys’ fees, any costs, or any Service Awards to Class Representatives.

b. **Effect of Termination or Rescission of Settlement.** In the event this Settlement Agreement is rescinded or terminated by a Termination Notice, then: (i) within fifteen (15) calendar days thereafter, the Settlement Fund, including accrued interest, less taxes and tax expenses that have been paid or that have accrued and will be payable at some later date, and less expenses and costs that have been disbursed pursuant to Sections II(E)(3)-(4), shall be refunded by the Escrow Agent to Mountaire Farms pursuant to written instructions from Mountaire Farms' Counsel to Co-Lead Counsel; and (ii) the Parties shall be deemed to have reverted to their respective status in the Action as of the day before the Execution Date, and without waiver of any positions asserted in the Action as of the day before the Execution Date, shall then resume proceedings in the Court, the Court having retained jurisdiction over the settlement and related matters and, except as otherwise expressly provided in this Settlement Agreement, the Parties shall proceed in all respects as if this Settlement Agreement had not been executed.

10. **No Admission.**

a. Mountaire Farms denies all allegations of wrongdoing in the Action. Nothing in this Settlement Agreement or its contents, nor any statements, negotiations, documents, or discussions associated with it, constitutes an admission by Mountaire Farms or any other Released Party as to the merits of the allegations that have been, could have been, or could be made in the Action, or an admission by Plaintiffs or the Class of the validity of any defenses that have been, could have been, or could be asserted by Mountaire Farms or any other Released Party.

b. This Settlement Agreement, its terms, and any agreement or order relating thereto, shall not be deemed to be, and shall not be offered by any of the Parties to be,

received in any civil, criminal, administrative, or other proceeding, or utilized in any manner whatsoever as a presumption, a concession, or an admission of any fault, wrongdoing, or liability whatsoever on the part of Mountaire Farms or any other Released Party; provided, however, that nothing contained in this Section II(F)(10) shall prevent this Settlement Agreement (or any agreement or order relating thereto) from being used, offered, or received in evidence in any proceeding to approve, enforce, or otherwise effectuate the Settlement Agreement (or any agreement or order relating thereto) or the Order and Final Judgment, or in which the reasonableness, fairness, or good faith of any Party participating in the settlement (or any agreement or order relating thereto) is in issue. This Settlement Agreement may, however, be filed and used in other proceedings, where relevant, to demonstrate the fact of its existence and of this settlement, including, but not limited to, the filing of the Settlement Agreement and/or the Order and Final Judgment in any other action that may be brought against any Released Party in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith settlement, waiver, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

III. MISCELLANEOUS

A. Entire Agreement. This Settlement Agreement constitutes the entire, complete and integrated agreement between the Parties pertaining to the settlement of the Action as to Mountaire Farms, and the release of the Released Parties, and supersedes any and all prior and contemporaneous undertakings, communications, representations, understandings, negotiations, and discussions (either oral or written) of the Parties in connection therewith. All terms of the Settlement Agreement are contractual and not mere recitals. The Parties agree that this Settlement Agreement may be modified only by a written instrument signed by the Parties

and that no party will assert any claim against another based on any alleged agreement affecting or relating to the terms of this Settlement Agreement not in writing and signed by the Parties.

B. Inurement. This Settlement Agreement constitutes a binding and enforceable agreement as to the terms contained herein. The terms of this Settlement Agreement are and shall be binding upon and, to the fullest extent possible, insure to the benefit of the successors, assigns, and heirs of each of the Releasing Parties and the Released Parties, and upon all other persons or entities claiming any interest in the subject matter hereto through any of the Settling Parties, Releasing Parties, or Released Parties, including any Class Members. Without limiting the generality of the foregoing, upon Final Approval, each and every covenant and agreement herein by the CIIPPs shall be binding upon all members and potential members of the Class and Releasing Parties who did not previously validly exclude themselves from the Class.

C. Modification. This Settlement Agreement may be modified or amended only by a writing executed by Co-Lead Counsel and Mountaire Farms or Settling Defendant's Counsel, subject (if after the Date of Preliminary Approval) to approval by the Court. Amendments and modifications may be made without notice to the Class unless notice is required by law or by the Court. The waiver of any rights conferred hereunder shall be effective only if made by written instrument of the waiving Party. The waiver by any Party of any particular breach of this Agreement shall not be deemed or construed as a waiver of any other breach, whether prior subsequent or contemporaneous, of this Agreement. This Agreement does not waive or otherwise limit the Parties' rights and remedies for any breach of this Agreement. Any breach of this Agreement may result in irreparable damage to a Party for which such Party will not have an adequate remedy at law. Accordingly, in addition to any other remedies and damages available, the Parties acknowledge and agree that the Parties may immediately seek enforcement

of this Settlement Agreement by means of specific performance or injunction, without the requirement of posting a bond or other security.

D. Drafted Mutually. For the purpose of construing or interpreting this Settlement Agreement or any provision hereof, Plaintiffs, the Class and Mountaire Farms shall be deemed to have drafted it equally, and it shall not be construed strictly for or against any party.

E. Governing Law. All terms of this Settlement Agreement shall be governed by and interpreted according to the substantive laws of Illinois without regard to its choice-of-law or conflict-of-law principles.

F. Voluntary Settlement. The Parties agree that this Settlement Agreement was negotiated in good faith by the Parties, and reflects a settlement and compromise that was reached voluntarily after consultation with competent counsel, and no Party has entered this Settlement Agreement as the result of any coercion or duress.

G. Confidentiality. The Parties agree to continue to maintain the confidentiality of all settlement discussions and materials exchanged during the settlement negotiation. However, Mountaire Farms and CIIPPs can inform other parties to this Action that they have reached a settlement agreement and disclose both the Settlement Amount and the cooperation obligations contained in this Settlement Agreement. Additionally, consistent with its obligations under the Defendants' Agreement, Mountaire Farms may share copies of this Settlement Agreement with parties to the Defendants' Agreement.

H. Jurisdiction. This Settlement Agreement is subject to the continuing and exclusive jurisdiction of the Court for any suit, action, proceeding, or dispute arising out of or relating to this Settlement Agreement or the applicability of this Settlement Agreement, including, without limitation, any suit, action, proceeding, or dispute relating to the release

provisions herein. If for any reason this Settlement Agreement is rescinded, terminated, fails to obtain Final Approval or otherwise fails to become effective, then, in such event, neither this Settlement Agreement nor any conduct required by it shall constitute or be construed as any agreement to personal jurisdiction (general or specific) or subject matter jurisdiction so as to confer the jurisdiction of the District Court over the Released Parties, nor shall it constitute any waiver of any defenses based on personal or subject matter jurisdiction.

I. Counterparts. This Settlement Agreement may be executed in counterparts by Co- Lead Counsel and Settling Defendant's Counsel, each of which shall be deemed an original and all of which taken together shall constitute the same Settlement Agreement. A facsimile, electronic or .pdf signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

J. Represented by Counsel. Plaintiffs, the Class, and Mountaire Farms each acknowledge that they have been represented by counsel, and have made their own investigations of the matters covered by this Settlement Agreement to the extent they have deemed it necessary to do so and are not relying on any representation or warranty by the other party other than as set forth herein. The Settling Parties and their respective counsel agree that they will not seek to set aside any part of the Settlement Agreement on the grounds of mistake.

K. Authorization. Each of the undersigned attorneys represents that he or she is fully authorized to enter into and execute this Settlement Agreement, subject to Court approval; the undersigned Co-Lead Counsel represent that they are authorized to execute this Settlement Agreement on behalf of Plaintiffs and the Class; and the undersigned Settling Defendant's Counsel represent that they are authorized to execute the Settlement Agreement on behalf of Mountaire Farms.

L. Privilege. Nothing in this Settlement Agreement or the negotiations or proceedings relating to it are intended to or shall be deemed to constitute a waiver of any applicable privilege or immunity, including, without limitation, the accountants' privilege, the attorney-client privilege, the joint defense privilege, the common interest privilege, and the attorney work product immunity.

M. Notice. Any notice, other than Settlement Notice, required pursuant to or in connection with this Settlement Agreement ("Notice") shall be in writing and shall be given by: (1) hand delivery; (2) registered or certified mail, return receipt requested, postage prepaid; or (3) UPS or similar overnight courier, with a courtesy copy by electronic mail, addressed, in the case of notice to any Plaintiff or Class Member, to Co-Lead Counsel at their addresses set forth below, and, in the case of notice to Mountaire Farms, to the Settling Defendants' Counsel at the addresses set forth below, or such other addresses as Co-Lead Counsel or Settling Defendants' Counsel may designate, from time to time, by giving notice to all Parties in the manner described in this Section III(M).

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For Settling Defendant Mountaire Farms:

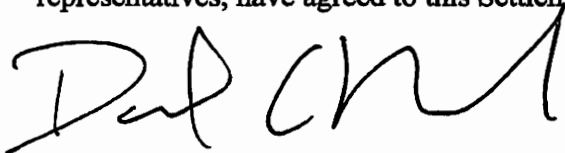
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N. **Headings.** All headings contained in this Settlement Agreement are for reference purposes only and are not intended to affect in any way the meaning or interpretation of this Settlement Agreement

IN WITNESS WHEREOF, the Parties hereto, through their fully authorized representatives, have agreed to this Settlement Agreement as of the Execution Date.



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Daniel C. Hedlund
Michelle J. Looby
Joshua J. Rissman
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Dated: 7-26-24

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Dated: _____

7/26/24

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Lead Counsel for Commercial and Institutional Indirect Purchaser Plaintiffs

MOUNTAIRE FARMS INC.

By: 

Dated: 7/29/24

Name: Amanda K. Wofford
Title: Associate Gen'l Counsel

MOUNTAIRE FARMS OF DELAWARE, INC.

By: 

Dated: 7/29/24

Name: Amanda K. Wofford
Title: Assoc. Gen'l Counsel

MOUNTAIRE FARMS LLC

By: 

Dated: 7/29/24

Name: Amanda K. Wofford
Title: Assoc. Gen'l Counsel

Amanda K. Wofford
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***Counsel for Mountaire Farms Inc., Mountaire Farms of Delaware, Inc., and
Mountaire Farms, LLC***

EXHIBIT D

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF
ILLINOIS EASTERN DIVISION**

*IN RE BROILER CHICKEN ANTITRUST
LITIGATION*

Case No. 1:16-cv-08637 (TMD/JTG)

Hon. Judge Thomas M. Durkin

Magistrate Judge Jeffrey T. Gilbert

This Document Relates To:

*All Commercial and Institutional Indirect
Purchaser Plaintiff Actions*

**SETTLEMENT AGREEMENT BETWEEN
COMMERCIAL AND INSTITUTIONAL INDIRECT PURCHASER PLAINTIFFS
AND THE O.K. FOODS DEFENDANTS**

This Settlement Agreement (“Settlement Agreement” or “Agreement”) is made and entered into as of the Execution Date, by and between O.K. Foods, Inc., O.K. Farms, Inc., O.K. Industries, Inc. (collectively “O.K. Foods” or “Settling Defendant”) on the one hand, and the Commercial and Institutional Indirect Purchaser Plaintiffs (“Plaintiffs” or “CIIPPs”),¹ individually and on behalf of a class of indirect purchasers of Broilers,² on the other hand, which Agreement is subject to court approval in the above-captioned action (the “Action”). CIIPPs,

¹ As used herein, “CIIPPs” means Sargent’s Restaurant and Lounge; Fargo Stopping Center, LLC; Wildwood Tavern LLC; Bodega Brew Pub, Inc.; Sullott Corporation; Chicken Joe’s LLC; Eat This, Inc.; Alpine Special Treatment Center, Inc.; Tennis Bums, LLC; Alabama Joe’s 2, Inc.; Tani Sushi Bistro, LLC; France 44 Foods, Inc.; Alliance Healthcare System, Inc.; Little Figs, Inc.; Da Big Blue Enterprises Corp.; Floersch IGA, Inc.; Avanti’s of Phoenix, Inc.; Midtown Bar & Grill; Bashara and Company; Mookie’s Southern Cuisine LLC; Eowyn, LLC; Peppers Grill & Bar, Inc.; Daliano’s, Inc.; Sumner County Restaurant & Creamery LLC; Tic-Tac-O; Brix Tavern, LLC; Pancho’s Taqueria, Inc.; Legacy 5, LLC; Roost Fried Chicken LLC; Oregano Italian, LLC; Bordenaro’s Pizza, Inc.; Telavi Hospitality, Inc.; and FB Mall, LLC.

² Unless otherwise indicated, all capitalized terms shall have the meaning ascribed in the Definitions in Section I.

on behalf of the Certified Class, and O.K. Foods are referred to herein collectively as the “Parties” or individually as a “Party.”

RECITALS

A. Plaintiffs are prosecuting the Action on their own behalf and on behalf of the Certified Class (as hereinafter defined).

B. Plaintiffs have alleged, among other things, that O.K. Foods entered into a contract, combination or conspiracy in restraint of trade, the purpose and effect of which was to suppress competition and to allow O.K. Foods to charge supra-competitive prices for Broilers during the Class Period, in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1, as well as various state antitrust, unfair competition, unjust enrichment, and consumer protection laws.

C. O.K. Foods vigorously and affirmatively rejects Plaintiffs’ Claims and has alleged numerous defenses to Plaintiffs’ Claims.

D. This Settlement Agreement shall not be deemed or construed to be an admission or evidence of any violation of any statute, law, rule, or regulation or of any liability or wrongdoing by O.K. Foods or of the truth of any of Plaintiffs’ Claims, nor shall it be deemed or construed to be an admission or evidence of O.K. Foods’ defenses.

E. Co-Lead Counsel have conducted an investigation into the facts and law regarding the Action and the possible legal and factual defenses thereto and have concluded that a settlement with O.K. Foods according to the terms set forth herein is fair, reasonable, adequate, and beneficial to and in the best interests of the Class, given the uncertainties, risks, and costs of continued litigation.

F. Despite its belief that it is not liable for, and has strong defenses to, Plaintiffs’ Claims, O.K. Foods desires to settle the Action to avoid the further expense, inconvenience,

disruption, and burden of this litigation and any other present or future litigation arising out of the facts that gave rise to the Action, to avoid the risks inherent in uncertain complex litigation and trial, and thereby to put to rest this controversy.

G. Arm's-length settlement negotiations have taken place between Co-Lead Counsel and the Settling Defendant's Counsel, and the settlement was reached as a result of those negotiations.

H. CIIPPs and Co-Lead Counsel believe that the Settlement Fund (as hereinafter defined) reflects fair, reasonable, and adequate compensation for the Certified Class (as hereinafter defined) to release, settle and discharge their claims that they were overcharged by the alleged anticompetitive conduct of which they accuse O.K. Foods.

I. The Parties to this Agreement desire to fully and finally settle and compromise this Action and all potential Released Claims by Releasing Parties against the Released Parties as set forth below to avoid the costs and risks of protracted litigation and trial.

IT IS HEREBY AGREED, in consideration of the foregoing, the terms and conditions set forth below, and other good and valuable consideration, by and among the Settling Parties, that the Action and all Released Claims are finally and fully settled and compromised and that the Action shall be dismissed in its entirety with prejudice as to the Released Parties and without cost to the Released Parties, other than those costs set forth in this Settlement Agreement, subject to approval of the Court pursuant to Rule 23 of the Federal Rules of Civil Procedure, upon and subject to the following terms and conditions:

I. DEFINITIONS

A. Certified Class Definition

1. “Certified Class” and “Class” shall have the same definition as the Court certified on May 27, 2022 (ECF No. 5644) and shall consist of the litigation state damages classes for the Indirect Purchaser States and the litigation nationwide injunctive relief class, excluding all persons and entities included in the Exclusion List (ECF No. 6566-5, filed May 18, 2023). General Definitions

B. General Definitions

1. “Action” means the class action filed by CIIPPs in the above- captioned proceeding.

2. “Affiliate” means with respect to any person, entity or company, any person, entity, or company that, directly or indirectly, controls, is controlled by, or is under common control with such person, entity or company.

3. “Broilers” are chickens raised for meat consumption to be slaughtered before the age of 13 weeks, and which may be sold in a variety of forms, including fresh or frozen, and whole or in parts, but excluding chicken that is grown, processed, and sold according to halal, kosher, free range, or organic standards. “Broilers” does not include dark meat chicken products, such as chicken thighs. The definition also does not include certain “further processed” products, which include any chicken meat that has been breaded, cooked, or “formed,” such as patties or nuggets; or products made from mechanically separated meat such as chicken sausages; or products that are ground, sliced, diced, or cubed. Marinated, seasoned, frozen and portioned products that are not otherwise further processed are included within the definition of Broilers.

4. “Claims” mean any and all, known or unknown, actual or potential causes

of action, claims, contentions, allegations, assertions of wrongdoing, suits, damages, losses, or demands for recoveries, remedies, or fees complained of, relating to, referred to, or arising from the conduct alleged in the Action or which could have been alleged in the Action, whether class, individual, or otherwise in nature.

5. “Class Member” means each member of the Certified Class that did not previously timely and properly exclude itself from the Certified Class subject to Section I(A)(1).

6. “Settlement Notice” means the notice to the Class, that is approved by the Court, in accordance with Section II(G)(3) below.

7. “Class Period” means the period from and including January 1, 2009, through July 31, 2019.

8. “Co-Conspirator” means those entities named as co-conspirators in the Operative Complaint.

9. “Co-Lead Counsel” and “Class Counsel” mean, collectively, the law firms of Gustafson Gluek PLLC and Cotchett, Pitre & McCarthy, LLP, Commercial and Institutional Indirect Purchaser Plaintiffs’ Co-Lead Class Counsel.

10. “Complaint” or “Operative Complaint” means the Seventh Amended Consolidated Class Action Complaint in the Action, ECF Nos. 3929 and 3931.

11. “Court” or “District Court” means the United States District Court for the Northern District of Illinois and the Honorable Thomas M. Durkin or his successor, or any other Court in which the Action is proceeding.

12. “Date of Final Approval” means the date on which Final Approval as provided for in Section II(G)(8) occurs.

13. “Date of Preliminary Approval” means the date on which the Court enters

an order granting preliminary approval to this Settlement Agreement, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, as provided in Section II(G)(2) below.

14. “Defendant” or “Defendants” means any or all of the Defendants named in the Operative Complaint.

15. “Execution Date” means the date on which this Settlement Agreement is entered into and executed by all Parties.

16. “Escrow Account” means the account with the Escrow Agent that holds the Settlement Fund.

17. “Escrow Agent” means the bank into which the Settlement Fund shall be deposited and maintained as set forth in Section II(C) of this Agreement.

18. “Fairness Hearing” means a hearing on the settlement proposed in this Settlement Agreement held by the Court to determine whether the proposed settlement is fair, reasonable, and adequate, and whether it should be finally approved by the Court.

19. “Final Approval” shall mean the satisfaction of all the conditions set forth in Section II(G)(8).

20. “Indirect Purchaser State” means Arizona, California, District of Columbia, Florida, Hawaii, Illinois, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, West Virginia, and Wisconsin.

21. “Net Settlement Fund” means the Settlement Fund, plus accrued interest and income, less any award of attorneys’ fees, Service Awards, and reimbursement of expenses and less applicable taxes, tax preparation expenses, and costs of Settlement Notice and

settlement administration as provided for in this Settlement Agreement, that may be awarded or approved by the Court.

22. “Notice” means the notice in accordance with Section III(M).

23. “Order and Final Judgment” means the order and final judgment of the Court approving the Settlement Agreement, as described in Section II(G)(6) below.

24. “Parties” or “Settling Parties” means Settling Defendant and the Class, as represented by CIPPs.

25. “Plaintiffs” means the representatives of the Certified Class as identified in Footnote 1, individually and on behalf of the Certified Class.

26. “Released Claims” means any and all existing or potential Claims, demands, claims, actions, suits, and causes of action, whether class, individual, or otherwise in nature (whether or not any Class Member has objected to the settlement or makes a claim upon or participates in the Settlement Fund, whether directly, indirectly, representatively, derivatively or in any other capacity) that the Releasing Parties (defined below) ever had, now have, or hereafter can, shall, or may ever have on account of, or in any way arising out of, any and all known and unknown, foreseen and unforeseen, suspected or unsuspected, actual or contingent, liquidated or unliquidated, claims, demands, actions, suits, causes of action, injuries, or damages arising from or in connection with any act or omission through the date of Preliminary Approval, relating to or referred to in the Action or arising from the factual predicate of the Action. For the avoidance of doubt, “Released Claims” includes all claims that have been asserted, or could have been asserted, in the Action, including all claims in any way arising out of or relating to the purchase of chicken produced, processed or sold by O.K. Foods or any of the other Defendants or Co-Conspirators. Notwithstanding the above, “Released Claims” does not include: (a) claims asserted against any

other Defendant or alleged Co-Conspirator other than the Released Parties; (b) damages claims under the state or local laws of any jurisdiction other than an Indirect Purchaser State; or (c) any wholly-unrelated claims based on: (1) product defect or breach of warranty; (2) breach of contract (except such breaches relating to anticompetitive actions and/or unfair or inflated pricing); or (3) purchases of Broilers by persons or entities other than the Releasing Parties. The reservation of claims set forth in (a) through (c) of this Section I(B)(26) does not impair or diminish the right of the Released Parties to deny any such claims or to assert any and all defenses to such claims. “Released Party or Parties” means jointly and severally, individually and collectively, O.K. Foods, any and all of its past and current corporate parents (including holding companies), subsidiaries, Affiliates, divisions, departments, joint ventures, predecessors, successors, assigns and any and all of their respective heirs, executors, devisees, administrators, officers, executives, directors, stockholders, employees, partners, members, managers, agents, attorneys, advisors, auditors, accountants, contractors, servants, representatives and insurers. “Released Parties” includes any person or entity identified in the previous sentence in relation to O.K. Foods that has been or in the future may be identified in the Action as a “Co-Conspirator.” Notwithstanding the foregoing, “Released Parties” does not include any other Defendant or alleged Co-Conspirator, either explicitly or as a third-party beneficiary. “Releasing Parties” means jointly and severally, individually and collectively, Plaintiffs, the Certified Class, and each Class Member, on behalf of themselves and any person or entity claiming by or through them, including without limitation, their respective predecessors; successors; assigns; and any and all past, present, and future parents, owners, subsidiaries, divisions, departments, Affiliates, heirs, executors, devisees, administrators, officers, directors, stockholders, employees, partners, members, managers, principals, agents, attorneys, legal or other advisors, auditors, accountants, contractors, servants, representatives and

insurers.

27. “Settling Defendant” and “O.K. Foods” mean O.K. Foods, Inc., O.K. Farms, Inc., and O.K. Industries, Inc.

28. “Settling Defendant’s Counsel” means MoloLamken LLP and Kutak Rock LLP, and attorneys associated therewith those firms.

29. “Settlement Amount” means the cash payment of FOUR MILLION FIVE-HUNDRED THOUSAND dollars (\$4,500,000.00), as more specifically described in Section II(C)(1), below.

30. “Settlement Fund” means the funds described in Section II(C) of this Settlement Agreement, plus accrued interest, in the separate Escrow Account for the settlement contemplated by this Settlement Agreement established in accordance with Section II(E) below.

II. SETTLEMENT

A. The Parties’ Efforts to Effectuate this Settlement Agreement. The Parties will cooperate in good faith and use their best efforts to seek the Court’s Preliminary Approval and Final Approval of the Settlement Agreement.

B. Litigation Standstill. Effective with the Execution Date, and except to the extent expressly authorized in this Agreement, CIPPs and their counsel shall cease all litigation activities against O.K. Foods in the Action, and O.K. Foods and its counsel shall cease all litigation activities against CIPPs in the Action, provided, however, that both CIPPs and O.K. Foods may seek appropriate discovery in the Action from other persons or entities. Upon execution of this agreement, the Parties will inform the Court of the fact of the settlement agreement and the forthcoming motion for preliminary approval. None of the foregoing provisions shall be construed to prohibit CIPPs from seeking appropriate discovery or testimony

at trial from non-settling Defendants or co-conspirators or any other person other than Settling Defendant. O.K. Foods shall, in turn, cease all litigation activities against CIPPs related to the defense of claims against O.K. Foods in the Action. None of the foregoing provisions shall be construed to prohibit O.K. Foods from defending itself against the claims of non-settling plaintiffs.

C. Performance By Settling Defendant and CIPPs

1. **Settlement Payment.** In exchange for the full consideration described in this Settlement Agreement, O.K. Foods shall pay the Settlement Amount in United States dollars, and in immediately available funds. The Parties agree that the Settlement Amount is the only amount to be paid by O.K. Foods and shall be inclusive of the Class recovery amounts, any service awards to Plaintiffs for the work Plaintiffs performed on behalf of the Class (“Service Awards”) as awarded by the Court, fees (including attorneys’ fees and any other fees), and costs (including costs related to Settlement Notice and settlement administration).

a. The Settlement Amount shall be paid by O.K. Foods into the Escrow Account for the Settlement Fund established in Section II(E)(1) by wire transfer, pursuant to instructions from the Escrow Agent or Co-Lead Counsel. The Settlement Payment shall be made within 10 business days of the Execution Date, provided that Co-Lead Counsel have provided wire instructions and a signed W-9 within five (5) days of the Execution Date.

b. Each Class Member and each Releasing Party shall look solely to the Net Settlement Fund for full and complete settlement and satisfaction by O.K. Foods and the Released Parties, as provided herein, of all Released Claims and shall not be entitled to any other payment or relief from the Released Parties.

c. Except as provided by order of the Court, no member of the Class

shall have any interest in the Settlement Fund or any portion thereof. CIIPPs, members of the Class, and their counsel will be reimbursed solely out of the Settlement Fund for all expenses including, but not limited to, attorneys' fees and expenses, Service Awards, and the costs of notice of the Settlement Agreement to members of the Class. O.K. Foods and the other Released Parties shall not be liable for any costs, fees, or expenses of any of CIIPPs' and Co-Lead Counsel's attorneys, experts, advisors, or representatives, but all such costs and expenses as approved by the Court shall be paid out of the Settlement Fund.

2. **Compliance.** Settling Defendant asserts that its business practices do not constitute a per se or other violation of Section 1 of the Sherman Act with respect to the sale of Broilers. The Parties agree that Settling Defendant will not, for a period of 24 months from the date of the entry of the Order and Final Judgment, engage in conduct that is determined in a final non-appealable judgment to constitute a per se violation of Section 1 of the Sherman Act with respect to the sale of Broilers. The Parties agree that any claim asserted by Plaintiffs of non-compliance with this provision shall not alter or affect the Release in Section II(D)(1) and/or the Waiver in Section II(D)(4).

3. **Cooperation.**

a. In the event that the settlement set forth in this Agreement between O.K. Foods and Plaintiffs is approved by the Court but CIIPPs' claims against any other Defendant proceed to trial, O.K. Foods agrees to use reasonable efforts, when reasonably requested by CIIPPs, to authenticate and provide foundation for admissibility of up to 50 documents and/or things produced in the Action by affidavit where it can reasonably do so in good faith.

b. To the extent that O.K. Foods (a) responds to written discovery, (b) makes Rule 34 document productions, or (c) provides other plaintiffs in the Action with formal document or information proffers in conjunction with a settlement with those plaintiffs, O.K.

Foods will serve or otherwise provide CIPPs a copy of such materials within seven (7) days of their production to any other plaintiff to the extent that the CIPPs have claims remaining against any other Defendant at the time of such a response or production.

D. Release and Covenant Not to Sue

1. **Release.** Upon the occurrence of the Date of Final Approval, and in consideration of the terms set forth in this Agreement, the Releasing Parties shall be deemed to have, and by operation of law and of the Order and Final Judgment shall have, hereby fully, finally, and forever completely compromised, settled, released, acquitted, resolved, relinquished, waived, and discharged the Released Parties of all Released Claims.

2. **Covenant Not to Sue.** The Releasing Parties covenant not to sue, directly or indirectly, or otherwise seek to establish liability against, the Released Parties for any transaction, event, circumstance, action, failure to act, or occurrence of any sort or type arising out of or related to the Released Claims, including, without limitation, seeking to recover damages or other relief relating to any of the Released Claims. This Paragraph shall not apply to any action to enforce this Settlement Agreement.

3. **Full Release.** The Parties to this Agreement expressly agree and confirm that the Released Claims as set forth in Section I(B)(26) shall be interpreted as broadly as possible and to the fullest extent permitted by law and constitute a full and final release by the Releasing Parties of the Released Parties for the Released Claims.

Waiver. In addition to Section II(D)(3), the Releasing Parties shall be deemed to have, and by operation of the Order and Final Judgment shall have, with respect to the subject matter of the Released Claims, expressly waived and released the provisions, rights, and benefits of Section 1542 of the California Civil Code (providing, “A GENERAL RELEASE DOES NOT

EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.”) and Section 20-7-11 of the South Dakota Codified Laws (providing, “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.”).

The Releasing Parties shall further be deemed to have, and by operation of the Order and Final Judgment shall have, expressly waived all similar provisions, statutes, regulations, rules, or principles of law or equity of any other state or applicable jurisdiction, or principle of common law. The Releasing Parties acknowledge that they are aware that they may hereafter discover facts in addition to, or different from, those facts which they now know or believe to be true with respect to the subject matter of the Released Claims, but that it is their intention to fully, finally, and forever release, acquit, relinquish and discharge the Released Parties of all Released Claims, and, upon the Date of Final Approval, shall be deemed to have, and by operation of the Order and Final Judgment, shall have, forever released, acquitted, relinquished, and discharged the Released Parties of all Released Claims, known or unknown, suspected or unsuspected, contingent or non- contingent, whether or not concealed or hidden, without regard to the subsequent discovery or existence of any such additional or different facts. The Releasing Parties intend and, by operation of the Order and Final Judgment, shall be deemed to have acknowledged that the foregoing waiver was separately bargained for and a key element of the settlement of

which this waiver and release is a part. The foregoing release of unknown, unanticipated, unsuspected, unforeseen, and unaccrued losses or claims is contractual, and not a mere recital.

E. Settlement Fund Administration. The Settlement Fund shall be administered pursuant to the provisions of this Settlement Agreement and subject to the Court's continuing supervision and control, until the funds in the Settlement Fund are fully distributed, as follows:

1. The Settlement Fund shall be established within an Escrow Account and administered by an Escrow Agent designated by Co-Lead Counsel.

2. Except as provided herein, the Class, Co-Lead Counsel, O.K. Foods, and the Released Parties shall have no financial obligation or liability for any fees, costs, or expenses related to providing Settlement Notice to the Class or obtaining approval of the settlement or administering the settlement. Such fees, costs, or expenses shall be paid solely from the Settlement Fund, subject to any necessary Court approval.

3. Co-Lead Counsel, after obtaining an order of Preliminary Approval, may withdraw from the Settlement Fund up to \$500,000.00 to pay the costs for Settlement Notice and administration and for Preliminary Approval and Final Approval.

4. Co-Lead Counsel shall use best efforts to send out notice to the Class as soon as is reasonably practicable after Preliminary Approval. In the event that Court-ordered notice and administration costs exceed \$500,000.00, Plaintiffs and Co-Lead Counsel may apply to the Court to pay such additional notice and administration costs from the Settlement Fund. Up to \$500,000.00 of the Settlement Notice and administration costs actually expended pursuant to this Settlement Agreement shall be nonrefundable in the event that, for any reason, this Settlement Agreement is terminated or does not receive Final Approval.

5. If there are other settlements at the time of, or within a reasonable amount

of time after, the preliminary approval of this Settlement Agreement, Co-Lead Counsel shall endeavor to ensure that Settlement Notice and claims administration costs shall be paid from the settlement funds in this and such other settlement agreements consistent with any such other settlement agreements and the approval of the Court.

6. Under no circumstances will O.K. Foods or the Released Parties be required to pay more or less than the Settlement Amount pursuant to this Settlement Agreement. For purposes of clarification, the payment of any fee and expense award, the Settlement Notice and administrative costs (including payment of any applicable fees to Escrow Agent), any Service Awards to Plaintiffs, payments to Class Members and any other fees and costs associated with the implementation of this Settlement Agreement shall be exclusively paid from the Settlement Fund.

7. No other funds shall be paid or disbursements made from the Settlement Fund without an order of the Court, and in the event of any such order of the Court authorizing payments or disbursements above \$500,000.00, any such additional payments or disbursements shall be refunded to O.K. Foods in the event that the Settlement Agreement is terminated or does not receive Final Approval and thereafter is rescinded pursuant to Section II(G)(9).

8. The Escrow Agent shall, to the extent practicable, invest the funds deposited in the Settlement Fund in discrete and identifiable instruments backed by the full faith and credit of the United States Government, or fully insured by the United States Government or any agency thereof, and shall reinvest the proceeds of these instruments as they mature in similar instruments at their then-current market rates. Any cash portion of the Settlement Fund not invested in instruments of the type described in the first sentence of this Section II(E)(8) shall be maintained by the Escrow Agent, and not commingled with any other funds or monies, in a

federally insured bank account. Subsequent to payment into the Settlement Fund pursuant to Section II(C)(1), neither O.K. Foods, any other Released Party, nor Settling Defendant's Counsel shall bear any responsibility or risk related to the Settlement Fund or the Net Settlement Fund.

9. The Parties agree that the Settlement Fund and the Net Settlement Fund are each intended to be a "Qualified Settlement Fund" within the meaning of Treasury Regulation § 1.468B-1 and, to that end, the Parties shall cooperate with each other and shall not take a position in any filing or before any tax authority that is inconsistent with such treatment. In addition, Co- Lead Counsel shall timely make such elections as necessary or advisable to carry out the provisions of this Section, including the relation-back election (as defined in Treas. Reg. § 1.468B-1(j)) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of Co-Lead Counsel to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur. All provisions of this Settlement Agreement shall be interpreted in a manner that is consistent with the Settlement Funds being a "Qualified Settlement Fund" within the meaning of Treas. Reg. § 1.468B-1.

10. The Escrow Agent, as administrator of the Qualified Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall be solely responsible for filing tax returns for the Escrow Account and paying from the Escrow Account any Taxes, as defined below, owed with respect to the Escrow Account. Neither O.K. Foods, any other Released Party, nor the Settling Defendant's Counsel shall have any liability or responsibility of any sort for filing any tax returns or paying any Taxes or expenses with respect to the Qualified

Settlement Fund.

11. All: (i) taxes on the income of the Settlement Fund (“Taxes”) and (ii) expenses and costs incurred in connection with the taxation of the Settlement Fund (including, without limitation, reasonable expenses of tax attorneys and accountants) shall timely be paid by the Escrow Agent out of the Settlement Fund. The Class Members shall be solely responsible for paying any and all federal, state, and local income taxes due on any distribution made to them pursuant to this Agreement.

12. After the Date of Final Approval, the Net Settlement Fund shall be disbursed in accordance with a plan of distribution to be approved by the Court. The Class Members shall look solely to the Net Settlement Fund for settlement and satisfaction of any and all Released Claims from Released Parties and shall not be entitled to any other payment or relief from the Released Parties. The timing of a motion to approve a plan of distribution of the Net Settlement Fund created by this Settlement Agreement shall be in the discretion of Co-Lead Counsel, and may be combined with a plan to distribute proceeds from other settlements in this Action.

F. Reversion

1. Settling Defendant shall have no right to reversion in the event that Class Members request exclusion or opt out of the Class, and any Opt-Out Claims shall have no effect on this Settlement Agreement.

G. Approval of Settlement Agreement and Dismissal of Released Claims

1. **Cooperation.** Plaintiffs and O.K. Foods shall use their reasonable best efforts to effectuate this Settlement Agreement, including cooperating in seeking the Court’s approval of the Settlement Agreement, the giving of appropriate Settlement Notice under Federal

Rule of Civil Procedure 23(e) by Co-Lead Counsel, and the complete and final dismissal with prejudice of the Action as to O.K. Foods only.

2. **Motion for Preliminary Approval.** Plaintiffs shall submit to the District Court a motion, at such time deemed appropriate in the discretion of Co-Lead Counsel (but as soon as is reasonably practicable after the Execution Date), requesting entry of an order preliminarily approving this Settlement Agreement (“Preliminary Approval Order”). O.K. Foods shall not oppose and shall reasonably cooperate in such motion. At a reasonable time before filing such motion, Co-Lead Counsel shall provide the Settling Defendant’s Counsel with a draft of such motion for review. To the extent that O.K. Foods objects to any aspect of the motion, it shall communicate such objection to Co-Lead Counsel and the Parties shall meet and confer to resolve any such objection. The proposed Preliminary Approval Order shall provide that, inter alia:

a. the settlement proposed in the Settlement Agreement has been negotiated at arm’s-length and is preliminarily determined to be fair, reasonable, adequate, and in the best interests of the Class;

b. after Settlement Notice has been carried out, a hearing on the settlement proposed in this Settlement Agreement shall be held by the Court to determine whether the proposed settlement is fair, reasonable, and adequate, and whether it should be finally approved by the Court (the “Fairness Hearing”);

c. Class Members who wish to object to this Agreement must submit an appropriate and timely written statement of the grounds for objection;

d. Class Members who wish to appear in person to object to this Agreement may do so at the Fairness Hearing pursuant to directions by the Court; and

e. All proceedings in the above-captioned action with respect to O.K. Foods and CIIPPs are stayed until further order of the Court, except as may be necessary to implement the settlement or comply with the terms thereof.

3. **Settlement Notice.** The Class Notice shall provide for a right to object to the proposed settlement. The timing of a motion to direct or approve the Settlement Notice of this Settlement Agreement shall be in the discretion of Co-Lead Counsel, and may be combined with class notice of other settlements in this Action. At a reasonable time before filing such motion, Co-Lead Counsel shall provide the Settling Defendant's Counsel with a draft of such motion for review.

4. **Cost of Settlement Notice.** The costs of providing Settlement Notice to Class Members shall be paid by the Escrow Agent from the Settlement Fund pursuant to Section II(E)(2) and (3).

5. **CAFA Notice.** Within ten (10) days of the filing of this Settlement Agreement in court in connection with the above-mentioned motion for Preliminary Approval, O.K. Foods will provide to the appropriate state officials and the appropriate federal official the notice required by the Class Action Fairness Act of 2005, 28 U.S.C. § 1715(b) ("CAFA").

6. **Final Judgment.** If this Settlement Agreement is preliminarily approved by the Court, the Class, through Co-Lead Counsel and in accordance with any schedule set forth in the Court's Preliminary Approval, shall seek entry of an Order and Final Judgment. At a reasonable time before filing such motion, Co-Lead Counsel shall provide the Settling Defendant's Counsel with a draft of such motion for review. To the extent that O.K. Foods objects to any aspect of the motion, it shall communicate such objection to Co-Lead Counsel and the Parties shall meet and confer to resolve any such objection. The motion for Final Approval

shall seek an entry of an Order and Final Judgment that, inter alia:

- a. finally approves this Settlement Agreement and its terms as being a fair, reasonable, and adequate settlement as to the Class Members within the meaning of Rule 23 of the Federal Rules of Civil Procedure and directing its consummation according to its terms and conditions, without material modification of those terms and conditions;
- b. determines that the Settlement Notice constituted, under the circumstances, the most effective and practicable notice of this Settlement Agreement and the Fairness Hearing, and constituted due and sufficient notice for all other purposes to all persons or entities entitled to receive notice;
- c. orders that all Claims made by CIIPPs against O.K. Foods in the Action, be dismissed with prejudice and, except as expressly provided for in this Settlement Agreement, without further costs or fees;
- d. incorporates the Releases set forth in Section II(D) of this Agreement and makes the Releases effective as of the date of the Final Order and Final Judgment;
- e. enjoins members of the Class from suing, directly or indirectly, any of the Released Parties for any of the Released Claims;
- f. confirms that O.K. Foods has provided the appropriate notice pursuant to CAFA;
- g. reserves to the Court continuing and exclusive jurisdiction over the settlement and this Settlement Agreement, including the administration and consummation of this Agreement;
- h. determines under Federal Rule of Civil Procedure 54(b) that there is no just reason for delay and directs that the judgment of dismissal as to the Released Parties

shall be final and entered forthwith; and

i. orders that the Net Settlement Fund may be disbursed as provided in the Final Approval Order or other order of the Court. The Parties shall use all reasonable best efforts to obtain Final Approval of the Settlement Agreement without modification to any of its material terms and conditions.

7. Class Counsel Fees and Expenses; No Other Costs.

a. Except as otherwise provided in Section II(C)(1) of this Settlement Agreement and elsewhere, the Released Parties shall have no responsibility for any other payments, fees or costs, including Co-Lead Counsel's attorneys' fees, costs, and expenses, Service Awards, or the fees, costs, and expenses of any Plaintiff's or Class Member's respective attorneys, experts, advisors, or representatives; provided, however, that with respect to the Action, including this Settlement Agreement, O.K. Foods shall bear its own costs and attorneys' fees.

b. At their discretion and after Final Approval and proper notice to Class Members and opportunity to object, Class Counsel may seek from the Settlement Fund, separately or in conjunction with other settlements, a court order granting attorneys' fees, reimbursement of costs and expenses, and Service Awards for the class representatives (to compensate for the time and expense they have incurred in bringing this Action). Any such attorneys' fees, reimbursement of costs and expenses, and Service Awards will be paid out of the Settlement Fund, and O.K. Foods shall have no obligation to pay any fees or expenses of Co-Lead Counsel.

c. The procedure for and the allowance or disallowance by the Court of any applications by Co-Lead Counsel for attorneys' fees and expenses or the expenses of or Service Awards to Plaintiffs to be paid out of the Settlement Fund are not part of or a condition to the settlement set forth herein, and are to be considered by the Court separately from the

Court's consideration of the fairness, reasonableness, and adequacy of the settlement and the Settlement Agreement, and any order or proceeding relating to any application for attorneys' fees or expenses or Service Awards shall not operate to terminate or cancel this Settlement Agreement or the releases set forth herein, or affect or delay the Final Approval of this settlement and Settlement Agreement.

d. Within a reasonable time period as deemed appropriate by Co-Lead Counsel after any order by the Court awarding attorneys' fees, expenses, or Service Awards, the Escrow Agent shall pay the approved attorneys' fees, costs, and service award via wire transfer from the Settlement Fund as directed by Co-Lead Counsel. In the event the amount of attorneys' fees, costs, or service award is reduced on appeal, Co-Lead Counsel shall, within 30 days of such appellate order, cause the difference in the amount paid and the amount awarded on appeal to be returned to the Settlement Fund.

8. **When Settlement Becomes Final.** The settlement contemplated by this Settlement Agreement shall become final on the date that: (a) the Court has entered the Order and Final Judgment approving this Settlement Agreement, and all of its material terms and conditions, in accordance with Section II(G)(6) above, under Rule 23(e) of the Federal Rules of Civil Procedure and dismissing the Action as against O.K. Foods with prejudice as to all Class Members and without costs except as set forth herein; and (b) the time for appeal or to seek permission to appeal from the Court's approval of this Settlement Agreement and entry of the Order and Final Judgment, as described in Section II(G)(6) above, has expired with no appeal having been filed or, if appealed, approval of this Settlement Agreement and the Order and Final Judgment has been affirmed in all material respects by the court of last resort to which such appeal has been taken and such affirmance is no longer subject to further appeal or review. "Final Approval" shall mean

the satisfaction of all the conditions set forth in this Section II(G)(8). The Parties agree that neither the provisions of Rule 60 of the Federal Rules of Civil Procedure, nor the All Writs Act, 28 U.S.C. § 1651, nor any extensions of time in petitioning for a writ of certiorari under Rule 13 of the Rules of the Supreme Court of the United States, shall be taken into account in determining the above-stated times.

9. Termination and Rescission.

a. **Rejection or Alteration of Settlement Terms.** If the Court declines to grant a Preliminary Approval Order or Order and Final Judgment (as set forth in Sections II(G)(2) or (G)(6) above, respectively); or if the Court approves this Settlement Agreement in a materially modified form; or if after the Court's approval, such approval is materially modified or set aside on appeal; or Final Approval is not obtained; or if the Court enters the Final Order and Judgment and appellate review is sought and on such review such Final Order and Judgment is not affirmed (collectively "Triggering Events")), then O.K. Foods and Plaintiffs shall each, in their respective sole and absolute discretion, have the option to rescind, cancel, or terminate this Settlement Agreement in its entirety by providing written Notice of their election to do so ("Termination Notice") to the other Party within fifteen (15) calendar days of any of the Triggering Events. For purposes of Section II(G)(6)(a) and this Section II(G)(9)(a), a material modification includes, but is not limited to, any modification to the Settlement Amount or a material change to the scope of the Released Claims. In no way shall CIIPPs have the right to rescind, cancel or terminate this Settlement Agreement if the Court fails or refuses to grant any requested attorneys' fees, any costs, or any Service Awards to Class Representatives.

b. **Effect of Termination or Rescission of Settlement.** In the event this Settlement Agreement is rescinded or terminated by a Termination Notice, then: (i) within

fifteen (15) calendar days thereafter, the Settlement Fund, including accrued interest, less taxes and tax expenses that have been paid or that have accrued and will be payable at some later date, and less expenses and costs that have been disbursed pursuant to Sections II(E)(3)-(4), shall be refunded by the Escrow Agent to O.K. Foods pursuant to written instructions from O.K. Foods' Counsel to Co-Lead Counsel; and (ii) the Parties shall be deemed to have reverted to their respective status in the Action as of the day before the Execution Date, and without waiver of any positions asserted in the Action as of the day before the Execution Date, shall then resume proceedings in the Court, the Court having retained jurisdiction over the settlement and related matters and, except as otherwise expressly provided in this Settlement Agreement, the Parties shall proceed in all respects as if this Settlement Agreement had not been executed.

10. No Admission.

a. O.K. Foods denies all allegations of wrongdoing in the Action.

Nothing in this Settlement Agreement or its contents, nor any statements, negotiations, documents, or discussions associated with it, constitutes an admission by O.K. Foods or any other Released Party as to the merits of the allegations that have been, could have been, or could be made in the Action, or an admission by Plaintiffs or the Class of the validity of any defenses that have been, could have been, or could be asserted by O.K. Foods or any other Released Party.

b. This Settlement Agreement, its terms, and any agreement or order relating thereto, shall not be deemed to be, and shall not be offered by any of the Parties to be, received in any civil, criminal, administrative, or other proceeding, or utilized in any manner whatsoever as a presumption, a concession, or an admission of any fault, wrongdoing, or liability whatsoever on the part of O.K. Foods or any other Released Party; provided, however, that nothing contained in this Section II(G)(10) shall prevent this Settlement Agreement (or any

agreement or order relating thereto) from being used, offered, or received in evidence in any proceeding to approve, enforce, or otherwise effectuate the Settlement Agreement (or any agreement or order relating thereto) or the Order and Final Judgment, or in which the reasonableness, fairness, or good faith of any Party participating in the settlement (or any agreement or order relating thereto) is in issue. This Settlement Agreement may, however, be filed and used in other proceedings, where relevant, to demonstrate the fact of its existence and of this settlement, including, but not limited to, the filing of the Settlement Agreement and/or the Order and Final Judgment in any other action that may be brought against any Released Party in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith settlement, waiver, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

III. MISCELLANEOUS

A. Entire Agreement. This Settlement Agreement constitutes the entire, complete, and integrated agreement between the Parties pertaining to the settlement of the Action as to O.K. Foods, and the release of the Released Parties, and supersedes any and all prior and contemporaneous undertakings, communications, representations, understandings, negotiations, and discussions (either oral or written) of the Parties in connection therewith. All terms of the Settlement Agreement are contractual and not mere recitals. The Parties agree that this Settlement Agreement may be modified only by a written instrument signed by the Parties and that no party will assert any claim against another based on any alleged agreement affecting or relating to the terms of this Settlement Agreement not in writing and signed by the Parties.

B. Inurement. This Settlement Agreement constitutes a binding and enforceable agreement as to the terms contained herein. The terms of this Settlement Agreement are and shall

be binding upon and, to the fullest extent possible, insure to the benefit of the successors, assigns, and heirs of each of the Releasing Parties and the Released Parties, and upon all other persons or entities claiming any interest in the subject matter hereto through any of the Settling Parties, Releasing Parties, or Released Parties, including any Class Members. Without limiting the generality of the foregoing, upon Final Approval, each and every covenant and agreement herein by the CIPPs shall be binding upon all members and potential members of the Class and Releasing Parties who did not previously validly exclude themselves from the Class.

C. Modification. This Settlement Agreement may be modified or amended only by a writing executed by Co-Lead Counsel and O.K. Foods or Settling Defendant's Counsel, subject (if after the Date of Preliminary Approval) to approval by the Court. Amendments and modifications may be made without notice to the Class unless notice is required by law or by the Court. The waiver of any rights conferred hereunder shall be effective only if made by written instrument of the waiving Party. The waiver by any Party of any particular breach of this Agreement shall not be deemed or construed as a waiver of any other breach, whether prior subsequent or contemporaneous, of this Agreement. This Agreement does not waive or otherwise limit the Parties' rights and remedies for any breach of this Agreement. Any breach of this Agreement may result in irreparable damage to a Party for which such Party will not have an adequate remedy at law. Accordingly, in addition to any other remedies and damages available, the Parties acknowledge and agree that the Parties may immediately seek enforcement of this Settlement Agreement by means of specific performance or injunction, without the requirement of posting a bond or other security.

D. Drafted Mutually. For the purpose of construing or interpreting this Settlement Agreement or any provision hereof, Plaintiffs, the Class, and O.K. Foods shall be deemed to have

drafted it equally, and it shall not be construed strictly for or against any party.

E. Governing Law. All terms of this Settlement Agreement shall be governed by and interpreted according to the substantive laws of Illinois without regard to its choice-of-law or conflict-of-law principles.

F. Voluntary Settlement. The Parties agree that this Settlement Agreement was negotiated in good faith by the Parties and reflects a settlement and compromise that was reached voluntarily after consultation with competent counsel, and no Party has entered this Settlement Agreement as the result of any coercion or duress.

G. Confidentiality. The Parties agree to continue to maintain the confidentiality of all settlement discussions and materials exchanged during the settlement negotiation. However, O.K. Foods and CIIPPs can inform other parties to this Action that they have reached a settlement agreement and disclose both the Settlement Amount and the cooperation obligations contained in this Settlement Agreement. Additionally, consistent with its obligations under the Defendants' Agreement, O.K. Foods may share copies of this Settlement Agreement with parties to the Defendants' Agreement.

H. Jurisdiction. This Settlement Agreement is subject to the continuing and exclusive jurisdiction of the Court for any suit, action, proceeding, or dispute arising out of or relating to this Settlement Agreement or the applicability of this Settlement Agreement, including, without limitation, any suit, action, proceeding, or dispute relating to the release provisions herein. If for any reason this Settlement Agreement is rescinded, terminated, fails to obtain Final Approval or otherwise fails to become effective, then, in such event, neither this Settlement Agreement nor any conduct required by it shall constitute or be construed as any agreement to personal jurisdiction (general or specific) or subject matter jurisdiction so as to confer the jurisdiction of the District

Court over the Released Parties, nor shall it constitute any waiver of any defenses based on personal or subject matter jurisdiction.

I. Counterparts. This Settlement Agreement may be executed in counterparts by Co-Lead Counsel and Settling Defendant's Counsel, each of which shall be deemed an original and all of which taken together shall constitute the same Settlement Agreement. A facsimile, electronic or .pdf signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

J. Represented by Counsel. Plaintiffs, the Class, and O.K. Foods each acknowledge that they have been represented by counsel, and have made their own investigations of the matters covered by this Settlement Agreement to the extent they have deemed it necessary to do so and are not relying on any representation or warranty by the other party other than as set forth herein. The Settling Parties and their respective counsel agree that they will not seek to set aside any part of the Settlement Agreement on the grounds of mistake.

K. Authorization. Each of the undersigned attorneys represents that he or she is fully authorized to enter into and execute this Settlement Agreement, subject to Court approval; the undersigned Co-Lead Counsel represent that they are authorized to execute this Settlement Agreement on behalf of Plaintiffs and the Class; and the undersigned Settling Defendant's Counsel represent that they are authorized to execute the Settlement Agreement on behalf of O.K. Foods.

L. Privilege. Nothing in this Settlement Agreement or the negotiations or proceedings relating to it are intended to or shall be deemed to constitute a waiver of any applicable privilege or immunity, including, without limitation, the accountants' privilege, the attorney-client privilege, the joint defense privilege, the common interest privilege, and the attorney work product immunity.

M. Notice. Any notice, other than Settlement Notice, required pursuant to or in connection with this Settlement Agreement (“Notice”) shall be in writing and shall be given by: (1) hand delivery; (2) registered or certified mail, return receipt requested, postage prepaid; or (3) UPS or similar overnight courier, with a courtesy copy by electronic mail, addressed, in the case of notice to any Plaintiff or Class Member, to Co-Lead Counsel at their addresses set forth below, and, in the case of notice to O.K. Foods, to the Settling Defendants’ Counsel at the addresses set forth below, or such other addresses as Co-Lead Counsel or Settling Defendants’ Counsel may designate, from time to time, by giving notice to all Parties in the manner described in this Section III(M).

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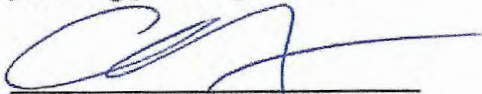
N. **Headings.** All headings contained in this Settlement Agreement are for reference purposes only and are not intended to affect in any way the meaning or interpretation of this Settlement Agreement

IN WITNESS WHEREOF, the Parties hereto, through their fully authorized representatives, have agreed to this Settlement Agreement as of the Execution Date.



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Dated: Aug. 9, 2024



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Lead Counsel for Commercial and Institutional Indirect Purchaser Plaintiffs



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EXHIBIT E

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

*IN RE BROILER CHICKEN ANTITRUST
LITIGATION*

No. 1:16-cv-08637 TMD
Hon. Thomas M. Durkin
Magistrate Judge Jeffrey T. Gilbert

This Document Relates To:
All Commercial and Institutional Indirect
Purchaser Plaintiff Actions

**SETTLEMENT AGREEMENT BETWEEN
COMMERCIAL AND INSTITUTIONAL INDIRECT PURCHASER PLAINTIFFS AND
THE SIMMONS FOODS DEFENDANTS**

This Settlement Agreement (“Settlement Agreement” or “Agreement”) is made and entered into as of the Execution Date, by and between Simmons Foods, Inc. and Simmons Prepared Foods, Inc. (collectively “Simmons Foods” or “Settling Defendant”) on the one hand, and the Commercial and Institutional Indirect Purchaser Plaintiffs (“Plaintiffs” or “CIIPPs”),¹ individually and on behalf of a class of indirect purchasers of Broilers,² on the other hand, which Agreement is subject to court approval in the above-captioned action (the “Action”). CIIPPs, on behalf of the Certified Class, and Simmons Foods are referred to herein collectively as the “Parties” or individually as a

¹ As used herein, “CIIPPs” means Sargent’s Restaurant and Lounge; Fargo Stopping Center, LLC; Wildwood Tavern LLC; Bodega Brew Pub, Inc.; Sullott Corporation; Chicken Joe’s LLC; Eat This, Inc.; Alpine Special Treatment Center, Inc.; Tennis Bums, LLC; Alabama Joe’s 2, Inc.; Tani Sushi Bistro, LLC; France 44 Foods, Inc.; Alliance Healthcare System, Inc.; Little Figs, Inc.; Da Big Blue Enterprises Corp.; Floersch IGA, Inc.; Avanti’s of Phoenix, Inc.; Midtown Bar and Grill LLC; Mookie’s Southern Cuisine LLC; Eowyn, LLC; Peppers Grill & Bar, Inc.; Daliano’s, Inc.; Sumner County Restaurant & Creamery LLC; Bashara & Company, LC; Tic-Tac-O; Brix Tavern, LLC; Pancho’s Taqueria, Inc.; Legacy 5, LLC; Roost Fried Chicken LLC; Oregano Italian, LLC; Bordenaro’s Pizza, Inc.; Telavi Hospitality, Inc.; and FB Mall, LLC.

² Unless otherwise indicated, all capitalized terms shall have the meaning ascribed in the Definitions in Section I.

“Party.”

RECITALS

A. Plaintiffs are prosecuting the Action on their own behalf and on behalf of the Certified Class (as hereinafter defined).

B. Plaintiffs have alleged, among other things, that Simmons Foods entered into a contract, combination or conspiracy in restraint of trade, the purpose and effect of which was to suppress competition and to allow Simmons Foods to charge supra-competitive prices for Broilers during the Class Period, in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1, as well as various state antitrust, unfair competition, unjust enrichment, and consumer protection laws.

C. Simmons Foods vigorously and affirmatively rejects Plaintiffs’ Claims and has alleged numerous defenses to Plaintiffs’ Claims.

D. This Settlement Agreement shall not be deemed or construed to be an admission or evidence of any violation of any statute, law, rule, or regulation or of any liability or wrongdoing by Simmons Foods or of the truth of any of Plaintiffs’ Claims, nor shall it be deemed or construed to be an admission or evidence of Simmons Foods’ defenses.

E. Co-Lead Counsel have conducted an investigation into the facts and law regarding the Action and the possible legal and factual defenses thereto and have concluded that a settlement with Simmons Foods according to the terms set forth herein is fair, reasonable, adequate, and beneficial to and in the best interests of the Class, given the uncertainties, risks, and costs of continued litigation.

F. Despite its belief that it is not liable for, and has strong defenses to, Plaintiffs’ Claims, Simmons Foods desires to settle the Action to avoid the further expense, inconvenience, disruption, and burden of this litigation and any other present or future litigation arising out of the facts that gave rise to the Action, to avoid the risks inherent in uncertain complex litigation and

trial, and thereby to put to rest this controversy.

G. Simmons Foods has entered into a Second Amended Judgment Sharing Agreement with other Defendants, which Co-Lead Counsel have reviewed, and which is addressed in Paragraph II(D)(5) below.

H. Arm's-length settlement negotiations have taken place between Co-Lead Counsel and the Settling Defendant's Counsel, and the settlement was reached as a result of those negotiations.

I. CIIPPs and Co-Lead Counsel believe that the Settlement Fund (as hereinafter defined) reflects fair, reasonable, and adequate compensation for the Certified Class (as hereinafter defined) to release, settle and discharge their claims that they were overcharged by the alleged anticompetitive conduct of which they accuse Simmons Foods.

J. The Parties to this Agreement desire to fully and finally settle and compromise this Action and all potential Released Claims by Releasing Parties against the Released Parties as set forth below to avoid the costs and risks of protracted litigation and trial.

IT IS HEREBY AGREED, in consideration of the foregoing, the terms and conditions set forth below, and other good and valuable consideration, by and among the Settling Parties, that the Action and all Released Claims are finally and fully settled and compromised and that the Action shall be dismissed in its entirety with prejudice as to the Released Parties and without cost to the Released Parties, other than those costs set forth in this Settlement Agreement, subject to approval of the Court pursuant to Rule 23 of the Federal Rules of Civil Procedure, upon and subject to the following terms and conditions:

I. DEFINITIONS

A. Certified Class Definition

1. “Certified Class” means the CIIPP litigation classes—both the state damages classes and the nationwide injunctive relief class—certified by the Court’s May 27, 2022, Order (ECF No. 5644).

B. General Definitions

1. “Action” means the class action filed by CIIPPs in the above- captioned proceeding.

2. “Affiliate” means with respect to any person, entity or company, any person, entity, or company that, directly or indirectly, controls, is controlled by or is under common control with such person, entity or company.

3. “Broilers” are chickens raised for meat consumption to be slaughtered before the age of 13 weeks, and which may be sold in a variety of forms, including fresh or frozen, and whole or in parts, but excluding chicken that is grown, processed, and sold according to halal, kosher, free range, or organic standards. “Broilers” does not include dark meat chicken products, such as chicken thighs. The definition also does not include certain “further processed” products, which include any chicken meat that has been breaded, cooked, or “formed,” such as patties, or nuggets; or products made from mechanically separated meat such as chicken sausages; or products that are ground, sliced, diced, or cubed. Marinated, seasoned, frozen and portioned products, that are not otherwise further processed, are included within the definition of Broilers.

4. “Claims” mean any and all, known or unknown, actual or potential causes of action, claims, contentions, allegations, assertions of wrongdoing, suits, damages, losses, or demands for recoveries, remedies, or fees complained of, relating to, referred to, or arising from the conduct alleged in the Action or which could have been alleged in the Action, whether class,

individual, or otherwise in nature.

5. “Class Member” means each member of the Certified Class that did not previously timely and properly exclude itself from the Certified Class.

6. “Settlement Notice” means the notice to the Class, that is approved by the Court, in accordance with Section II(G)(4) below.

7. “Class Period” means the period from and including January 1, 2009, through July 31, 2019.

8. “Co-Conspirator” means those entities named as co-conspirators in the Operative Complaint.

9. “Co-Lead Counsel” and “Class Counsel” mean, collectively, the law firms of Gustafson Gluek PLLC and Cotchett, Pitre & McCarthy, LLP, Commercial and Institutional Indirect Purchaser Plaintiffs’ Co-Lead Class Counsel.

10. “Complaint” or “Operative Complaint” means the Seventh Amended Consolidated Class Action Complaint in the Action, ECF Nos. 3929 and 3931.

11. “Court” or “District Court” means the United States District Court for the Northern District of Illinois and the Honorable Thomas M. Durkin or his successor, or any other Court in which the Action is proceeding.

12. “Date of Final Approval” means the date on which Final Approval as provided for in Section II(G)(9) occurs.

13. “Date of Preliminary Approval” means the date on which the Court enters an order granting preliminary approval to this Settlement Agreement, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, as provided in Section II(G)(3) below.

14. “Defendant” or “Defendants” means any or all of the Defendants named in the Operative Complaint.

15. “Execution Date” means the date on which this Settlement Agreement is entered into and executed by all Parties.

16. “Escrow Account” means the account with the Escrow Agent that holds the Settlement Fund.

17. “Escrow Agent” means the bank into which the Settlement Fund shall be deposited and maintained as set forth in Section II(C) of this Agreement.

18. “Fairness Hearing” means a hearing on the settlement proposed in this Settlement Agreement held by the Court to determine whether the proposed settlement is fair, reasonable, and adequate, and whether it should be finally approved by the Court.

19. “Final Approval” shall mean the satisfaction of all the conditions set forth in Section II(G)(9).

20. “Indirect Purchaser State” means Arizona, California, District of Columbia, Florida, Hawaii, Illinois, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, West Virginia, and Wisconsin.

21. “Net Settlement Fund” means the Settlement Fund, plus accrued interest and income, less any award of attorneys’ fees, Service Awards, and reimbursement of expenses and less applicable taxes, tax preparation expenses, and costs of Settlement Notice and settlement administration as provided for in this Settlement Agreement, that may be awarded or approved by the Court.

22. “Notice” means the notice in accordance with Section III(M).

23. “Order and Final Judgment” means the order and final judgment of the Court approving the Settlement Agreement, as described in Section II(G)(7) below.

24. “Parties” or “Settling Parties” means Settling Defendant and the Class, as represented by CIPPs.

25. “Plaintiffs” means the Commercial and Institutional Indirect Purchaser Plaintiffs (“CIPPs”).

26. “Released Claims” means any and all existing or potential Claims, demands, claims, actions, suits, and causes of action, whether class, individual, or otherwise in nature (whether or not any Class Member has objected to the settlement or makes a claim upon or participates in the Settlement Fund, whether directly, indirectly, representatively, derivatively or in any other capacity) that the Releasing Parties (defined below) ever had, now have, or hereafter can, shall, or may ever have on account of, or in any way arising out of, any and all known and unknown, foreseen and unforeseen, suspected or unsuspected, actual or contingent, liquidated or unliquidated, claims, demands, actions, suits, causes of action, injuries, or damages arising from or in connection with any act or omission through the date of Preliminary Approval, relating to or referred to in the Action or arising from the factual predicate of the Action. For the avoidance of doubt, “Released Claims” includes all claims that have been asserted, or could have been asserted, in the Action, including all claims in any way arising out of or relating to the purchase of chicken produced, processed or sold by Simmons Foods or any of the other Defendants or Co-Conspirators. Notwithstanding the above, “Released Claims” does not include: (a) claims asserted against any other Defendant or alleged Co-Conspirator other than the Released Parties; (b) damages claims under the state or local laws of any jurisdiction other than an Indirect Purchaser State; or (c) any wholly-unrelated claims based on: (1) product defect or breach of warranty; (2) breach of contract (except such breaches relating to anticompetitive actions and/or unfair or inflated pricing); or (3) purchases of Broilers by persons or entities other than the Releasing Parties. The reservation of claims set forth in (a) through (c) of this Section I(B)(27) does not impair or diminish the right of

the Released Parties to deny any such claims or to assert any and all defenses to such claims. “Released Claims” does not include those claims that cannot be released under Federal law.

27. “Released Party or Parties” means jointly and severally, individually and collectively, Simmons Foods, any and all of its past and current corporate parents (including holding companies), subsidiaries, Affiliates, divisions, departments, joint ventures, predecessors, successors, assigns and any and all of their respective heirs, executors, devisees, administrators, officers, executives, directors, stockholders, employees, partners, members, managers, agents, attorneys, advisors, auditors, accountants, contractors, servants, representatives and insurers. “Released Parties” includes any person or entity identified in the previous sentence in relation to Simmons Foods that has been or in the future may be identified in the Action as a “Co-Conspirator.” Notwithstanding the foregoing, “Released Parties” does not include any other Defendant or alleged Co-Conspirator, either explicitly or as a third-party beneficiary.

28. “Releasing Parties” means jointly and severally, individually and collectively, Plaintiffs, the Certified Class, and each Class Member, on behalf of themselves and any person or entity claiming by or through them, including without limitation, their respective predecessors; successors; assigns; and any and all past, present, and future parents, owners, subsidiaries, divisions, departments, Affiliates, heirs, executors, devisees, administrators, officers,

directors, stockholders, employees, partners, members, managers, principals, agents, attorneys, legal or other advisors, auditors, accountants, contractors, servants, representatives and insurers.

29. “Settling Defendant” and “Simmons Foods” mean Simmons Foods, Inc. and Simmons Prepared Foods, Inc.

30. “Settling Defendant’s Counsel” means Conner & Winters, LLP and Shook, Hardy & Bacon LLP, and attorneys associated therewith those firms.

31. “Settlement Amount” means the cash payment of FOUR MILLION TWO-HUNDRED AND FIFTY THOUSAND dollars (\$4,250,000.000), as more specifically described in Section II(C)(1), below.

32. “Settlement Fund” means the funds described in Section II(C) of this Settlement Agreement, plus accrued interest, in the separate Escrow Account for the settlement contemplated by this Settlement Agreement established in accordance with Section II(E) below.

II. SETTLEMENT

A. The Parties’ Efforts to Effectuate this Settlement Agreement. The Parties will cooperate in good faith and use their best efforts to seek the Court’s Preliminary Approval and Final Approval of the Settlement Agreement.

B. Litigation Standstill. Effective with the Execution Date, and except to the extent expressly authorized in this Agreement, CIIPPs and their counsel shall cease all litigation activities against Simmons Foods in the Action, and Simmons Foods and its counsel shall cease all litigation activities against CIIPPs in the Action, provided, however, that both CIIPPs and Simmons Foods may seek appropriate discovery in the Action from other persons or entities. Upon execution of this agreement, the parties will inform the Court of the fact of the settlement agreement and the forthcoming motion for preliminary approval. None of the foregoing provisions shall be construed to prohibit CIIPPs from seeking appropriate discovery or testimony at trial from non-settling

Defendants or co-conspirators or any other person other than Settling Defendant. Simmons Foods shall, in turn, cease all litigation activities against CIIPPs related to the defense of claims against Simmons Foods in the Action. None of the foregoing provisions shall be construed to prohibit Simmons Foods from defending itself against the claims of non-settling plaintiffs.

C. Performance By Settling Defendant and CIIPPs

1. **Settlement Payment.** In exchange for the full consideration described in this Settlement Agreement, Simmons Foods shall pay the Settlement Amount in United States dollars, and in immediately available funds. The Parties agree that the Settlement Amount is the only amount to be paid by Simmons Foods and shall be inclusive of the Class recovery amounts, any service awards to Plaintiffs for the work Plaintiffs performed on behalf of the Class (“Service Awards”) as awarded by the Court, fees (including attorneys’ fees and any other fees), and costs (including costs related to Settlement Notice and settlement administration).

a. The Settlement Amount shall be paid by Simmons Foods into the Escrow Account for the Settlement Fund established in Section II(E)(1) by wire transfer, pursuant to instructions from the Escrow Agent or Co-Lead Counsel. The Settlement Payment shall be made within 10 business days of the Execution Date, provided that Co-Lead Counsel have provided wire instructions and a signed W-9 within five (5) days of the Execution Date.

b. Each Class Member and each Releasing Party shall look solely to the Net Settlement Fund for full and complete settlement and satisfaction by Simmons Foods and the Released Parties, as provided herein, of all Released Claims and shall not be entitled to any

other payment or relief from the Released Parties.

c. Except as provided by order of the Court, no member of the Class shall have any interest in the Settlement Fund or any portion thereof. CIIPPs, members of the Class, and their counsel will be reimbursed solely out of the Settlement Fund for all expenses including, but not limited to, attorneys' fees and expenses, Service Awards, and the costs of notice of the Settlement Agreement to members of the Class. Simmons Foods and the other Released Parties shall not be liable for any costs, fees, or expenses of any of CIIPPs' and Co-Lead Counsel's attorneys, experts, advisors, or representatives, but all such costs and expenses as approved by the Court shall be paid out of the Settlement Fund.

2. **Compliance.** The parties agree that Settling Defendant will not, for a period of 24 months from the date of the entry of Final Judgment, engage in conduct that constitutes a per se violation of Section 1 of the Sherman Act with respect to the sale of Broilers.

3. **Cooperation.**

a. If CIIPPs go to trial against any Defendant, and if reasonably requested by CIIPPs, Simmons Foods agrees to use reasonable efforts to authenticate and provide foundation for admissibility of up to 50 documents and/or things produced in the Action by affidavit where it can reasonably do so in good faith. Simmons Foods agrees to take steps to undertake this cooperation in a timely fashion.

b. To the extent that Simmons Foods (a) responds to written discovery, (b) makes Rule 34 document productions, or (c) provides other plaintiffs in the Action with formal document or information proffers in conjunction with a settlement with those plaintiffs, Simmons Foods will serve or otherwise provide CIIPPs a copy of such materials within seven (7) days of their production to any other plaintiff, provided however, that this obligation ceases when CIIPPs have settled with all Defendants.

D. Release and Covenant Not to Sue

1. **Release.** Upon the occurrence of the Date of Final Approval, and in consideration of the terms set forth in this Agreement, the Releasing Parties shall be deemed to have, and by operation of law and of the Order and Final Judgment shall have, hereby fully, finally, and forever completely compromised, settled, released, acquitted, resolved, relinquished, waived, and discharged the Released Parties of all Released Claims.

2. **Covenant Not to Sue.** The Releasing Parties covenant not to sue, directly or indirectly, or otherwise seek to establish liability against, the Released Parties for any transaction, event, circumstance, action, failure to act, or occurrence of any sort or type arising out of or related to the Released Claims, including, without limitation, seeking to recover damages or other relief relating to any of the Released Claims. This Paragraph shall not apply to any action to enforce this Settlement Agreement.

3. **Full Release.** The Parties to this Agreement expressly agree and confirm that the Released Claims as set forth in Section I(B)(27) shall be interpreted as broadly as possible and to the fullest extent permitted by law and constitute a full and final release by the Releasing Parties of the Released Parties for the Released Claims.

4. **Waiver.** In addition to Section II(D)(3), the Releasing Parties shall be deemed to have, and by operation of the Order and Final Judgment shall have, with respect to the subject matter of the Released Claims, expressly waived and released the provisions, rights, and benefits of Section 1542 of the California Civil Code (providing, "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING

THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.”) and Section 20-7-11 of the South Dakota Codified Laws (providing, “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.”).

The Releasing Parties shall further be deemed to have, and by operation of the Order and Final Judgment shall have, expressly waived all similar provisions, statutes, regulations, rules, or principles of law or equity of any other state or applicable jurisdiction, or principle of common law. The Releasing Parties acknowledge that they are aware that they may hereafter discover facts in addition to, or different from, those facts which they now know or believe to be true with respect to the subject matter of the Released Claims, but that it is their intention to fully, finally, and forever release, acquit, relinquish and discharge the Released Parties of all Released Claims, and, upon the Date of Final Approval, shall be deemed to have, and by operation of the Order and Final Judgment, shall have, forever released, acquitted, relinquished, and discharged the Released Parties of all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, without regard to the subsequent discovery or existence of any such additional or different facts. The Releasing Parties intend and, by operation of the Order and Final Judgment, shall be deemed to have acknowledged that the foregoing waiver was separately bargained for and a key element of the settlement of which this waiver and release is a part. The foregoing release of unknown, unanticipated, unsuspected, unforeseen, and unaccrued losses or claims is contractual, and not a mere recital.

5. **Effect of this Settlement Agreement on Final Judgment as to Other Defendants.** CIIPPs have been provided with a copy of the Second Amended Judgment Sharing Agreement entered into by certain Defendants dated February 25, 2020 (hereinafter referred to as “Defendants’ Agreement”). The defined terms in Defendants’ Agreement shall have the same meaning when used in this Settlement Agreement. CIIPPs agree that notwithstanding anything to the contrary contained in this Settlement Agreement, CIIPPs shall reduce the dollar amount collectable from the parties to the Defendants’ Agreement pursuant to any Final Judgment by a percentage equal to the Sharing Percentage of Simmons Foods, calculated pursuant to Section 4 and Exhibits A and B of Defendants’ Agreement (as illustrated by the Appendix to Defendants’ Agreement) as if Simmons Foods had not settled, had been found liable on the claim, and was a Sharing Party with respect to the Final Judgment. Notwithstanding the provision in Section I(B)(28) with respect to third-party beneficiaries, CIIPPs agree that this undertaking is also for the benefit of any Defendant that is a party to the Defendants’ Agreement and that this undertaking may be enforced by any or all of such Defendants as third-party beneficiaries hereof. Any ambiguity in this Section or inconsistency between this Settlement Agreement and the Defendants’ Agreement shall be resolved in favor of Defendants’ Agreement, including, without limitation, Sections 6.D.1 and 6.D.2 thereof. CIIPPs further represent and warrant that they have not reached any agreement to provide any portion of the settlement proceeds provided hereunder to any person or entity that is not explicitly identified as a releasor in this Settlement Agreement, except for proceeds received by CIIPPs’ attorneys for payment of attorneys’ fees. CIIPPs shall use their best efforts to ensure that the Settlement Agreement constitutes a Qualified Settlement under Defendants’ Agreement and to effectuate the intent of the parties to the Defendants’ Agreement to treat the Settlement Agreement as a Qualified Settlement, including (as may be necessary) to make

any amendments to this Settlement Agreement to reflect the intent to treat the Settlement Agreement as a Qualified Settlement.

As part of this Settlement Agreement and because of the CIIPPs' views of the Defendants' Second Amended Judgment Sharing Agreement, CIIPPs have agreed to eliminate damages arising from Simmons Foods' sales of Broilers from the case as against the signatories to the Second Amended Judgment Sharing Agreement. As a result of the foregoing, the other Defendants named in this action that are signatories to the Second Amended Judgment Sharing Agreement shall not be liable for any damages arising from Simmons Food's sales of Broilers. CIIPPs entered into this Settlement Agreement based on the foregoing understanding of Defendants' Second Judgment Sharing Agreement. Consistent with the foregoing, CIIPPs state that any damages arising from Simmons Foods' sale of Broilers is not joint and several as against the other Defendants included as signatories to the Second Amended Judgment Sharing Agreement.

If, as is contemplated under this agreement, CIIPPs do not seek damages for Simmons Foods' sales at trial as against the other signatories to the Defendants' Agreement or if they use a special verdict form at trial that separately identifies the applicable Simmons Foods' sales, CIIPPs state that it will not be necessary to apply the Simmons Foods percentage as a discount to any trial verdict under the terms of Defendants' Agreement. CIIPPs entered into this Settlement Agreement based on the foregoing understanding of Defendants' Agreement.

E. Settlement Fund Administration. The Settlement Fund shall be administered pursuant to the provisions of this Settlement Agreement and subject to the Court's continuing supervision and control, until the funds in the Settlement Fund are fully distributed, as follows:

1. The Settlement Fund shall be established within an Escrow Account and administered by an Escrow Agent designated by Co-Lead Counsel.
2. Except as provided herein, the Class, Co-Lead Counsel, Simmons Foods,

and the Released Parties shall have no financial obligation or liability for any fees, costs, or expenses related to providing Settlement Notice to the Class or obtaining approval of the settlement or administering the settlement. Such fees, costs, or expenses shall be paid solely from the Settlement Fund, subject to any necessary Court approval.

3. Co-Lead Counsel, after obtaining an order of Preliminary Approval, may withdraw from the Settlement Fund up to \$500,000.00 to pay the costs for Settlement Notice and administration and for Preliminary Approval and Final Approval.

4. Co-Lead Counsel shall use best efforts to send out notice to the Class as soon as is reasonably practicable after Preliminary Approval. In the event that Court-ordered notice and administration costs exceed \$500,000.00, Plaintiffs and Co-Lead Counsel may apply to the Court to pay such additional notice and administration costs from the Settlement Fund. Up to \$500,000.00 of the Settlement Notice and administration costs actually expended pursuant to this Settlement Agreement shall be nonrefundable in the event that, for any reason, this Settlement Agreement is terminated or does not receive Final Approval.

5. If there are other settlements at the time of, or within a reasonable amount of time after, the preliminary approval of this Settlement Agreement, Co-Lead Counsel shall endeavor to ensure that Settlement Notice and claims administration costs shall be paid from the settlement funds in this and such other settlement agreements consistent with any such other settlement agreements and the approval of the Court.

6. Under no circumstances will Simmons Foods or the Released Parties be required to pay more or less than the Settlement Amount pursuant to this Settlement Agreement. For purposes of clarification, the payment of any fee and expense award, the Settlement Notice and administrative costs (including payment of any applicable fees to Escrow Agent), any Service Awards to Plaintiffs, payments to Class Members and any other fees and costs associated with the

implementation of this Settlement Agreement shall be exclusively paid from the Settlement Fund.

7. No other funds shall be paid or disbursements made from the Settlement Fund without an order of the Court, and in the event of any such order of the Court authorizing payments or disbursements above \$500,000, any such additional payments or disbursements shall be refunded to Simmons Foods in the event that the Settlement Agreement is terminated or does not receive Final Approval and thereafter is rescinded pursuant to Section II(G)(10).

8. The Escrow Agent shall, to the extent practicable, invest the funds deposited in the Settlement Fund in discrete and identifiable instruments backed by the full faith and credit of the United States Government, or fully insured by the United States Government or any agency thereof, and shall reinvest the proceeds of these instruments as they mature in similar instruments at their then-current market rates. Any cash portion of the Settlement Fund not invested in instruments of the type described in the first sentence of this Section II(E)(8) shall be maintained by the Escrow Agent, and not commingled with any other funds or monies, in a federally insured bank account. Subsequent to payment into the Settlement Fund pursuant to Section II(C)(1), neither Simmons Foods, any other Released Party, nor Settling Defendant's Counsel shall bear any responsibility or risk related to the Settlement Fund or the Net Settlement Fund.

9. The Parties agree that the Settlement Fund and the Net Settlement Fund are each intended to be a "Qualified Settlement Fund" within the meaning of Treasury Regulation § 1.468B-1 and, to that end, the Parties shall cooperate with each other and shall not take a position in any filing or before any tax authority that is inconsistent with such treatment. In addition, Co-Lead Counsel shall timely make such elections as necessary or advisable to carry out the provisions of this Section, including the relation-back election (as defined in Treas. Reg. § 1.468B-1(j)) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of Interim Co-Lead

Counsel to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur. All provisions of this Settlement Agreement shall be interpreted in a manner that is consistent with the Settlement Funds being a “Qualified Settlement Fund” within the meaning of Treas. Reg. § 1.4688-1.

10. The Escrow Agent, as administrator of the Qualified Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall be solely responsible for filing tax returns for the Escrow Account and paying from the Escrow Account any Taxes, as defined below, owed with respect to the Escrow Account. Neither Simmons Foods, any other Released Party, nor the Settling Defendant’s Counsel shall have any liability or responsibility of any sort for filing any tax returns or paying any Taxes or expenses with respect to the Qualified Settlement Fund.

11. All: (i) taxes on the income of the Settlement Fund (“Taxes”) and (ii) expenses and costs incurred in connection with the taxation of the Settlement Fund (including, without limitation, reasonable expenses of tax attorneys and accountants) shall timely be paid by the Escrow Agent out of the Settlement Fund. The Class Members shall be solely responsible for paying any and all federal, state, and local income taxes due on any distribution made to them pursuant to this Agreement.

12. After the Date of Final Approval, the Net Settlement Fund shall be disbursed in accordance with a plan of distribution to be approved by the Court. The Class Members shall look solely to the Net Settlement Fund for settlement and satisfaction of any and all Released Claims from Released Parties and shall not be entitled to any other payment or relief from the Released Parties. The timing of a motion to approve a plan of distribution of the Net Settlement Fund created by this Settlement Agreement shall be in the discretion of Co-Lead Counsel, and may be combined with a plan to distribute proceeds from other settlements in this Action.

F. Reversion

1. Settling Defendant shall have no right to reversion.

G. Approval of Settlement Agreement and Dismissal of Released Claims

1. **Cooperation.** Plaintiffs and Simmons Foods shall use their reasonable best efforts to effectuate this Settlement Agreement, including cooperating in seeking the Court's approval of the Settlement Agreement, the giving of appropriate Settlement Notice under Federal Rules of Civil Procedure 23(e) by Co-Lead Counsel, and the complete and final dismissal with prejudice of the Action as to Simmons Foods only.

2. **Motion for Preliminary Approval.** Plaintiffs shall submit to the District Court a motion, at such time deemed appropriate in the discretion of Co-Lead Counsel (but as soon as is reasonably practicable after the Execution Date), requesting entry of an order preliminarily approving this Settlement Agreement ("Preliminary Approval Order"). Simmons Foods shall not oppose and shall reasonably cooperate in such motion. A reasonable time before filing such motion, Co-Lead Counsel shall provide the Settling Defendant's Counsel with a draft of such motion for review. To the extent that Simmons Foods objects to any aspect of the motion, it shall communicate such objection to Co-Lead Counsel and the Parties shall meet and confer to resolve any such objection. The proposed Preliminary Approval Order shall provide that, inter alia:

- a. the settlement proposed in the Settlement Agreement has been negotiated at arm's-length and is preliminarily determined to be fair, reasonable, adequate, and in the best interests of the Class;

- b. after Settlement Notice has been carried out, a hearing on the settlement proposed in this Settlement Agreement shall be held by the Court to determine whether the proposed settlement is fair, reasonable, and adequate, and whether it should be finally approved by the Court (the "Fairness Hearing");

c. Class Members who wish to object to this Agreement must submit an appropriate and timely written statement of the grounds for objection;

d. Class Members who wish to appear in person to object to this Agreement may do so at the Fairness Hearing pursuant to directions by the Court; and

e. All proceedings in the above-captioned action with respect to Simmons Foods and CIPPs are stayed until further order of the Court, except as may be necessary to implement the settlement or comply with the terms thereof.

3. **Settlement Notice.** The Class Notice shall provide for a right to object to the proposed settlement. The timing of a motion to direct or approve the Settlement Notice of this Settlement Agreement shall be in the discretion of Co-Lead Counsel, and may be combined with class notice of other settlements in this Action. A reasonable time before filing such motion, Co-Lead Counsel shall provide the Settling Defendant's Counsel with a draft of such motion for review.

4. **Cost of Settlement Notice.** The costs of providing Settlement Notice to Class Members shall be paid by the Escrow Agent from the Settlement Fund pursuant to Section II(E)(2) and (3).

5. **CAFA Notice.** Within ten (10) days of the filing of this Settlement Agreement in court in connection with the above-mentioned motion for Preliminary Approval, Simmons Foods will provide to the appropriate state officials and the appropriate federal official the notice required by the Class Action Fairness Act of 2005, 28 U.S.C. § 1715(b) ("CAFA").

6. **Final Judgment.** If this Settlement Agreement is preliminarily approved by the Court, the Class, through Co-Lead Counsel and in accordance with any schedule set forth in the Court's Preliminary Approval, shall seek entry of an Order and Final Judgment. A reasonable

time before filing such motion, Co-Lead Counsel shall provide the Settling Defendant's Counsel with a draft of such motion for review. To the extent that Simmons Foods objects to any aspect of the motion, it shall communicate such objection to Co-Lead Counsel and the Parties shall meet and confer to resolve any such objection. The motion for Final Approval shall seek an entry of an Order and Final Judgment that, inter alia:

a. finally approves this Settlement Agreement and its terms as being a fair, reasonable, and adequate settlement as to the Class Members within the meaning of Rule 23 of the Federal Rules of Civil Procedure and directing its consummation according to its terms and conditions, without material modification of those terms and conditions;

b. determines that the Settlement Notice constituted, under the circumstances, the most effective and practicable notice of this Settlement Agreement and the Fairness Hearing, and constituted due and sufficient notice for all other purposes to all persons or entities entitled to receive notice;

c. orders that all Claims made by CIIPPs against Simmons Foods in the Action, be dismissed with prejudice and, except as expressly provided for in this Settlement Agreement, without further costs or fees;

d. incorporates the Releases set forth in Section II(D) of this Agreement and makes the Releases effective as of the date of the Final Order and Final Judgment;

e. enjoins members of the Class from suing, directly or indirectly, any of the Released Parties for any of the Released Claims;

f. confirms that Simmons Foods has provided the appropriate notice pursuant to CAFA;

g. reserves to the Court continuing and exclusive jurisdiction over the settlement and this Settlement Agreement, including the administration and consummation of this

Agreement;

h. determines under Federal Rule of Civil Procedure 54(b) that there is no just reason for delay and directs that the judgment of dismissal as to the Released Parties shall be final and entered forthwith; and

i. orders that the Net Settlement Fund may be disbursed as provided in the Final Approval Order or other order of the Court. The Parties shall use all reasonable best efforts to obtain Final Approval of the Settlement Agreement without modification to any of its material terms and conditions.

7. Class Counsel Fees and Expenses; No Other Costs.

a. Except as otherwise provided in Section II(C)(1) of this Settlement Agreement and elsewhere, the Released Parties shall have no responsibility for any other payments, fees or costs, including Co-Lead Counsel's attorneys' fees, costs, and expenses, Service Awards, or the fees, costs, and expenses of any Plaintiff's or Class Member's respective attorneys, experts, advisors, or representatives; provided, however, that with respect to the Action, including this Settlement Agreement, Simmons Foods shall bear its own costs and attorneys' fees.

b. At their discretion and after Final Approval and proper notice to Class Members and opportunity to object, Class Counsel may seek from the Settlement Fund, separately or in conjunction with other settlements, a court order granting attorneys' fees, reimbursement of costs and expenses, and Service Awards for the class representatives (to compensate for the time and expense they have incurred in bringing this Action). Any such attorneys' fees, reimbursement of costs and expenses, and Service Awards will be paid out of the Settlement Fund, and Simmons Foods shall have no obligation to pay any fees or expenses of Co-Lead Counsel.

c. The procedure for and the allowance or disallowance by the Court

of any applications by Co-Lead Counsel for attorneys' fees and expenses or the expenses of or Service Awards to Plaintiffs to be paid out of the Settlement Fund are not part of or a condition to the settlement set forth herein, and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the settlement and the Settlement Agreement, and any order or proceeding relating to any application for attorneys' fees or expenses or Service Awards shall not operate to terminate or cancel this Settlement Agreement or the releases set forth herein, or affect or delay the Final Approval of this settlement and Settlement Agreement.

d. Within a reasonable time period as deemed appropriate by Co-Lead Counsel after any order by the Court awarding attorneys' fees, expenses, or Service Awards, the Escrow Agent shall pay the approved attorneys' fees, costs, and service award via wire transfer from the Settlement Fund as directed by Co-Lead Counsel. In the event the amount of attorneys' fees, costs, or service award is reduced on appeal, Co-Lead Counsel shall, within 30 days of such appellate order, cause the difference in the amount paid and the amount awarded on appeal to be returned to the Settlement Fund.

8. **When Settlement Becomes Final.** The settlement contemplated by this Settlement Agreement shall become final on the date that: (a) the Court has entered the Order and Final Judgment approving this Settlement Agreement, and all of its material terms and conditions, in accordance with Section II(G)(7) above, under Rule 23(e) of the Federal Rules of Civil Procedure and dismissing the Action as against Simmons Foods with prejudice as to all Class Members and without costs except as set forth herein; and (b) the time for appeal or to seek permission to appeal from the Court's approval of this Settlement Agreement and entry of the Order and Final Judgment, as described in Section II(G)(7) above, has expired with no appeal having been filed or, if appealed, approval of this Settlement Agreement and the Order and Final

Judgment has been affirmed in all material respects by the court of last resort to which such appeal has been taken and such affirmance is no longer subject to further appeal or review. “Final Approval” shall mean the satisfaction of all the conditions set forth in this Section II(G)(9). The Parties agree that neither the provisions of Rule 60 of the Federal Rules of Civil Procedure, nor the All Writs Act, 28 U.S.C. § 1651, nor any extensions of time in petitioning for a writ of certiorari under Rule 13 of the Rules of the Supreme Court of the United States, shall be taken into account in determining the above-stated times.

9. Termination and Rescission.

a. **Rejection or Alteration of Settlement Terms.** If the Court declines to grant a Preliminary Approval Order or Order and Final Judgment (as set forth in Sections II(G)(3) or (G)(7) above, respectively); or if the Court approves this Settlement Agreement in a materially modified form; or if after the Court’s approval, such approval is materially modified or set aside on appeal; or Final Approval is not obtained; or if the Court enters the Final Order and Judgment and appellate review is sought and on such review such Final Order and Judgment is not affirmed (collectively “Triggering Events”), then Simmons Foods and Plaintiffs shall each, in their respective sole and absolute discretion, have the option to rescind, cancel, or terminate this Settlement Agreement in its entirety by providing written Notice of their election to do so (“Termination Notice”) to the other Party within fifteen (15) calendar days of any of the Triggering Events. For purposes of Section II(G)(7)(b) and this Section II(G)(10)(a), a material modification includes, but is not limited to, any modification to the Settlement Amount or a material change to the scope of the Released Claims. In no way shall CIIPPs have the right to rescind, cancel or terminate this Settlement Agreement if the Court fails or refuses to grant any requested attorneys’ fees, any costs, or any Service Awards to Class Representatives.

b. **Effect of Termination or Rescission of Settlement.** In the event

this Settlement Agreement is rescinded or terminated by a Termination Notice, then: (i) within fifteen (15) calendar days thereafter, the Settlement Fund, including accrued interest, less taxes and tax expenses that have been paid or that have accrued and will be payable at some later date, and less expenses and costs that have been disbursed pursuant to Sections II(E)(3)-(4), shall be refunded by the Escrow Agent to Simmons Foods pursuant to written instructions from Simmons Foods' Counsel to Co-Lead Counsel; and (ii) the Parties shall be deemed to have reverted to their respective status in the Action as of the day before the Execution Date, and without waiver of any positions asserted in the Action as of the day before the Execution Date, shall then resume proceedings in the Court, the Court having retained jurisdiction over the settlement and related matters and, except as otherwise expressly provided in this Settlement Agreement, the Parties shall proceed in all respects as if this Settlement Agreement had not been executed.

10. No Admission.

a. Simmons Foods denies all allegations of wrongdoing in the Action.

Nothing in this Settlement Agreement or its contents, nor any statements, negotiations, documents, or discussions associated with it, constitutes an admission by Simmons Foods or any other Released Party as to the merits of the allegations that have been, could have been, or could be made in the Action, or an admission by Plaintiffs or the Class of the validity of any defenses that have been, could have been, or could be asserted by Simmons Foods or any other Released Party.

b. This Settlement Agreement, its terms, and any agreement or order relating thereto, shall not be deemed to be, and shall not be offered by any of the Parties to be, received in any civil, criminal, administrative, or other proceeding, or utilized in any manner whatsoever as a presumption, a concession, or an admission of any fault, wrongdoing, or liability whatsoever on the part of Simmons Foods or any other Released Party; provided, however, that nothing contained in this Section II(G)(11) shall prevent this Settlement Agreement (or any

agreement or order relating thereto) from being used, offered, or received in evidence in any proceeding to approve, enforce, or otherwise effectuate the Settlement Agreement (or any agreement or order relating thereto) or the Order and Final Judgment, or in which the reasonableness, fairness, or good faith of any Party participating in the settlement (or any agreement or order relating thereto) is in issue. This Settlement Agreement may, however, be filed and used in other proceedings, where relevant, to demonstrate the fact of its existence and of this settlement, including, but not limited to, the filing of the Settlement Agreement and/or the Order and Final Judgment in any other action that may be brought against any Released Party in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith settlement, waiver, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

III. MISCELLANEOUS

A. Entire Agreement. This Settlement Agreement constitutes the entire, complete and integrated agreement between the Parties pertaining to the settlement of the Action as to Simmons Foods, and the release of the Released Parties, and supersedes any and all prior and contemporaneous undertakings, communications, representations, understandings, negotiations, and discussions (either oral or written) of the Parties in connection therewith. All terms of the Settlement Agreement are contractual and not mere recitals. The Parties agree that this Settlement Agreement may be modified only by a written instrument signed by the Parties and that no party will assert any claim against another based on any alleged agreement affecting or relating to the terms of this Settlement Agreement not in writing and signed by the Parties.

B. Inurement. This Settlement Agreement constitutes a binding and enforceable agreement as to the terms contained herein. The terms of this Settlement Agreement are and shall be binding upon and, to the fullest extent possible, insure to the benefit of the successors, assigns,

and heirs of each of the Releasing Parties and the Released Parties, and upon all other persons or entities claiming any interest in the subject matter hereto through any of the Settling Parties, Releasing Parties, or Released Parties, including any Class Members. Without limiting the generality of the foregoing, upon Final Approval, each and every covenant and agreement herein by the CIIPPs shall be binding upon all members and potential members of the Class and Releasing Parties who did not previously validly exclude themselves from the Class.

C. Modification. This Settlement Agreement may be modified or amended only by a writing executed by Co-Lead Counsel and Simmons Foods or Settling Defendant's Counsel, subject (if after the Date of Preliminary Approval) to approval by the Court. Amendments and modifications may be made without notice to the Class unless notice is required by law or by the Court. The waiver of any rights conferred hereunder shall be effective only if made by written instrument of the waiving Party. The waiver by any Party of any particular breach of this Agreement shall not be deemed or construed as a waiver of any other breach, whether prior subsequent or contemporaneous, of this Agreement. This Agreement does not waive or otherwise limit the Parties' rights and remedies for any breach of this Agreement. Any breach of this Agreement may result in irreparable damage to a Party for which such Party will not have an adequate remedy at law. Accordingly, in addition to any other remedies and damages available, the Parties acknowledge and agree that the Parties may immediately seek enforcement of this Settlement Agreement by means of specific performance or injunction, without the requirement of posting a bond or other security.

D. Drafted Mutually. For the purpose of construing or interpreting this Settlement Agreement or any provision hereof, Plaintiffs, the Class and Simmons Foods shall be deemed to have drafted it equally, and it shall not be construed strictly for or against any party.

E. Governing Law. All terms of this Settlement Agreement shall be governed by and

interpreted according to the substantive laws of Illinois without regard to its choice-of-law or conflict-of-law principles.

F. Voluntary Settlement. The Parties agree that this Settlement Agreement was negotiated in good faith by the Parties, and reflects a settlement and compromise that was reached voluntarily after consultation with competent counsel, and no Party has entered this Settlement Agreement as the result of any coercion or duress.

G. Confidentiality. The Parties agree to continue to maintain the confidentiality of all settlement discussions and materials exchanged during the settlement negotiation. However, Simmons Foods and CIIPPs can inform other parties to this Action that they have reached a settlement agreement and disclose both the Settlement Amount and the cooperation obligations contained in this Settlement Agreement. Additionally, consistent with its obligations under the Defendants' Agreement, Simmons Foods may share copies of this Settlement Agreement with parties to the Defendants' Agreement.

H. Jurisdiction. This Settlement Agreement is subject to the continuing and exclusive jurisdiction of the Court for any suit, action, proceeding, or dispute arising out of or relating to this Settlement Agreement or the applicability of this Settlement Agreement, including, without limitation, any suit, action, proceeding, or dispute relating to the release provisions herein. If for any reason this Settlement Agreement is rescinded, terminated, fails to obtain Final Approval or otherwise fails to become effective, then, in such event, neither this Settlement Agreement nor any conduct required by it shall constitute or be construed as any agreement to personal jurisdiction (general or specific) or subject matter jurisdiction so as to confer the jurisdiction of the District Court over the Released Parties, nor shall it constitute any waiver of any defenses based on personal or subject matter jurisdiction.

I. Counterparts. This Settlement Agreement may be executed in counterparts by Co-

Lead Counsel and Settling Defendant's Counsel, each of which shall be deemed an original and all of which taken together shall constitute the same Settlement Agreement. A facsimile, electronic or .pdf signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

J. Represented by Counsel. Plaintiffs, the Class, and Simmons Foods each acknowledge that they have been represented by counsel, and have made their own investigations of the matters covered by this Settlement Agreement to the extent they have deemed it necessary to do so and are not relying on any representation or warranty by the other party other than as set forth herein. The Settling Parties and their respective counsel agree that they will not seek to set aside any part of the Settlement Agreement on the grounds of mistake.

K. Authorization. Each of the undersigned attorneys represents that he or she is fully authorized to enter into and execute this Settlement Agreement, subject to Court approval; the undersigned Co-Lead Counsel represent that they are authorized to execute this Settlement Agreement on behalf of Plaintiffs and the Class; and the undersigned Settling Defendant's Counsel represent that they are authorized to execute the Settlement Agreement on behalf of Simmons Foods.

L. Privilege. Nothing in this Settlement Agreement or the negotiations or proceedings relating to it are intended to or shall be deemed to constitute a waiver of any applicable privilege or immunity, including, without limitation, the accountants' privilege, the attorney-client privilege, the joint defense privilege, the common interest privilege, and the attorney work product immunity.

M. Notice. Any notice, other than Settlement Notice, required pursuant to or in connection with this Settlement Agreement ("Notice") shall be in writing and shall be given by: (1) hand delivery; (2) registered or certified mail, return receipt requested, postage prepaid; or (3) UPS or similar overnight courier, with a courtesy copy by electronic mail, addressed, in the case of

notice to any Plaintiff or Class Member, to Co-Lead Counsel at their addresses set forth below, and, in the case of notice to Simmons Foods, to the Settling Defendants' Counsel at the addresses set forth below, or such other addresses as Co-Lead Counsel or Settling Defendants' Counsel may designate, from time to time, by giving notice to all Parties in the manner described in this Section III(M).

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N. **Headings.** All headings contained in this Settlement Agreement are for reference purposes only and are not intended to affect in any way the meaning or interpretation of this

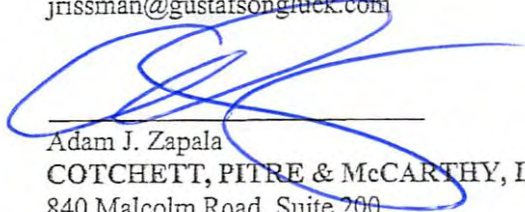
Settlement Agreement

IN WITNESS WHEREOF, the Parties hereto, through their fully authorized representatives, have agreed to this Settlement Agreement as of the Execution Date.



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Daniel C. Hedlund
Michelle J. Looby
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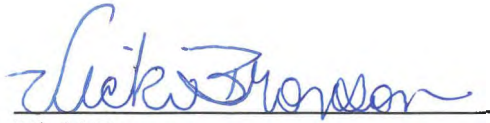
Dated: 9-3-24



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***Counsel for Simmons Foods, Inc. and
Simmons Prepared Foods, Inc.***

EXHIBIT F

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

*IN RE BROILER CHICKEN ANTITRUST
LITIGATION*

Case No. 1:16-cv-08637 (TMD/JTG)

Hon. Judge Thomas M. Durkin

Magistrate Judge Jeffrey T. Gilbert

This Document Relates To:

*All Commercial and Institutional Indirect
Purchaser Plaintiff Actions*

**SETTLEMENT AGREEMENT BETWEEN
COMMERCIAL AND INSTITUTIONAL INDIRECT PURCHASER PLAINTIFFS
AND SANDERSON FARMS**

This Settlement Agreement (“Settlement Agreement” or “Agreement”) is made and entered into as of the Execution Date, by and between Sanderson Farms, LLC (f/k/a Sanderson Farms, Inc.), Sanderson Farms Foods, LLC (f/k/a Sanderson Farms, Inc. (Foods Division)), Sanderson Farms Production, LLC (f/k/a Sanderson Farms, Inc. (Production Division)), and Sanderson Farms Processing, LLC (f/k/a Sanderson Farms, Inc. (Processing Division)) (collectively “Sanderson Farms” or “Settling Defendant”) on the one hand, and the Commercial and Institutional Indirect Purchaser Plaintiffs (“Plaintiffs” or “CIIPPs”),¹ individually and on

¹ As used herein, “CIIPPs” means Sargent’s Restaurant and Lounge; Fargo Stopping Center, LLC; Wildwood Tavern LLC; Bodega Brew Pub, Inc.; Sullott Corporation; Chicken Joe’s LLC; Eat This, Inc.; Alpine Special Treatment Center, Inc.; Tennis Bums, LLC; Alabama Joe’s 2, Inc.; Tani Sushi Bistro, LLC; France 44 Foods, Inc.; Alliance Healthcare System, Inc.; Little Figs, Inc.; Da Big Blue Enterprises Corp.; Floersch IGA, Inc.; Avanti’s of Phoenix, Inc.; Midtown Bar & Grill; Bashara and Company; Mookie’s Southern Cuisine LLC; Eowyn, LLC; Peppers Grill & Bar, Inc.; Daliano’s, Inc.; Sumner County Restaurant & Creamery LLC; Tic-Tac-O; Brix Tavern, LLC; Pancho’s Taqueria, Inc.; Legacy 5, LLC; Roost Fried Chicken LLC; Oregano Italian, LLC; Bordenaro’s Pizza, Inc.; Telavi Hospitality, Inc.; and FB Mall, LLC.

behalf of a class of indirect purchasers of Broilers,² on the other hand, which Agreement is subject to court approval in the above-captioned action (the “Action”). CIIPPs, on behalf of the Certified Class, and Sanderson Farms are referred to herein collectively as the “Parties” or individually as a “Party.”

RECITALS

A. Plaintiffs are prosecuting the Action on their own behalf and on behalf of the Certified Class (as hereinafter defined).

B. Plaintiffs have alleged, among other things, that Sanderson Farms entered into a contract, combination or conspiracy in restraint of trade, the purpose and effect of which was to suppress competition and to allow Sanderson Farms to charge supra-competitive prices for Broilers during the Class Period, in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1, as well as various state antitrust, unfair competition, unjust enrichment, and consumer protection laws.

C. Sanderson Farms vigorously and affirmatively rejects and denies Plaintiffs’ Claims and has alleged numerous defenses to Plaintiffs’ Claims. Sanderson Farms defended itself against similar claims from direct purchaser plaintiffs and, on October 25, 2023, following a six-week trial, the jury there returned a verdict for Sanderson Farms against the direct purchaser plaintiffs, finding there was no conspiracy between or among two or more chicken producers to limit the supply of chicken (ECF Nos. 7014, 7015) (the “Verdict”).

D. This Settlement Agreement shall not be deemed or construed to be an admission or evidence of any violation of any statute, law, rule, or regulation or of any liability or wrongdoing by Sanderson Farms or of the truth of any of Plaintiffs’ Claims, nor shall it be

² Unless otherwise indicated, all capitalized terms shall have the meaning ascribed in the Definitions in Section I.

deemed or construed to be an admission or evidence of Sanderson Farms' defenses. Sanderson Farms remains free to deny and of Plaintiffs' allegations and maintain that Plaintiffs' claims had no merit.

E. Co-Lead Counsel have conducted an investigation into the facts and law regarding the Action and the possible legal and factual defenses thereto and have concluded that a settlement with Sanderson Farms according to the terms set forth herein is fair, reasonable, adequate, and beneficial to and in the best interests of the Class, given the uncertainties, risks, and costs of continued litigation.

F. Despite its belief that it did nothing wrong or illegal, that the Verdict found there was no conspiracy to limit the supply of chicken, that it has legitimate defenses to any claims that have been, could have been, or could be asserted by the CIPPs Class against it, and that it would prevail at any trial or appeal, Sanderson Farms desires to settle the Action to avoid the further expense, inconvenience, disruption, and burden of this litigation and any other present or future litigation arising out of the facts that gave rise to the Action, to avoid the risks inherent in uncertain complex litigation and trial, and thereby to put to rest this controversy.

G. Arm's-length settlement negotiations have taken place between Co-Lead Counsel and the Settling Defendant's Counsel, and the settlement was reached as a result of those negotiations.

H. CIPPs and Co-Lead Counsel believe that the Settlement Fund (as hereinafter defined) reflects fair, reasonable, and adequate compensation for the Certified Class (as hereinafter defined) to release, settle and discharge their claims that they were overcharged by the alleged anticompetitive conduct of which they accuse Sanderson Farms, which Sanderson Farms denies.

I. The Parties to this Agreement desire to fully and finally settle and compromise this Action and all potential Released Claims by Releasing Parties against the Released Parties as set forth below to avoid the costs and risks of protracted litigation and trial.

IT IS HEREBY AGREED, in consideration of the foregoing, the terms and conditions set forth below, and other good and valuable consideration, by and among the Settling Parties, that the Action and all Released Claims are finally and fully settled and compromised and that the Action shall be dismissed in its entirety with prejudice as to the Released Parties and without cost to the Released Parties, other than those costs set forth in this Settlement Agreement, subject to approval of the Court pursuant to Rule 23 of the Federal Rules of Civil Procedure, upon and subject to the following terms and conditions:

I. DEFINITIONS

A. Certified Class Definition

1. “Certified Class” or “Class” means the CIIPP litigation classes—both the state damages classes and the nationwide injunctive relief class—certified by the Court’s May 27, 2022, Order (ECF No. 5644). The foregoing classes exclude all persons and entities that previously filed a valid exclusion from the litigation class as set forth in ECF No. 6566-5.

B. General Definitions

1. “Action” means the putative class action filed by CIIPPs in the above-captioned proceeding.

2. “Affiliate” means with respect to any person, entity or company, any person, entity, or company that, directly or indirectly, controls, is controlled by or is under common control with such person, entity or company. Notwithstanding the foregoing, “Affiliate” excludes Wayne Farms, LLC.

3. “Broilers” are chickens raised for meat consumption to be slaughtered before the age of 13 weeks, and which may be sold in a variety of forms, including fresh or frozen, and whole or in parts, but excluding chicken that is grown, processed, and sold according to halal, kosher, free range, or organic standards. “Broilers” does not include dark meat chicken products, such as chicken thighs. The definition also does not include certain “further processed” products, which include any chicken meat that has been breaded, cooked, or “formed,” such as patties, or nuggets; or products made from mechanically separated meat such as chicken sausages; or products that are ground, sliced, diced, or cubed. Marinated, seasoned, frozen and portioned products, that are not otherwise further processed, are included within the definition of Broilers.

4. “Claims” mean any and all, known or unknown, actual or potential causes of action, claims, contentions, allegations, assertions of wrongdoing, suits, damages, losses, or demands for recoveries, remedies, or fees complained of, relating to, referred to, or arising from the conduct alleged in the Action or which could have been alleged in the Action, whether class, individual, or otherwise in nature.

5. “Class Member” means each member of the Certified Class that did not previously timely and properly exclude itself from the Certified Class as set forth in ECF No. 6566-5.

6. “Settlement Notice” means the notice to the Class, that is approved by the Court, in accordance with Section II(F)(3) below.

7. “Class Period” means the period from and including January 1, 2009 through July 31, 2019.

8. “Co-Conspirator” means those entities named as alleged co-conspirators in the Operative Complaint.

9. “Co-Lead Counsel” and “Class Counsel” mean, collectively, the law firms of Gustafson Gluek PLLC and Cotchett, Pitre & McCarthy, LLP, Commercial and Institutional Indirect Purchaser Plaintiffs’ Co-Lead Class Counsel.

10. “Complaint” or “Operative Complaint” means the Seventh Amended Consolidated Class Action Complaint in the Action, ECF Nos. 3929 and 3931.

11. “Court” or “District Court” means the United States District Court for the Northern District of Illinois and the Honorable Thomas M. Durkin or his successor, or any other Court in which the Action is proceeding.

12. “Date of Final Approval” means the date on which Final Approval as provided for in Section II(F)(8) occurs.

13. “Date of Preliminary Approval” means the date on which the Court enters an order granting preliminary approval to this Settlement Agreement, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, as provided in Section II(F)(2) below.

14. “Defendant” or “Defendants” means any or all of the Defendants named in the Operative Complaint.

15. “Execution Date” means the date on which this Settlement Agreement is entered into and executed by all Parties.

16. “Escrow Account” means the account with the Escrow Agent that holds the Settlement Fund.

17. “Escrow Agent” means the bank into which the Settlement Fund shall be deposited and maintained as set forth in Section II(E) of this Agreement.

18. “Fairness Hearing” means a hearing on the settlement proposed in this Settlement Agreement held by the Court to determine whether the proposed settlement is fair,

reasonable, and adequate, and whether it should be finally approved by the Court.

19. “Final Approval” shall mean the satisfaction of all the conditions set forth in Section II(F)(8).

20. “Indirect Purchaser State” means Arizona, California, District of Columbia, Florida, Hawaii, Illinois, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, West Virginia, and Wisconsin.

21. “Net Settlement Fund” means the Settlement Fund, plus accrued interest and income, less any award of attorneys’ fees, Service Awards, and reimbursement of expenses and less applicable taxes, tax preparation expenses, and costs of Settlement Notice and settlement administration as provided for in this Settlement Agreement, that may be awarded or approved by the Court.

22. “Notice” means the notice in accordance with Section III(M).

23. “Order and Final Judgment” means the order and final judgment of the Court approving the Settlement Agreement, as described in Section II(F)(6) below.

24. “Parties” or “Settling Parties” means Settling Defendant and the Class, as represented by CIIPPs.

25. “Plaintiffs” means the Commercial and Institutional Indirect Purchaser Plaintiffs (“CIIPPs”), individually as identified above in footnote 1 and on behalf of the Certified Class.

26. “Released Claims” means any and all existing or potential Claims, demands, claims, actions, suits, and causes of action, whether class, individual, or otherwise in

nature (whether or not any Class Member has objected to the settlement or makes a claim upon or participates in the Settlement Fund, whether directly, indirectly, representatively, derivatively or in any other capacity) that the Releasing Parties (defined below) ever had, now have, or hereafter can, shall, or may ever have on account of, or in any way arising out of, any and all known and unknown, foreseen and unforeseen, suspected or unsuspected, actual or contingent, liquidated or unliquidated, claims, demands, actions, suits, causes of action, injuries, or damages arising from or in connection with any act or omission through the date of Preliminary Approval, relating to or referred to in the Action or arising from the factual predicate of the Action. For the avoidance of doubt, “Released Claims” includes all claims that have been asserted, or could have been asserted, in the Action, including all claims in any way arising out of or relating to the purchase of chicken produced, processed or sold by Sanderson Farms or any of the other Defendants or Co-Conspirators. CIIPPs acknowledge and agree that the Released Claims include all claims that CIIPPs asserted or could have asserted under the laws of each of the Indirect Purchaser States, and CIIPPs expressly waive any right to appeal with respect to any and all claims for which the court entered summary judgment in favor of Sanderson Farms (ECF Nos. 6641, 6782, and 7028 dated June 30, 2023, August 15, 2023, and November 2, 2023, respectively). Notwithstanding the above, “Released Claims” does not include: (a) claims asserted against any other Defendant or alleged Co-Conspirator other than the Released Parties; (b) damages claims under the state or local laws of any jurisdiction other than an Indirect Purchaser State; or (c) any wholly-unrelated claims based on: (1) product defect or breach of warranty; (2) breach of contract (except such breaches relating to anticompetitive actions and/or unfair or inflated pricing); or (3) purchases of Broilers by persons or entities other than the Releasing Parties. The reservation of claims set forth in (a) through (c) of this Section I(B)(26)

does not impair or diminish the right of the Released Parties to deny any such claims or to assert any and all defenses to such claims.

27. “Released Party or Parties” means jointly and severally, individually and collectively, Sanderson Farms, any and all of its past and current corporate parents (including holding companies), subsidiaries, affiliates, divisions, departments, joint ventures, predecessors, successors, assigns and any and all of their respective heirs, executors, devisees, administrators, officers, executives, directors, stockholders, employees, partners, members, owners, managers, agents, attorneys, advisors, auditors, accountants, contractors, servants, representatives and insurers. “Released Parties” includes any person or entity identified in the previous sentence in relation to Sanderson Farms that has been or in the future may be identified in the Action as a “Co- Conspirator.” Notwithstanding the foregoing, “Released Parties” does not include Wayne Farms, LLC, any other Defendant or alleged Co-Conspirator, either explicitly or as a third-party beneficiary. “Releasing Parties” means jointly and severally, individually and collectively, Plaintiffs, the Certified Class, and each Class Member, on behalf of themselves and any person or entity claiming by or through them, including without limitation, their respective predecessors; successors; assigns; and any and all past, present, and future parents, owners, subsidiaries, divisions, departments, affiliates, heirs, executors, devisees, administrators, officers, directors, stockholders, employees, partners, members, managers, principals, agents, attorneys, legal or other advisors, auditors, accountants, contractors, servants, representatives and insurers.

28. “Settling Defendant” and “Sanderson Farms” mean Sanderson Farms, LLC (f/k/a Sanderson Farms, Inc.), Sanderson Farms Foods, LLC (f/k/a Sanderson Farms, Inc. (Foods Division)), Sanderson Farms Production, LLC (f/k/a Sanderson Farms, Inc. (Production

Division)), and Sanderson Farms Processing, LLC (f/k/a Sanderson Farms, Inc. (Processing Division)).

29. “Settling Defendant’s Counsel” means Christopher Odeck of Proskauer Rose LLP, and attorneys associated with Proskauer Rose LLP.

30. “Settlement Amount” means the cash payment of SEVEN-HUNDRED AND FIFTY THOUSAND dollars (\$750,000.00), as more specifically described in Section II(C)(1), below.

31. “Settlement Fund” means the funds described in Section II(C) of this Settlement Agreement, plus accrued interest, in the separate Escrow Account for the settlement contemplated by this Settlement Agreement established in accordance with Section II(E) below.

II. SETTLEMENT

A. The Parties’ Efforts to Effectuate this Settlement Agreement. The Parties will cooperate in good faith and use their best efforts to seek the Court’s Preliminary Approval and Final Approval of the Settlement Agreement.

B. Litigation Standstill. Effective with the Execution Date, and except to the extent expressly authorized in this Agreement, CIPPs and their counsel shall cease all litigation activities against Sanderson Farms in the Action, and Sanderson Farms and its counsel shall cease all litigation activities against CIPPs in the Action, provided, however, that both CIPPs and Sanderson Farms may seek appropriate discovery in the Action from other persons or entities. Upon execution of this agreement, the parties will inform the Court of the fact of the settlement agreement and the forthcoming motion for preliminary approval. None of the foregoing provisions shall be construed to prohibit CIPPs from seeking appropriate discovery or testimony at trial from non-settling Defendants or co-conspirators or any other person other

than Settling Defendant. Sanderson Farms shall, in turn, cease all litigation activities against CIIPPs related to the defense of claims against Sanderson Farms in the Action. None of the foregoing provisions shall be construed to prohibit Sanderson Farms from defending itself against the claims of non-settling plaintiffs.

C. Performance By Settling Defendant and CIIPPs

1. **Settlement Payment.** In exchange for the full consideration described in this Settlement Agreement, Sanderson Farms shall pay the Settlement Amount in United States dollars, and in immediately available funds. The Parties agree that the Settlement Amount is the only amount to be paid by Sanderson Farms and shall be inclusive of the Class recovery amounts, any service awards to Plaintiffs for the work Plaintiffs performed on behalf of the Class (“Service Awards”) as awarded by the Court, fees (including attorneys’ fees and any other fees), and costs (including costs related to Settlement Notice and settlement administration).

a. The Settlement Amount shall be paid by Sanderson Farms into the Escrow Account for the Settlement Fund established in Section II(E)(1) by wire transfer, pursuant to instructions from the Escrow Agent or Co-Lead Counsel. The Settlement Payment shall be made within 14 business days of the Execution Date, provided that Co-Lead Counsel have provided wire instructions and a signed W-9 within five (5) days of the Execution Date.

b. Each Class Member and each Releasing Party shall look solely to the Net Settlement Fund for full and complete settlement and satisfaction by Sanderson Farms and the Released Parties, as provided herein, of all Released Claims and shall not be entitled to any other payment or relief from the Released Parties.

c. Except as provided by order of the Court, no member of the Class shall have any interest in the Settlement Fund or any portion thereof. CIIPPs, members of the

Class, and their counsel will be reimbursed solely out of the Settlement Fund for all expenses including, but not limited to, attorneys' fees and expenses, Service Awards, and the costs of notice of the Settlement Agreement to members of the Class. Sanderson Farms and the other Released Parties shall not be liable for any costs, fees, or expenses of any of CIPPs' and Co-Lead Counsel's attorneys, experts, advisors, or representatives, but all such costs and expenses as approved by the Court shall be paid out of the Settlement Fund.

2. **Compliance.** Settling Defendant asserts that its business practices do not constitute a per se or other violation of Section 1 of the Sherman Act with respect to the sale of Broilers. The Parties agree that Settling Defendant will not, for a period of 24 months from the date of the entry of the Order and Final Judgment, engage in conduct that is determined in a final non-appealable judgment to constitute a per se violation of Section 1 of the Sherman Act with respect to the sale of Broilers. The Parties agree that any claim asserted by Plaintiffs of non-compliance with this provision shall not alter or affect the Release in Section II(D)(1) and/or the Waiver in Section II(D)(4).

3. **Cooperation.**

a. In the event that the settlement set forth in this Agreement between Sanderson Farms and Plaintiffs is approved by the Court but CIPPs' claims against any other Defendant proceed to trial, Sanderson Farms agrees to use reasonable efforts, when reasonably requested by CIPPs, to authenticate and provide foundation for admissibility of up to 50 documents and/or things produced in the Action by affidavit where it can reasonably do so in good faith. Sanderson Farms agrees to take steps to undertake this cooperation in a timely fashion.

b. To the extent that Sanderson Farms (a) responds to written

discovery, (b) makes Rule 34 document productions, or (c) provides other plaintiffs in the Action with formal document or information proffers in conjunction with a settlement with those plaintiffs, Sanderson Farms will serve or otherwise provide CIIPPs a copy of such materials within seven (7) days of their production to any other plaintiff to the extent that the CIIPPs have claims remaining against any other Defendant at the time of such a response or production.

D. Release and Covenant Not to Sue

1. **Release.** Upon the occurrence of the Date of Final Approval, and in consideration of the terms set forth in this Agreement, the Releasing Parties shall be deemed to have, and by operation of law and of the Order and Final Judgment shall have, hereby fully, finally, and forever completely compromised, settled, released, acquitted, resolved, relinquished, waived, and discharged the Released Parties of all Released Claims.

2. **Covenant Not to Sue.** The Releasing Parties covenant not to sue, directly or indirectly, or otherwise seek to establish liability against, the Released Parties for any transaction, event, circumstance, action, failure to act, or occurrence of any sort or type arising out of or related to the Released Claims, including, without limitation, seeking to recover damages or other relief relating to any of the Released Claims. This Paragraph shall not apply to any action to enforce this Settlement Agreement.

3. **Full Release.** The Parties to this Agreement expressly agree and confirm that the Released Claims as set forth in Section I(B)(26) shall be interpreted as broadly as possible and to the fullest extent permitted by law and constitute a full and final release by the Releasing Parties of the Released Parties for the Released Claims.

4. **Waiver.** In addition to Section II(D)(3), the Releasing Parties shall be deemed to have, and by operation of the Order and Final Judgment shall have, with respect to

the subject matter of the Released Claims, expressly waived and released the provisions, rights, and benefits of Section 1542 of the California Civil Code (providing, “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.”) and Section 20-7-11 of the South Dakota Codified Laws (providing, “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.”).

The Releasing Parties shall further be deemed to have, and by operation of the Order and Final Judgment shall have, expressly waived all similar provisions, statutes, regulations, rules, or principles of law or equity of any other state or applicable jurisdiction, or principle of common law. The Releasing Parties acknowledge that they are aware that they may hereafter discover facts in addition to, or different from, those facts which they now know or believe to be true with respect to the subject matter of the Released Claims, but that it is their intention to fully, finally, and forever release, acquit, relinquish and discharge the Released Parties of all Released Claims, and, upon the Date of Final Approval, shall be deemed to have, and by operation of the Order and Final Judgment, shall have, forever released, acquitted, relinquished, and discharged the Released Parties of all Released Claims, known or unknown, suspected or unsuspected, contingent or non- contingent, whether or not concealed or hidden, without regard to the subsequent discovery or existence of any such additional or different facts. The Releasing Parties

intend and, by operation of the Order and Final Judgment, shall be deemed to have acknowledged that the foregoing waiver was separately bargained for and a key element of the settlement of which this waiver and release is a part. The foregoing release of unknown, unanticipated, unsuspected, unforeseen, and unaccrued losses or claims is contractual, and not a mere recital.

5. **Effect of this Settlement Agreement on Final Judgment as to Other Defendants.** CIIPPs have been provided with a copy of the Second Amended Judgment Sharing Agreement entered into by certain Defendants dated February 25, 2020 (hereinafter referred to as “Defendants’ Agreement”). The defined terms in Defendants’ Agreement shall have the same meaning when used in this Settlement Agreement. CIIPPs agree that notwithstanding anything to the contrary contained in this Settlement Agreement, CIIPPs shall reduce the dollar amount collectable from the parties to the Defendants’ Agreement pursuant to any Final Judgment by a percentage equal to the Sharing Percentage of Sanderson Farms, calculated pursuant to Section 4 and Exhibits A and B of Defendants’ Agreement (as illustrated by the Appendix to Defendants’ Agreement) as if Sanderson Farms had not settled, had been found liable on the claim, and was a Sharing Party with respect to the Final Judgment. Notwithstanding the provision in Section I(B)(27) with respect to third-party beneficiaries, CIIPPs agree that this undertaking is also for the benefit of any Defendant that is a party to the Defendants’ Agreement and that this undertaking may be enforced by any or all of such Defendants as third-party beneficiaries hereof. Any ambiguity in this Section or inconsistency between this Settlement Agreement and the Defendants’ Agreement shall be resolved in favor of Defendants’ Agreement, including, without limitation, Sections 6.D.1 and 6.D.2 thereof. CIIPPs further represent and warrant that they have not reached any agreement to provide any portion of the settlement proceeds provided hereunder to any person or entity that is not explicitly identified

as a releasor in this Settlement Agreement, except for proceeds received by CIIPPs' attorneys for payment of attorneys' fees. CIIPPs shall use their best efforts to ensure that the Settlement Agreement constitutes a Qualified Settlement under Defendants' Agreement and to effectuate the intent of the parties to the Defendants' Agreement to treat the Settlement Agreement as a Qualified Settlement, including (as may be necessary) to make any amendments to this Settlement Agreement to reflect the intent to treat the Settlement Agreement as a Qualified Settlement.

As part of this Settlement Agreement, CIIPPs have agreed to eliminate damages arising from Sanderson Farms' sales of Broilers from the case as against the signatories to the Second Amended Judgment Sharing Agreement. As a result of the foregoing, the other Defendants named in this action that are signatories to the Second Amended Judgment Sharing Agreement shall not be liable for any damages arising from Sanderson Farms' sales of Broilers. CIIPPs entered into this Settlement Agreement based on the foregoing understanding of Defendants' Second Judgment Sharing Agreement. Consistent with the foregoing, CIIPPs state that any damages arising from Sanderson Farms' sale of Broilers is not joint and several as against the other Defendants included as signatories to the Second Amended Judgment Sharing Agreement.

E. Settlement Fund Administration. The Settlement Fund shall be administered pursuant to the provisions of this Settlement Agreement and subject to the Court's continuing supervision and control, until the funds in the Settlement Fund are fully distributed, as follows:

1. The Settlement Fund shall be established within an Escrow Account and administered by an Escrow Agent designated by Co-Lead Counsel.
2. Except as provided herein, the Class, Co-Lead Counsel, Sanderson

Farms, and the Released Parties shall have no financial obligation or liability for any fees, costs, or expenses related to providing Settlement Notice to the Class or obtaining approval of the settlement or administering the settlement. Such fees, costs, or expenses shall be paid solely from the Settlement Fund, subject to any necessary Court approval.

3. Co-Lead Counsel, after obtaining an order of Preliminary Approval, may withdraw from the Settlement Fund up to \$150,000.00 to pay the costs for Settlement Notice and administration and for Preliminary Approval and Final Approval.

4. Co-Lead Counsel shall use best efforts to send out notice to the Class as soon as is reasonably practicable after Preliminary Approval. In the event that Court ordered notice and administration costs exceed \$150,000.00, Plaintiffs and Co-Lead Counsel may apply to the Court to pay such additional notice and administration costs from the Settlement Fund. Up to \$150,000.00 of the Settlement Notice and administration costs actually expended pursuant to this Settlement Agreement shall be nonrefundable in the event that, for any reason, this Settlement Agreement is terminated or does not receive Final Approval.

5. If there are other settlements at the time of, or within a reasonable amount of time after, the preliminary approval of this Settlement Agreement, Co-Lead Counsel shall endeavor to ensure that Settlement Notice and claims administration costs shall be paid from the settlement funds in this and such other settlement agreements consistent with any such other settlement agreements and the approval of the Court.

6. Under no circumstances will Sanderson Farms or the Released Parties be required to pay more or less than the Settlement Amount pursuant to this Settlement Agreement. For purposes of clarification, the payment of any fee and expense award, the Settlement Notice and administrative costs (including payment of any applicable fees to Escrow Agent), any

Service Awards to Plaintiffs, payments to Class Members and any other fees and costs associated with the implementation of this Settlement Agreement shall be exclusively paid from the Settlement Fund.

7. No other funds shall be paid or disbursements made from the Settlement Fund without an order of the Court, and in the event of any such order of the Court authorizing payments or disbursements above \$150,000.00, any such additional payments or disbursements shall be refunded to Sanderson Farms in the event that the Settlement Agreement is terminated or does not receive Final Approval and thereafter is rescinded pursuant to Section II(F)(9).

8. The Escrow Agent shall, to the extent practicable, invest the funds deposited in the Settlement Fund in discrete and identifiable instruments backed by the full faith and credit of the United States Government, or fully insured by the United States Government or any agency thereof, and shall reinvest the proceeds of these instruments as they mature in similar instruments at their then-current market rates. Any cash portion of the Settlement Fund not invested in instruments of the type described in the first sentence of this Section II(E)(8) shall be maintained by the Escrow Agent, and not commingled with any other funds or monies, in a federally insured bank account. Subsequent to payment into the Settlement Fund pursuant to Section II(C)(1), neither Sanderson Farms, any other Released Party, nor Settling Defendant's Counsel shall bear any responsibility or risk related to the Settlement Fund or the Net Settlement Fund.

9. The Parties agree that the Settlement Fund and the Net Settlement Fund are each intended to be a "Qualified Settlement Fund" within the meaning of Treasury Regulation § 1.468B-1 and, to that end, the Parties shall cooperate with each other and shall not take a position in any filing or before any tax authority that is inconsistent with such treatment.

In addition, Co- Lead Counsel shall timely make such elections as necessary or advisable to carry out the provisions of this Section, including the relation-back election (as defined in Treas. Reg. § 1.468B-1(j)) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of Co-Lead Counsel to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur. All provisions of this Settlement Agreement shall be interpreted in a manner that is consistent with the Settlement Funds being a “Qualified Settlement Fund” within the meaning of Treas. Reg. § 1.4688-1.

10. The Escrow Agent, as administrator of the Qualified Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall be solely responsible for filing tax returns for the Escrow Account and paying from the Escrow Account any Taxes, as defined below, owed with respect to the Escrow Account. Neither Sanderson Farms, any other Released Party, nor the Settling Defendant’s Counsel shall have any liability or responsibility of any sort for filing any tax returns or paying any Taxes or expenses with respect to the Qualified Settlement Fund.

11. All: (i) taxes on the income of the Settlement Fund (“Taxes”) and (ii) expenses and costs incurred in connection with the taxation of the Settlement Fund (including, without limitation, reasonable expenses of tax attorneys and accountants) shall timely be paid by the Escrow Agent out of the Settlement Fund. The Class Members shall be solely responsible for paying any and all federal, state, and local income taxes due on any distribution made to them pursuant to this Agreement.

12. After the Date of Final Approval, the Net Settlement Fund shall be

disbursed in accordance with a plan of distribution to be approved by the Court. The Class Members shall look solely to the Net Settlement Fund for settlement and satisfaction of any and all Released Claims from Released Parties and shall not be entitled to any other payment or relief from the Released Parties. The timing of a motion to approve a plan of distribution of the Net Settlement Fund created by this Settlement Agreement shall be in the discretion of Co-Lead Counsel, and may be combined with a plan to distribute proceeds from other settlements in this Action.

F. Approval of Settlement Agreement and Dismissal of Released Claims

1. **Cooperation.** Plaintiffs and Sanderson Farms shall use their reasonable best efforts to effectuate this Settlement Agreement, including cooperating in seeking the Court's approval of the Settlement Agreement, the giving of appropriate Settlement Notice under Federal Rules of Civil Procedure 23(e) by Co-Lead Counsel, and the complete and final dismissal with prejudice of the Action as to Sanderson Farms only.

2. **Motion for Preliminary Approval.** Plaintiffs shall submit to the District Court a motion, at such time deemed appropriate in the discretion of Co-Lead Counsel (but as soon as is reasonably practicable after the Execution Date), requesting entry of an order preliminarily approving this Settlement Agreement ("Preliminary Approval Order"). Sanderson Farms shall not oppose and shall reasonably cooperate in such motion. A reasonable time before filing such motion, Co-Lead Counsel shall provide the Settling Defendant's Counsel with a draft of such motion for review. To the extent that Sanderson Farms objects to any aspect of the motion, it shall communicate such objection to Co-Lead Counsel and the Parties shall meet and confer to resolve any such objection. The proposed Preliminary Approval Order shall provide that, inter alia:

a. the settlement proposed in the Settlement Agreement has been negotiated at arm's-length and is preliminarily determined to be fair, reasonable, adequate, and in the best interests of the Class;

b. after Settlement Notice has been carried out, a hearing on the settlement proposed in this Settlement Agreement shall be held by the Court to determine whether the proposed settlement is fair, reasonable, and adequate, and whether it should be finally approved by the Court (the "Fairness Hearing");

c. Class Members who wish to object to this Agreement must submit an appropriate and timely written statement of the grounds for objection;

d. Class Members who wish to appear in person to object to this Agreement may do so at the Fairness Hearing pursuant to directions by the Court; and

e. All proceedings in the above-captioned action with respect to Sanderson Farms and CIIPPs are stayed until further order of the Court, except as may be necessary to implement the settlement or comply with the terms thereof.

3. **Settlement Notice.** Settlement Notice shall provide for a right to object to the proposed settlement. The timing of a motion to direct or approve the Settlement Notice of this Settlement Agreement shall be in the discretion of Co-Lead Counsel, and may be combined with Settlement Notice of other settlements in this Action. A reasonable time before filing such motion, Co-Lead Counsel shall provide the Settling Defendant's Counsel with a draft of such motion for review.

4. **Cost of Settlement Notice.** The costs of providing Settlement Notice to Class Members shall be paid by the Escrow Agent from the Settlement Fund pursuant to Section II(E)(2) and (3).

5. **CAFA Notice.** Within ten (10) days of the filing of this Settlement Agreement in court in connection with the above-mentioned motion for Preliminary Approval, Sanderson Farms will provide to the appropriate state officials and the appropriate federal official the notice required by the Class Action Fairness Act of 2005, 28 U.S.C. § 1715(b) (“CAFA”).

6. **Final Judgment.** If this Settlement Agreement is preliminarily approved by the Court, the Class, through Co-Lead Counsel and in accordance with any schedule set forth in the Court’s Preliminary Approval, shall seek entry of an Order and Final Judgment. A reasonable time before filing such motion, Co-Lead Counsel shall provide the Settling Defendant’s Counsel with a draft of such motion for review. To the extent that Sanderson Farms objects to any aspect of the motion, it shall communicate such objection to Co-Lead Counsel and the Parties shall meet and confer to resolve any such objection. The motion for Final Approval shall seek an entry of an Order and Final Judgment that, inter alia:

a. finally approves this Settlement Agreement and its terms as being a fair, reasonable, and adequate settlement as to the Class Members within the meaning of Rule 23 of the Federal Rules of Civil Procedure and directing its consummation according to its terms and conditions, without material modification of those terms and conditions;

b. determines that the Settlement Notice constituted, under the circumstances, the most effective and practicable notice of this Settlement Agreement and the Fairness Hearing, and constituted due and sufficient notice for all other purposes to all persons or entities entitled to receive notice;

c. orders that all Claims made by CIIPPs against Sanderson Farms in the Action, be dismissed with prejudice and, except as expressly provided for in this Settlement

Agreement, without further costs or fees;

d. incorporates the Releases set forth in Section II(D) of this Agreement and makes the Releases effective as of the date of the Final Order and Final Judgment;

e. enjoins members of the Class from suing, directly or indirectly, any of the Released Parties for any of the Released Claims;

f. confirms that Sanderson Farms has provided the appropriate notice pursuant to CAFA;

g. reserves to the Court continuing and exclusive jurisdiction over the settlement and this Settlement Agreement, including the administration and consummation of this Agreement;

h. determines under Federal Rule of Civil Procedure 54(b) that there is no just reason for delay and directs that the judgment of dismissal as to the Released Parties shall be final and entered forthwith; and

i. orders that the Net Settlement Fund may be disbursed as provided in the Final Approval Order or other order of the Court. The Parties shall use all reasonable best efforts to obtain Final Approval of the Settlement Agreement without modification to any of its material terms and conditions.

7. Class Counsel Fees and Expenses; No Other Costs.

a. Except as otherwise provided in Section II(C)(1) of this Settlement Agreement and elsewhere, the Released Parties shall have no responsibility for any other payments, fees or costs, including Co-Lead Counsel's attorneys' fees, costs, and expenses, Service Awards, or the fees, costs, and expenses of any Plaintiff's or Class Member's

respective attorneys, experts, advisors, or representatives; provided, however, that with respect to the Action, including this Settlement Agreement, Sanderson Farms shall bear its own costs and attorneys' fees.

b. At their discretion and after Final Approval and proper notice to Class Members and opportunity to object, Class Counsel may seek from the Settlement Fund, separately or in conjunction with other settlements, a court order granting attorneys' fees, reimbursement of costs and expenses, and Service Awards for the class representatives (to compensate for the time and expense they have incurred in bringing this Action). Any such attorneys' fees, reimbursement of costs and expenses, and Service Awards will be paid out of the Settlement Fund, and Sanderson Farms shall have no obligation to pay any fees or expenses of Co- Lead Counsel.

c. The procedure for and the allowance or disallowance by the Court of any applications by Co-Lead Counsel for attorneys' fees and expenses or the expenses of or Service Awards to Plaintiffs to be paid out of the Settlement Fund are not part of or a condition to the settlement set forth herein, and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the settlement and the Settlement Agreement, and any order or proceeding relating to any application for attorneys' fees or expenses or Service Awards shall not operate to terminate or cancel this Settlement Agreement or the releases set forth herein, or affect or delay the Final Approval of this settlement and Settlement Agreement.

d. Within a reasonable time period as deemed appropriate by Co-Lead Counsel after any order by the Court awarding attorneys' fees, expenses, or Service Awards, the Escrow Agent shall pay the approved attorneys' fees, costs, and service award via

wire transfer from the Settlement Fund as directed by Co-Lead Counsel. In the event the amount of attorneys' fees, costs, or service award is reduced on appeal, Co-Lead Counsel shall, within 30 days of such appellate order, cause the difference in the amount paid and the amount awarded on appeal to be returned to the Settlement Fund.

8. **When Settlement Becomes Final.** The settlement contemplated by this Settlement Agreement shall become final on the date that: (a) the Court has entered the Order and Final Judgment approving this Settlement Agreement, and all of its material terms and conditions, in accordance with Section II(F)(6) above, under Rule 23(e) of the Federal Rules of Civil Procedure and dismissing the Action as against Sanderson Farms with prejudice as to all Class Members and without costs except as set forth herein; and (b) the time for appeal or to seek permission to appeal from the Court's approval of this Settlement Agreement and entry of the Order and Final Judgment, as described in Section II(F)(6) above, has expired with no appeal having been filed or, if appealed, approval of this Settlement Agreement and the Order and Final Judgment has been affirmed in all material respects by the court of last resort to which such appeal has been taken and such affirmance is no longer subject to further appeal or review. "Final Approval" shall mean the satisfaction of all the conditions set forth in this Section II(F)(8). The Parties agree that neither the provisions of Rule 60 of the Federal Rules of Civil Procedure, nor the All Writs Act, 28 U.S.C. § 1651, nor any extensions of time in petitioning for a writ of certiorari under Rule 13 of the Rules of the Supreme Court of the United States, shall be taken into account in determining the above-stated times.

9. **Termination and Rescission.**

a. **Rejection or Alteration of Settlement Terms.** If the Court declines to grant a Preliminary Approval Order or Order and Final Judgment (as set forth in

Sections II(F)(2) or (F)(6) above, respectively); or if the Court approves this Settlement Agreement in a materially modified form; or if after the Court's approval, such approval is materially modified or set aside on appeal; or Final Approval is not obtained; or if the Court enters the Final Order and Judgment and appellate review is sought and on such review such Final Order and Judgment is not affirmed (collectively "Triggering Events")), then Sanderson Farms and Plaintiffs shall each, in their respective sole and absolute discretion, have the option to rescind, cancel, or terminate this Settlement Agreement in its entirety by providing written Notice of their election to do so ("Termination Notice") to the other Party within fifteen (15) calendar days of any of the Triggering Events. For purposes of Section II(F)(6)(a) and this Section II(F)(9)(a), a material modification includes, but is not limited to, any modification to the Settlement Amount or a material change to the scope of the Released Claims. In no way shall CIIPPs have the right to rescind, cancel or terminate this Settlement Agreement if the Court fails or refuses to grant any requested attorneys' fees, any costs, or any Service Awards to Class Representatives.

b. **Effect of Termination or Rescission of Settlement.** In the event this Settlement Agreement is rescinded or terminated by a Termination Notice, then: (i) within fifteen (15) calendar days thereafter, the Settlement Fund, including accrued interest, less taxes and tax expenses that have been paid or that have accrued and will be payable at some later date, and less expenses and costs that have been disbursed pursuant to Sections II(E)(3)-(4), shall be refunded by the Escrow Agent to Sanderson Farms pursuant to written instructions from Sanderson Farms' Counsel to Co-Lead Counsel; and (ii) the Parties shall be deemed to have reverted to their respective status in the Action as of the day before the Execution Date, and without waiver of any positions asserted in the Action as of the day before the Execution Date,

shall then resume proceedings in the Court, the Court having retained jurisdiction over the settlement and related matters and, except as otherwise expressly provided in this Settlement Agreement, the Parties shall proceed in all respects as if this Settlement Agreement had not been executed.

10. No Admission.

a. Sanderson Farms denies all allegations of wrongdoing in the Action. Nothing in this Settlement Agreement or its contents, nor any statements, negotiations, documents, or discussions associated with it, constitutes an admission by Sanderson Farms or any other Released Party as to the merits of the allegations that have been, could have been, or could be made in the Action, or an admission by Plaintiffs or the Class of the validity of any defenses that have been, could have been, or could be asserted by Sanderson Farms or any other Released Party.

b. This Settlement Agreement, its terms, and any agreement or order relating thereto, shall not be deemed to be, and shall not be offered by any of the Parties to be, received in any civil, criminal, administrative, or other proceeding, or utilized in any manner whatsoever as a presumption, a concession, or an admission of any fault, wrongdoing, or liability whatsoever on the part of Sanderson Farms or any other Released Party; provided, however, that nothing contained in this Section II(F)(10) shall prevent this Settlement Agreement (or any agreement or order relating thereto) from being used, offered, or received in evidence in any proceeding to approve, enforce, or otherwise effectuate the Settlement Agreement (or any agreement or order relating thereto) or the Order and Final Judgment, or in which the reasonableness, fairness, or good faith of any Party participating in the settlement (or any agreement or order relating thereto) is in issue. This Settlement Agreement may, however, be

filed and used in other proceedings, where relevant, to demonstrate the fact of its existence and of this settlement, including, but not limited to, the filing of the Settlement Agreement and/or the Order and Final Judgment in any other action that may be brought against any Released Party in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith settlement, waiver, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

III. MISCELLANEOUS

A. Entire Agreement. This Settlement Agreement constitutes the entire, complete and integrated agreement between the Parties pertaining to the settlement of the Action as to Sanderson Farms, and the release of the Released Parties, and supersedes any and all prior and contemporaneous undertakings, communications, representations, understandings, negotiations, and discussions (either oral or written) of the Parties in connection therewith. All terms of the Settlement Agreement are contractual and not mere recitals. The Parties agree that this Settlement Agreement may be modified only by a written instrument signed by the Parties and that no party will assert any claim against another based on any alleged agreement affecting or relating to the terms of this Settlement Agreement not in writing and signed by the Parties.

B. Inurement. This Settlement Agreement constitutes a binding and enforceable agreement as to the terms contained herein. The terms of this Settlement Agreement are and shall be binding upon and, to the fullest extent possible, inure to the benefit of the successors, assigns, and heirs of each of the Releasing Parties and the Released Parties, and upon all other persons or entities claiming any interest in the subject matter hereto through any of the Settling Parties, Releasing Parties, or Released Parties, including any Class Members. Without limiting the generality of the foregoing, upon Final Approval, each and every covenant and agreement

herein by the CIIPPs shall be binding upon all members and potential members of the Class and Releasing Parties who did not previously validly exclude themselves from the Class.

C. Modification. This Settlement Agreement may be modified or amended only by a writing executed by Co-Lead Counsel and Sanderson Farms or Settling Defendant's Counsel, subject (if after the Date of Preliminary Approval) to approval by the Court. Amendments and modifications may be made without notice to the Class unless notice is required by law or by the Court. The waiver of any rights conferred hereunder shall be effective only if made by written instrument of the waiving Party. The waiver by any Party of any particular breach of this Agreement shall not be deemed or construed as a waiver of any other breach, whether prior subsequent or contemporaneous, of this Agreement. This Agreement does not waive or otherwise limit the Parties' rights and remedies for any breach of this Agreement. Any breach of this Agreement may result in irreparable damage to a Party for which such Party will not have an adequate remedy at law. Accordingly, in addition to any other remedies and damages available, the Parties acknowledge and agree that the Parties may immediately seek enforcement of this Settlement Agreement by means of specific performance or injunction, without the requirement of posting a bond or other security.

D. Drafted Mutually. For the purpose of construing or interpreting this Settlement Agreement or any provision hereof, Plaintiffs, the Class and Sanderson Farms shall be deemed to have drafted it equally, and it shall not be construed strictly for or against any party.

E. Governing Law. All terms of this Settlement Agreement shall be governed by and interpreted according to the substantive laws of Illinois without regard to its choice-of-law or conflict-of-law principles.

F. Voluntary Settlement. The Parties agree that this Settlement Agreement was

negotiated in good faith by the Parties, and reflects a settlement and compromise that was reached voluntarily after consultation with competent counsel, and no Party has entered this Settlement Agreement as the result of any coercion or duress.

G. Confidentiality. The Parties agree to continue to maintain the confidentiality of all settlement discussions and materials exchanged during the settlement negotiation. However, Sanderson Farms and CIIPPs can inform other parties to this Action that they have reached a settlement agreement and disclose both the Settlement Amount and the cooperation obligations contained in this Settlement Agreement. Additionally, consistent with its obligations under the Defendants' Agreement, Sanderson Farms may share copies of this Settlement Agreement with parties to the Defendants' Agreement.

H. Jurisdiction. This Settlement Agreement is subject to the continuing and exclusive jurisdiction of the Court for any suit, action, proceeding, or dispute arising out of or relating to this Settlement Agreement or the applicability of this Settlement Agreement, including, without limitation, any suit, action, proceeding, or dispute relating to the release provisions herein. If for any reason this Settlement Agreement is rescinded, terminated, fails to obtain Final Approval or otherwise fails to become effective, then, in such event, neither this Settlement Agreement nor any conduct required by it shall constitute or be construed as any agreement to personal jurisdiction (general or specific) or subject matter jurisdiction so as to confer the jurisdiction of the District Court over the Released Parties, nor shall it constitute any waiver of any defenses based on personal or subject matter jurisdiction.

I. Counterparts. This Settlement Agreement may be executed in counterparts by Co- Lead Counsel and Settling Defendant's Counsel, each of which shall be deemed an original and all of which taken together shall constitute the same Settlement Agreement. A facsimile,

electronic or .pdf signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

J. Represented by Counsel. Plaintiffs, the Class, and Sanderson Farms each acknowledge that they have been represented by counsel, and have made their own investigations of the matters covered by this Settlement Agreement to the extent they have deemed it necessary to do so and are not relying on any representation or warranty by the other party other than as set forth herein. The Settling Parties and their respective counsel agree that they will not seek to set aside any part of the Settlement Agreement on the grounds of mistake.

K. Authorization. Each of the undersigned attorneys represents that he or she is fully authorized to enter into and execute this Settlement Agreement, subject to Court approval; the undersigned Co-Lead Counsel represent that they are authorized to execute this Settlement Agreement on behalf of Plaintiffs and the Class; and the undersigned Settling Defendant's Counsel represent that they are authorized to execute the Settlement Agreement on behalf of Sanderson Farms.

L. Privilege. Nothing in this Settlement Agreement or the negotiations or proceedings relating to it are intended to or shall be deemed to constitute a waiver of any applicable privilege or immunity, including, without limitation, the accountants' privilege, the attorney-client privilege, the joint defense privilege, the common interest privilege, and the attorney work product immunity.

M. Notice. Any notice, other than Settlement Notice, required pursuant to or in connection with this Settlement Agreement ("Notice") shall be in writing and shall be given by: (1) hand delivery; (2) registered or certified mail, return receipt requested, postage prepaid; or (3) UPS or similar overnight courier, with a courtesy copy by electronic mail, addressed, in the case

of notice to any Plaintiff or Class Member, to Co-Lead Counsel at their addresses set forth below, and, in the case of notice to Sanderson Farms, to the Settling Defendants' Counsel at the addresses set forth below, or such other addresses as Co-Lead Counsel or Settling Defendants' Counsel may designate, from time to time, by giving notice to all Parties in the manner described in this Section III(M).

For Commercial and Institutional Indirect Purchaser Plaintiffs:

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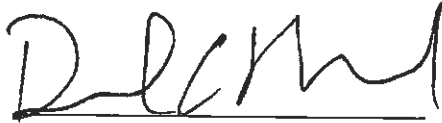
Adam J. Zapala
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T: (650) 697-6000
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For Settling Defendant Sanderson Farms:

Christopher E. Ondeck
PROSKAUER ROSE, LLP
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N. Headings. All headings contained in this Settlement Agreement are for reference purposes only and are not intended to affect in any way the meaning or interpretation of this Settlement Agreement

IN WITNESS WHEREOF, the Parties hereto, through their fully authorized representatives, have agreed to this Settlement Agreement as of the Execution Date.



Daniel E. Gustafson

Daniel C. Hedlund

Michelle J. Looby

Joshua J. Rissman

GUSTAFSON GLUEK PLLC

120 South 6th Street, Suite 2600

Minneapolis, MN 55402

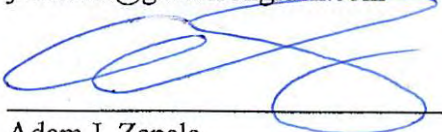
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Dated: Dec. 4, 2024

Dated: Dec. 4, 2024

Lead Counsel for Commercial and Institutional Indirect Purchaser Plaintiffs

SANDERSON FARMS LLC

By:



Dated: 12/04/2024

Christopher E. Ondeck
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1001 Pennsylvania Avenue, NW
Suite 600 South
Washington, DC 20004-2533
condeck@proskauer.com

Counsel for Sanderson Farms, LLC (f/k/a Sanderson Farms, Inc.), Sanderson Farms Foods, LLC (f/k/a Sanderson Farms, Inc. (Foods Division)), Sanderson Farms Production, LLC (f/k/a Sanderson Farms, Inc. (Production Division)), and Sanderson Farms Processing, LLC (f/k/a Sanderson Farms, Inc. (Processing Division))

EXHIBIT G

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

*IN RE BROILER CHICKEN ANTITRUST
LITIGATION*

No. 1:16-cv-08637 TMD

Hon. Thomas M. Durkin

Magistrate Judge Jeffrey T. Gilbert

This Document Relates To:
All Commercial and Institutional Indirect
Purchaser Plaintiff Actions

**AMENDED SETTLEMENT AGREEMENT BETWEEN COMMERCIAL AND
INSTITUTIONAL INDIRECT PURCHASER PLAINTIFFS AND DEFENDANT
HARRISON POULTRY, INC.**

This Amended Settlement Agreement (“Amended Settlement Agreement” or “Agreement”) is made and entered into as of the Execution Date, by and between Harrison Poultry, Inc. (“Harrison Poultry” or “Settling Defendant”) on the one hand, and the Commercial and Institutional Indirect Purchaser Plaintiffs (“Plaintiffs” or “CIIPPs”),¹ individually and on behalf of the Class of indirect purchasers of Broilers (defined below),² on the other hand, which Agreement is subject to court approval in the above-captioned action (the “Action”). CIIPPs, on behalf of the Class, and Harrison Poultry are referred to herein collectively as the “Parties” or individually as a “Party.”

¹ As used herein, “CIIPPs” means Sargent’s Restaurant and Lounge; Fargo Stopping Center, LLC; Wildwood Tavern LLC; Bodega Brew Pub, Inc.; Sullott Corporation; Chicken Joe’s LLC; Eat This, Inc.; Alpine Special Treatment Center, Inc.; Tennis Bums, LLC; Alabama Joe’s 2, Inc.; Tani Sushi Bistro, LLC; France 44 Foods, Inc.; Alliance Healthcare System, Inc.; Little Figs, Inc.; Da Big Blue Enterprises Corp.; Floersch IGA, Inc.; Avanti’s of Phoenix, Inc.; Midtown Bar and Grill LLC; Mookie’s Southern Cuisine LLC; Eowyn, LLC; Peppers Grill & Bar, Inc.; Daliano’s, Inc.; Sumner County Restaurant & Creamery LLC; Bashara & Company, LC; Tic-Tac-O; Brix Tavern, LLC; Pancho’s Taqueria, Inc.; Legacy 5, LLC; Roost Fried Chicken LLC; Oregano Italian, LLC; Bordenaro’s Pizza, Inc.; Telavi Hospitality, Inc.; and FB Mall, LLC.

² Unless otherwise indicated, all capitalized terms shall have the meaning ascribed in the Definitions in Section I.

RECITALS

- A. Plaintiffs are prosecuting the Action on their own behalf and on behalf of the Class.
- B. Plaintiffs have alleged, among other things, that Harrison Poultry entered into a contract, combination or conspiracy in restraint of trade, the purpose and effect of which was to suppress competition and to allow Harrison Poultry to charge supra-competitive prices for Broilers during the Class Period, in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1, as well as various state antitrust, unfair competition, unjust enrichment, and consumer protection laws.
- C. Harrison Poultry vigorously and affirmatively rejects Plaintiffs' Claims and has alleged numerous defenses to Plaintiffs' Claims.
- D. This Amended Settlement Agreement shall not be deemed or construed to be an admission or evidence of any violation of any statute, law, rule, or regulation or of any liability or wrongdoing by Harrison Poultry or of the truth of any of Plaintiffs' Claims, nor shall it be deemed or construed to be an admission or evidence of Harrison Poultry's defenses.
- E. Co-Lead Counsel have conducted an investigation into the facts and law regarding the Action and the possible legal and factual defenses thereto and have concluded that a settlement with Harrison Poultry according to the terms set forth herein is fair, reasonable, adequate, and beneficial to and in the best interests of the Class, given the uncertainties, risks, and costs of continued litigation.
- F. Despite its belief that it is not liable for, and has strong defenses to, Plaintiffs' Claims, Harrison Poultry desires to settle the Action to avoid the further expense, inconvenience, disruption, and burden of this litigation and any other present or future litigation arising out of the facts that gave rise to the Action, to avoid the risks inherent in uncertain complex litigation and

trial, and thereby to put to rest this controversy.

G. Harrison Poultry has entered into a Second Amended Judgment Sharing Agreement with other Defendants, which Co-Lead Counsel have reviewed, and which is addressed in Paragraph II(D)(5) below.

H. Arm's-length settlement negotiations have taken place between Co-Lead Counsel and the Settling Defendant's Counsel, and the settlement was reached as a result of those negotiations.

I. CIIPPs and Co-Lead Counsel believe that the Settlement Fund (as hereinafter defined) reflects fair, reasonable, and adequate compensation for the Class (as hereinafter defined) to release, settle and discharge their claims that they were overcharged by the alleged anticompetitive conduct of which they accuse Harrison Poultry.

J. The Parties to this Amended Settlement Agreement entered into an original Settlement Agreement, dated on or around June 9, 2023. The Parties sought, and obtained, preliminary approval of that original Settlement Agreement on July 25, 2023. *See* ECF No. 6694.

K. The Parties to this Amended Settlement Agreement desire to fully and finally settle and compromise this Action and all potential Released Claims by Releasing Parties against the Released Parties as set forth below to avoid the costs and risks of protracted litigation and trial.

IT IS HEREBY AGREED, in consideration of the foregoing, the terms and conditions set forth below, and other good and valuable consideration, by and among the Settling Parties, that the Action and all Released Claims are finally and fully settled and compromised and that the Action shall be dismissed in its entirety with prejudice as to the Released Parties and without cost to the Released Parties, other than those costs set forth in this Amended Settlement Agreement, subject to approval of the Court pursuant to Rule 23 of the Federal Rules of Civil Procedure, upon and subject to the following terms and conditions:

I. DEFINITIONS

A. Certified Class Definition

1. “Certified Class” or “Class” mean the CIIPP litigation classes—both the state damages classes and the nationwide injunctive relief class—certified by the Court’s May 27, 2022, Order (ECF No. 5644). The foregoing classes exclude all persons and entities included in the Exclusion List. (ECF. No. 6566-5)

B. General Definitions

1. “Action” means the putative class action filed by CIIPPs in the above-captioned proceeding.

2. “Affiliate” means with respect to any person, entity or company, any person, entity, or company that, directly or indirectly, controls, is controlled by or is under common control with such person, entity or company.

3. “Broilers” are chickens raised for meat consumption to be slaughtered before the age of 13 weeks, and which may be sold in a variety of forms, including fresh or frozen, and whole or in parts, but excluding chicken that is grown, processed, and sold according to halal, kosher, free range, or organic standards. “Broilers” does not include dark meat chicken products, such as chicken thighs. The definition also does not include certain “further processed” products, which include any chicken meat that has been breaded, cooked, or “formed,” such as patties, or nuggets; or products made from mechanically separated meat such as chicken sausages; or products that are ground, sliced, diced, or cubed. Marinated, seasoned, frozen and portioned products, that are not otherwise further processed, are included within the definition of Broilers.

4. “Claims” mean any and all, known or unknown, actual or potential causes of action, claims, contentions, allegations, assertions of wrongdoing, suits, damages, losses, or demands for recoveries, remedies, or fees complained of, relating to, referred to, or arising from

the conduct alleged in the Action or which could have been alleged in the Action, whether class, individual, or otherwise in nature.

5. “Class Member” means each member of the Certified Class.

6. “Class Notice” means the notice to the Class, that is approved by the Court, in accordance with Section II(G)(3) below.

7. “Class Period” means the period from and including January 1, 2009, through July 31, 2019.

8. “Co-Conspirator” means those entities named as co-conspirators in the Operative Complaint.

9. “Co-Lead Counsel” and “Class Counsel” mean, collectively, the law firms of Gustafson Gluek PLLC and Cotchett, Pitre & McCarthy, LLP, Commercial and Institutional Indirect Purchaser Plaintiffs’ Co-Lead Class Counsel.

10. “Complaint” or “Operative Complaint” means the Seventh Amended Consolidated Class Action Complaint in the Action, ECF Nos. 3929 and 3931.

11. “Court” or “District Court” means the United States District Court for the Northern District of Illinois and the Honorable Thomas M. Durkin or his successor, or any other Court in which the Action is proceeding.

12. “Date of Final Approval” means the date on which Final Approval as provided for in Section II(G)(6) occurs.

13. “Date of Preliminary Approval” means the date on which the Court enters an order granting preliminary approval to this Amended Settlement Agreement, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, as provided in Section II(G)(2) below.

14. “Defendant” or “Defendants” means any or all of the Defendants named in the Operative Complaint.

15. "Execution Date" means the date on which this Amended Settlement Agreement is entered into and executed by all Parties.

16. "Escrow Account" means the account with the Escrow Agent that holds the Settlement Fund.

17. "Escrow Agent" means the bank into which the Settlement Fund shall be deposited and maintained as set forth in Section II(C) of this Agreement.

18. "Fairness Hearing" means a hearing on the settlement proposed in this Amended Settlement Agreement held by the Court to determine whether the proposed settlement is fair, reasonable, and adequate, and whether it should be finally approved by the Court.

19. "Final Approval" shall mean the satisfaction of all the conditions set forth in Section II(G)(8).

20. "Indirect Purchaser State" means Arizona, California, District of Columbia, Florida, Hawaii, Illinois, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, West Virginia, and Wisconsin.

21. "Net Settlement Fund" means the Settlement Fund, plus accrued interest and income, less any award of attorneys' fees, Service Awards, and reimbursement of expenses and less applicable taxes, tax preparation expenses, and costs of Class Notice and settlement administration as provided for in this Amended Settlement Agreement, that may be awarded or approved by the Court.

22. "Notice" means the notice in accordance with Section III(M).

23. "Order and Final Judgment" means the order and final judgment of the Court approving the Amended Settlement Agreement, as described in Section II(G)(6) below.

24. "Parties" or "Settling Parties" means Settling Defendant and the Class, as represented by CIIPPs.

25. "Plaintiffs" means the Commercial and Institutional Indirect Purchaser Plaintiffs ("CIIPPs").

26. "Released Claims" means any and all existing or potential Claims, demands, claims, actions, suits, and causes of action, whether class, individual, or otherwise in nature (whether or not any Class Member has objected to the settlement or makes a claim upon or participates in the Settlement Fund, whether directly, indirectly, representatively, derivatively or in any other capacity) that the Releasing Parties (defined below) ever had, now have, or hereafter can, shall, or may ever have on account of, or in any way arising out of, any and all known and unknown, foreseen and unforeseen, suspected or unsuspected, actual or contingent, liquidated or unliquidated, claims, demands, actions, suits, causes of action, injuries, or damages arising from or in connection with any act or omission through the date of Preliminary Approval, relating to or referred to in the Action or arising from the factual predicate of the Action. For the avoidance of doubt, "Released Claims" includes all claims that have been asserted, or could have been asserted, in the Action, including all claims in any way arising out of or relating to the purchase of Broilers produced, processed or sold by Harrison Poultry or any of the other Defendants or Co-Conspirators. Notwithstanding the above, "Released Claims" does not include: (a) claims asserted against any other Defendant or alleged Co-Conspirator other than the Released Parties; (b) damages claims under the state or local laws of any jurisdiction other than an Indirect Purchaser State; or (c) any wholly-unrelated claims based on: (1) product defect or breach of warranty; (2) breach of contract (except such breaches relating to anticompetitive actions and/or unfair or inflated pricing); or (3) purchases of Broilers by persons or entities other than the Releasing Parties. The reservation of claims set forth in (a) through (c) of this Section I(B)(26) does not impair or

diminish the right of the Released Parties to deny any such claims or to assert any and all defenses to such claims.

27. "Released Party or Parties" means jointly and severally, individually and collectively, Harrison Poultry, any and all of its past and current corporate parents (including holding companies), subsidiaries, Affiliates, divisions, departments, joint ventures, predecessors, successors, assigns and any and all of their respective heirs, executors, devisees, administrators, officers, executives, directors, stockholders, employees, partners, members, managers, agents, attorneys, advisors, auditors, accountants, contractors, servants, representatives and insurers. "Released Parties" includes any person or entity identified in the previous sentence in relation to Harrison Poultry that has been or in the future may be identified in the Action as a "Co-Conspirator." Notwithstanding the foregoing, "Released Parties" does not include any other Defendant or alleged Co-Conspirator, either explicitly or as a third-party beneficiary.

28. "Releasing Parties" means jointly and severally, individually and collectively, Plaintiffs, the Class, and each Class Member, on behalf of themselves and any person or entity claiming by or through them, including without limitation, their respective predecessors; successors; assigns; and any and all past, present, and future parents, owners, subsidiaries, divisions, departments, Affiliates, heirs, executors, devisees, administrators, officers, directors, stockholders, employees, partners, members, managers, principals, agents, attorneys, legal or other advisors, auditors, accountants, contractors, servants, representatives and insurers.

29. "Settling Defendant" and "Harrison Poultry" mean Harrison Poultry, Inc.

30. "Settling Defendant's Counsel" means Eversheds Sutherland (US) LLP, and attorneys associated therewith.

31. "Settlement Amount" means the cash payment of TWO MILLION EIGHT HUNDRED THOUSAND DOLLARS (\$2,800,000), as more specifically described in Section

II(C)(1), below.

32. "Settlement Fund" means the funds described in Section II(C) of this Amended Settlement Agreement, plus accrued interest, in the separate Escrow Account for the settlement contemplated by this Amended Settlement Agreement established in accordance with Section II(E) below.

II. SETTLEMENT

A. The Parties' Efforts to Effectuate this Amended Settlement Agreement. The Parties have acted in good faith and will continue to cooperate in good faith and use their best efforts to seek the Court's Preliminary Approval and Final Approval of this Amended Settlement Agreement.

B. Litigation Standstill. Effective with the Execution Date, and except to the extent expressly authorized in this Agreement, CIIPPs and their counsel shall cease, and have ceased, all litigation activities against Harrison Poultry in the Action, and Harrison Poultry and its counsel shall cease all litigation activities against CIIPPs in the Action, provided, however, that both CIIPPs and Harrison Poultry may seek appropriate discovery in the Action from other persons or entities. Upon execution of this agreement, the parties may inform the Court of the fact of the settlement agreement and the forthcoming motion for preliminary approval. The CIIPPs agree that any and all experts retained by them will not testify or submit a report on behalf of any other plaintiff or in any trial other than a trial in which the CIIPPs are a party. None of the foregoing provisions shall be construed to prohibit CIIPPs from seeking appropriate discovery or testimony at trial from non-settling Defendants or co-conspirators or any other person other than Settling Defendant. Harrison Poultry shall, in turn, cease all litigation activities against CIIPPs related to the defense of claims against Harrison Poultry in the Action. None of the foregoing provisions shall be construed to prohibit Harrison Poultry from defending itself against the claims of non-settling plaintiffs.

C. Performance By Settling Defendant and CIIPs

1. Settlement Payment. In exchange for the full consideration described in the original Settlement Agreement and this Amended Settlement Agreement, Harrison Poultry had agreed to pay the Settlement Amount in United States dollars, and in immediately available funds. This Settlement Amount has already been paid by Harrison Poultry into an Escrow Account. For the avoidance of doubt, nothing in this Amended Settlement Agreement requires Harrison Poultry to make any further payments. Harrison Poultry, pursuant to the parties' original Settlement Agreement, has already satisfied its obligation to pay the Settlement Amount. The Parties agree that the Settlement Amount is the only amount Harrison Poultry was required to pay and was and shall be inclusive of the Class recovery amounts, any service awards to Plaintiffs for the work Plaintiffs performed on behalf of the Class ("Service Awards") as awarded by the Court, fees (including attorneys' fees and any other fees), and costs (including costs related to Class Notice and settlement administration).

a. The Settlement Amount was paid by Harrison Poultry into the Escrow Account for the Settlement Fund established in Section II(E)(1) by wire transfer, pursuant to instructions from the Escrow Agent or Co-Lead Counsel in two equal parts. The first payment of ONE MILLION FOUR HUNDRED THOUSAND DOLLARS (\$1,400,000) was made no later than July 1, 2023, and the second payment of ONE MILLION FOUR HUNDRED THOUSAND DOLLARS (\$1,400,000) was made no later than September 1, 2023.

b. Each Class Member and each Releasing Party shall look solely to the Net Settlement Fund for full and complete settlement and satisfaction by Harrison Poultry and the Released Parties, as provided herein, of all Released Claims and shall not be entitled to any

other payment or relief from the Released Parties.

c. Except as provided by order of the Court, no member of the Class shall have any interest in the Settlement Fund or any portion thereof. CIIPPs, members of the Class, and their counsel will be reimbursed solely out of the Settlement Fund for all expenses including, but not limited to, attorneys' fees and expenses, Service Awards, and the costs of notice of the Amended Settlement Agreement to potential members of the Class. Harrison Poultry and the other Released Parties shall not be liable for any costs, fees, or expenses of any of CIIPPs' and Co-Lead Counsel's attorneys, experts, advisors, or representatives, but all such costs and expenses as approved by the Court shall be paid out of the Settlement Fund.

2. **Compliance.** Settling Defendant asserts that its business practices do not constitute a per se or other violation of Section 1 of the Sherman Act with respect to the sale of Broilers. The parties agree that Settling Defendant will not, for a period of 24 months from the date of the entry of Final Judgment, engage in conduct that constitutes a per se violation of Section 1 of the Sherman Act with respect to the sale of Broilers.

3. **Cooperation.** CIIPPs have signed settlements or have reached agreement in principle with all defendants. However, if any of those settlements are not finally approved and CIIPPs go to trial in this matter, Harrison Poultry agrees to provide the following cooperation:

a. When reasonably requested by CIIPPs, Harrison Poultry agrees to use reasonable efforts to authenticate and provide foundation for admissibility of documents and/or things produced in the Action when Harrison Poultry can do so in good faith, where the facts indicate that the documents and/or things at issue are authentic and that such foundation is proper.

b. To the extent that Harrison Poultry (a) responds to written discovery, (b) makes Rule 34 document productions, or (c) provides other plaintiffs in the Action with formal document or information proffers in conjunction with a settlement with those plaintiffs, Harrison

Poultry will serve or otherwise provide CIIPPs a copy of such materials within seven (7) days of their production to any other plaintiff.

D. Release and Covenant Not to Sue

1. **Release.** Upon the occurrence of the Date of Final Approval, and in consideration of the terms set forth in this Agreement, the Releasing Parties shall be deemed to have, and by operation of law and of the Order and Final Judgment shall have, hereby fully, finally, and forever completely compromised, settled, released, acquitted, resolved, relinquished, waived, and discharged the Released Parties of all Released Claims.

2. **Covenant Not to Sue.** The Releasing Parties covenant not to sue, directly or indirectly, or otherwise seek to establish liability against, the Released Parties for any transaction, event, circumstance, action, failure to act, or occurrence of any sort or type arising out of or related to the Released Claims, including, without limitation, seeking to recover damages or other relief relating to any of the Released Claims. This Paragraph shall not apply to any action to enforce this Amended Settlement Agreement.

3. **Full Release.** The Parties to this Agreement expressly agree and confirm that the Released Claims as set forth in Section I(B)(26) shall be interpreted as broadly as possible and to the fullest extent permitted by law and constitute a full and final release by the Releasing Parties of the Released Parties for the Released Claims.

4. **Waiver.** In addition to Section II(D)(3), the Releasing Parties shall be deemed to have, and by operation of the Order and Final Judgment shall have, with respect to the subject matter of the Released Claims, expressly waived and released the provisions, rights, and benefits of Section 1542 of the California Civil Code (providing, "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING

THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.”) and Section 20-7-11 of the South Dakota Codified Laws (providing, “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.”).

The Releasing Parties shall further be deemed to have, and by operation of the Order and Final Judgment shall have, expressly waived all similar provisions, statutes, regulations, rules, or principles of law or equity of any other state or applicable jurisdiction, or principle of common law. The Releasing Parties acknowledge that they are aware that they may hereafter discover facts in addition to, or different from, those facts which they now know or believe to be true with respect to the subject matter of the Released Claims, but that it is their intention to fully, finally, and forever release, acquit, relinquish and discharge the Released Parties of all Released Claims, and, upon the Date of Final Approval, shall be deemed to have, and by operation of the Order and Final Judgment, shall have, forever released, acquitted, relinquished, and discharged the Released Parties of all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, without regard to the subsequent discovery or existence of any such additional or different facts. The Releasing Parties intend and, by operation of the Order and Final Judgment, shall be deemed to have acknowledged that the foregoing waiver was separately bargained for and a key element of the settlement of which this waiver and release is a part. The foregoing release of unknown, unanticipated, unsuspected, unforeseen, and unaccrued losses or claims is contractual, and not a mere recital.

5. Effect of this Amended Settlement Agreement on Final Judgment as to Other Defendants. CIIPPs have been provided with a copy of the Second Amended Judgment Sharing Agreement entered into by certain Defendants dated February 25, 2020 (hereinafter referred to as "Defendants' Agreement"). The defined terms in Defendants' Agreement shall have the same meaning when used in this Amended Settlement Agreement. CIIPPs agree that notwithstanding anything to the contrary contained in this Amended Settlement Agreement, CIIPPs shall reduce the dollar amount collectable from the parties to the Defendants' Agreement pursuant to any Final Judgment by a percentage equal to the Sharing Percentage of Harrison Poultry, calculated pursuant to Section 4 and Exhibits A and B of Defendants' Agreement (as illustrated by the Appendix to Defendants' Agreement) as if Harrison Poultry had not settled, had been found liable on the claim, and was a Sharing Party with respect to the Final Judgment. Notwithstanding the provision in Section I(B)(27) with respect to third-party beneficiaries, CIIPPs agree that this undertaking is also for the benefit of any Defendant that is a party to the Defendants' Agreement and that this undertaking may be enforced by any or all of such Defendants as third-party beneficiaries hereof. Any ambiguity in this Section or inconsistency between this Amended Settlement Agreement and the Defendants' Agreement shall be resolved in favor of Defendants' Agreement, including, without limitation, Sections 6.D.1 and 6.D.2 thereof. CIIPPs further represent and warrant that they have not reached any agreement to provide any portion of the settlement proceeds provided hereunder to any person or entity that is not explicitly identified as a releasor in this Amended Settlement Agreement, except for proceeds received by CIIPPs' attorneys for payment of attorneys' fees. CIIPPs shall use their best efforts to ensure that the Amended Settlement Agreement constitutes a Qualified Settlement under Defendants' Agreement and to effectuate the intent of the parties to the Defendants' Agreement to treat the Amended Settlement Agreement, including the paid Settlement Amount, as a Qualified Settlement, including (as may be

necessary) to make any amendments to this Amended Settlement Agreement to reflect the intent to treat the original Settlement Agreement and Amended Settlement Agreement as a Qualified Settlement.

E. Settlement Fund Administration. The Settlement Fund shall be administered pursuant to the provisions of this Amended Settlement Agreement and subject to the Court's continuing supervision and control, until the funds in the Settlement Fund are fully distributed, as follows:

1. The Settlement Fund shall be established within an Escrow Account and administered by an Escrow Agent designated by Co-Lead Counsel.
2. Except as provided herein, the Class, Co-Lead Counsel, Harrison Poultry, and the Released Parties shall have no financial obligation or liability for any fees, costs, or expenses related to providing notice to the Class or obtaining approval of the settlement or administering the settlement. Such fees, costs, or expenses shall be paid solely from the Settlement Fund, subject to any necessary Court approval.
3. Co-Lead Counsel, after obtaining an order of Preliminary Approval, may withdraw from the Settlement Fund up to \$500,000 to pay the costs for Class Notice and administration and for Preliminary Approval and Final Approval.
4. Co-Lead Counsel shall use best efforts to send out notice to the Class as soon as is reasonably practicable after Preliminary Approval. In the event that Court-ordered notice and administration costs exceed \$500,000, Plaintiffs and Co-Lead Counsel may apply to the Court to pay such additional notice and administration costs from the Settlement Fund. Up to \$500,000 of the Class Notice and administration costs actually expended pursuant to this Amended Settlement Agreement shall be nonrefundable in the event that, for any reason, this Amended Settlement Agreement is terminated or does not receive Final Approval.

5. If there are other settlements at the time of, or within a reasonable amount of time after, the preliminary approval of this Amended Settlement Agreement, Co-Lead Counsel shall endeavor to ensure that Class Notice and claims administration costs shall be paid from the settlement funds in this and such other settlement agreements consistent with any such other settlement agreements and the approval of the Court.

6. Under no circumstances will Harrison Poultry or the Released Parties be required to pay more or less than the Settlement Amount pursuant to the original Settlement Agreement or this Amended Settlement Agreement. For purposes of clarification, the payment of any fee and expense award, the Class Notice and administrative costs (including payment of any applicable fees to Escrow Agent), any Service Awards to Plaintiffs, payments to Class Members and any other fees and costs associated with the implementation of this Amended Settlement Agreement shall be exclusively paid from the Settlement Fund.

7. No other funds shall be paid or disbursements made from the Settlement Fund without an order of the Court, and in the event of any such order of the Court authorizing payments or disbursements above \$500,000, any such additional payments or disbursements shall be refunded to Harrison Poultry in the event that the Amended Settlement Agreement is terminated or does not receive Final Approval and thereafter is rescinded pursuant to Section II(G)(9).

8. The Escrow Agent shall, to the extent practicable, invest the funds deposited in the Settlement Fund in discrete and identifiable instruments backed by the full faith and credit of the United States Government, or fully insured by the United States Government or any agency thereof, and shall reinvest the proceeds of these instruments as they mature in similar instruments at their then-current market rates. Any cash portion of the Settlement Fund not invested in instruments of the type described in the first sentence of this Section II(E)(8) shall be maintained by the Escrow Agent, and not commingled with any other funds or monies, in a federally insured

bank account. Subsequent to payment into the Settlement Fund pursuant to Section II(C)(1), neither Harrison Poultry, any other Released Party, nor Settling Defendant's Counsel shall bear any responsibility or risk related to the Settlement Fund or the Net Settlement Fund.

9. The Parties agree that the Settlement Fund and the Net Settlement Fund are each intended to be a "Qualified Settlement Fund" within the meaning of Treasury Regulation § 1.468B-1 and, to that end, the Parties shall cooperate with each other and shall not take a position in any filing or before any tax authority that is inconsistent with such treatment. In addition, Co-Lead Counsel shall timely make such elections as necessary or advisable to carry out the provisions of this Section, including the relation-back election (as defined in Treas. Reg. § 1.468B-1(j)) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of Interim Co-Lead Counsel to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur. All provisions of this Amended Settlement Agreement shall be interpreted in a manner that is consistent with the Settlement Funds being a "Qualified Settlement Fund" within the meaning of Treas. Reg. § 1.468B-1.

10. The Escrow Agent, as administrator of the Qualified Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall be solely responsible for filing tax returns for the Escrow Account and paying from the Escrow Account any Taxes, as defined below, owed with respect to the Escrow Account. Neither Harrison Poultry, any other Released Party, nor the Settling Defendant's Counsel shall have any liability or responsibility of any sort for filing any tax returns or paying any Taxes or expenses with respect to the Qualified Settlement Fund.

11. All: (i) taxes on the income of the Settlement Fund ("Taxes") and (ii) expenses and costs incurred in connection with the taxation of the Settlement Fund (including,

without limitation, reasonable expenses of tax attorneys and accountants) shall timely be paid by the Escrow Agent out of the Settlement Fund. The Class Members shall be solely responsible for paying any and all federal, state, and local income taxes due on any distribution made to them pursuant to this Agreement.

12. After the Date of Final Approval, the Net Settlement Fund shall be disbursed in accordance with a plan of distribution to be approved by the Court. The Class Members shall look solely to the Net Settlement Fund for settlement and satisfaction of any and all Released Claims from Released Parties and shall not be entitled to any other payment or relief from the Released Parties. The timing of a motion to approve a plan of distribution of the Net Settlement Fund created by this Amended Settlement Agreement shall be in the discretion of Co-Lead Counsel, and may be combined with a plan to distribute proceeds from other settlements in this Action.

F. Reversion

The Settling Defendant shall have no rights to reversion.

G. Approval of Amended Settlement Agreement and Dismissal of Released Claims

1. **Cooperation.** Plaintiffs and Harrison Poultry shall use their reasonable best efforts to effectuate this Amended Settlement Agreement, including cooperating in seeking the Court's approval of the Amended Settlement Agreement, the giving of appropriate Class Notice under Federal Rules of Civil Procedure 23(c) and (e) by Co-Lead Counsel, and the complete and final dismissal with prejudice of the Action as to Harrison Poultry only.

2. Motion for Preliminary Approval. Plaintiffs shall submit to the District Court a motion, at such time deemed appropriate in the discretion of Co-Lead Counsel (but as soon as is reasonably practicable after the Execution Date), requesting entry of an order preliminarily approving this Amended Settlement Agreement ("Preliminary Approval Order"). Harrison Poultry shall not oppose and shall reasonably cooperate in such motion. A reasonable time before filing such motion, Co-Lead Counsel shall provide the Settling Defendant's Counsel with a draft of such motion for review. To the extent that Harrison Poultry objects to any aspect of the motion, it shall communicate such objection to Co-Lead Counsel and the Parties shall meet and confer to resolve any such objection. The proposed Preliminary Approval Order shall provide that, inter alia:

a. the settlement proposed in this Amended Settlement Agreement has been negotiated at arm's-length and is preliminarily determined to be fair, reasonable, adequate, and in the best interests of the Class;

b. after Class Notice has been carried out, a hearing on the settlement proposed in this Amended Settlement Agreement shall be held by the Court to determine whether the proposed settlement is fair, reasonable, and adequate, and whether it should be finally approved by the Court (the "Fairness Hearing");

c. Class Members who wish to object to this Agreement must submit an appropriate and timely written statement of the grounds for objection;

d. Class Members who wish to appear in person to object to this Agreement may do so at the Fairness Hearing pursuant to directions by the Court; and

e. All proceedings in the above-captioned action with respect to Harrison Poultry and CIPPs are stayed until further order of the Court, except as may be necessary to implement the settlement or comply with the terms thereof.

3. Class Notice. The Class Notice shall provide for a right to object to the

proposed settlement. The timing of a motion to direct or approve Class Notice of this Amended Settlement Agreement shall be in the discretion of Co-Lead Counsel, and may be combined with class notice of other settlements in this Action. A reasonable time before filing such motion, Co-Lead Counsel shall provide the Settling Defendant's Counsel with a draft of such motion for review.

4. Cost of Class Notice. The costs of providing Class Notice to Class Members shall be paid by the Escrow Agent from the Settlement Fund pursuant to Section II(E)(2) and (3).

5. CAFA Notice. Within ten (10) days of the filing of this Amended Settlement Agreement in court in connection with the above-mentioned motion for Preliminary Approval, Harrison Poultry will provide to the appropriate state officials and the appropriate federal official the notice required by the Class Action Fairness Act of 2005, 28 U.S.C. § 1715(b) ("CAFA").

6. Final Judgment. If this Amended Settlement Agreement is preliminarily approved by the Court, the Class, through Co-Lead Counsel and in accordance with any schedule set forth in the Court's Preliminary Approval, shall seek entry of an Order and Final Judgment. A reasonable time before filing such motion, Co-Lead Counsel shall provide the Settling Defendant's Counsel with a draft of such motion for review. To the extent that Harrison Poultry objects to any aspect of the motion, it shall communicate such objection to Co-Lead Counsel and the Parties shall meet and confer to resolve any such objection. The motion for Final Approval shall seek an entry of an Order and Final Judgment that, inter alia:

a. finally approves this Amended Settlement Agreement and its terms as being a fair, reasonable, and adequate settlement as to the Class Members within the meaning of Rule 23 of the Federal Rules of Civil Procedure and directing its consummation according to its

terms and conditions, without material modification of those terms and conditions;

b. determines that the Class Notice constituted, under the circumstances, the most effective and practicable notice of this Amended Settlement Agreement and the Fairness Hearing, and constituted due and sufficient notice for all other purposes to all persons or entities entitled to receive notice;

c. orders that all Claims made by CIIPPs against Harrison Poultry in the Action, be dismissed with prejudice and, except as expressly provided for in this Amended Settlement Agreement, without further costs or fees;

d. incorporates the Releases set forth in Section II(D) of this Agreement and makes the Releases effective as of the date of the Final Order and Final Judgment;

e. enjoins members of the Class from suing, directly or indirectly, any of the Released Parties for any of the Released Claims;

f. confirms that Harrison Poultry has provided the appropriate notice pursuant to CAFA;

g. reserves to the Court continuing and exclusive jurisdiction over the settlement and this Amended Settlement Agreement, including the administration and consummation of this Agreement;

h. determines under Federal Rule of Civil Procedure 54(b) that there is no just reason for delay and directs that the judgment of dismissal as to the Released Parties shall be final and entered forthwith; and

i. orders that the Net Settlement Fund may be disbursed as provided in the Final Approval Order or other order of the Court. The Parties shall use all reasonable best efforts to obtain Final Approval of the Amended Settlement Agreement without modification to any of its material terms and conditions.

7. Class Counsel Fees and Expenses; No Other Costs.

a. Except as otherwise provided in this Amended Settlement Agreement, the Released Parties shall have no responsibility for any other payments, fees or costs, including Co-Lead Counsel's attorneys' fees, costs, and expenses, Service Awards, or the fees, costs, and expenses of any Plaintiff's or Class Member's respective attorneys, experts, advisors, or representatives; provided, however, that with respect to the Action, including this Amended Settlement Agreement, Harrison Poultry shall bear its own costs and attorneys' fees.

b. At their discretion and after Final Approval and proper notice to Class Members and opportunity to object, Class Counsel may seek from the Settlement Fund, separately or in conjunction with other settlements, a court order granting attorneys' fees, reimbursement of costs and expenses, and Service Awards for the class representatives (to compensate for the time and expense they have incurred in bringing this Action). Any such attorneys' fees, reimbursement of costs and expenses, and Service Awards will be paid out of the Settlement Fund, and Harrison Poultry shall have no obligation to pay any fees or expenses of Co-Lead Counsel.

c. The procedure for and the allowance or disallowance by the Court of any applications by Co-Lead Counsel for attorneys' fees and expenses or the expenses of or Service Awards to Plaintiffs to be paid out of the Settlement Fund are not part of or a condition to the settlement set forth herein, and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the settlement and the Amended Settlement Agreement, and any order or proceeding relating to any application for attorneys' fees or expenses or Service Awards shall not operate to terminate or cancel this Amended Settlement Agreement or the releases set forth herein, or affect or delay the Final Approval of this settlement and Amended Settlement Agreement.

d. Within a reasonable time period as deemed appropriate by Co-Lead Counsel after any order by the Court awarding attorneys' fees, expenses, or Service Awards, the Escrow Agent shall pay the approved attorneys' fees, costs, and service award via wire transfer from the Settlement Fund as directed by Co-Lead Counsel. In the event the amount of attorneys' fees, costs, or service award is reduced on appeal, Co-Lead Counsel shall, within 30 days of such appellate order, cause the difference in the amount paid and the amount awarded on appeal to be returned to the Settlement Fund.

8. **When Settlement Becomes Final.** The settlement contemplated by this Amended Settlement Agreement shall become final on the date that: (a) the Court has entered the Order and Final Judgment approving this Amended Settlement Agreement, and all of its material terms and conditions, in accordance with Section II(G)(6) above, under Rule 23(e) of the Federal Rules of Civil Procedure and dismissing the Action as against Harrison Poultry with prejudice as to all Class Members and without costs except as set forth herein; and (b) the time for appeal or to seek permission to appeal from the Court's approval of this Amended Settlement Agreement and entry of the Order and Final Judgment, as described in Section II(G)(6) above, has expired with no appeal having been filed or, if appealed, approval of this Amended Settlement Agreement and the Order and Final Judgment has been affirmed in all material respects by the court of last resort to which such appeal has been taken and such affirmance is no longer subject to further appeal or review. "Final Approval" shall mean the satisfaction of all the conditions set forth in this Section II(G)(8). The Parties agree that neither the provisions of Rule 60 of the Federal Rules of Civil Procedure, nor the All Writs Act, 28 U.S.C. § 1651, nor any extensions of time in petitioning for a writ of certiorari under Rule 13 of the Rules of the Supreme Court of the United States, shall be taken into account in determining the above-stated times.

9. Termination and Rescission.

a. Rejection or Alteration of Settlement Terms. If the Court declines to grant a Preliminary Approval Order or Order and Final Judgment (as set forth in Sections II(G)(2) or (G)(6) above, respectively); or if the Court approves this Amended Settlement Agreement in a materially modified form; or if after the Court's approval, such approval is materially modified or set aside on appeal; or Final Approval is not obtained; or if the Court enters the Final Order and Judgment and appellate review is sought and on such review such Final Order and Judgment is not affirmed (collectively "Triggering Events"); then Harrison Poultry and Plaintiffs shall each, in their respective sole and absolute discretion, have the option to rescind, cancel, or terminate this Amended Settlement Agreement in its entirety by providing written Notice of their election to do so ("Termination Notice") to the other Party within fifteen (15) calendar days of any of the Triggering Events. For purposes of Section II(G)(6)(a) and this Section II(G)(10)(9), a material modification includes, but is not limited to, any modification to the Amended Settlement Amount or a material change to the scope of the Released Claims. In no way shall CIIPPs have the right to rescind, cancel or terminate this Amended Settlement Agreement if the Court fails or refuses to grant any requested attorneys' fees, any costs, or any Service Awards to Class Representatives. If this Amended Settlement Agreement is not preliminarily approved, then the parties revert to the previously existing situation extant in this litigation: the parties' original Settlement Agreement shall be deemed preliminarily approved and the parties will move forward with approval of that original Settlement Agreement, subject to additional information and guidance from the District Court.

b. Effect of Termination or Rescission of Settlement. In the event this Amended Settlement Agreement is rescinded or terminated by a Termination Notice, then: (i) within fifteen (15) calendar days thereafter, the Settlement Fund, including accrued interest, less

taxes and tax expenses that have been paid or that have accrued and will be payable at some later date, and less expenses and costs that have been disbursed pursuant to Sections II(E)(3)-(4), shall be refunded by the Escrow Agent to Harrison Poultry pursuant to written instructions from Harrison Poultry's Counsel to Co-Lead Counsel; and (ii) the Parties shall be deemed to have reverted to their respective status in the Action as of the day before the Execution Date, and without waiver of any positions asserted in the Action as of the day before the Execution Date, shall then resume proceedings in the Court, the Court having retained jurisdiction over the settlement and related matters and, except as otherwise expressly provided in this Amended Settlement Agreement, the Parties shall proceed in all respects as if this Amended Settlement Agreement had not been executed.

10. No Admission.

a. Harrison Poultry denies all allegations of wrongdoing in the Action. Nothing in this Amended Settlement Agreement or its contents, nor any statements, negotiations, documents, or discussions associated with it, constitutes an admission by Harrison Poultry or any other Released Party as to the merits of the allegations that have been, could have been, or could be made in the Action, or an admission by Plaintiffs or the Class of the validity of any defenses that have been, could have been, or could be asserted by Harrison Poultry or any other Released Party.

b. This Amended Settlement Agreement, its terms, and any agreement or order relating thereto, shall not be deemed to be, and shall not be offered by any of the Parties to be, received in any civil, criminal, administrative, or other proceeding, or utilized in any manner whatsoever as a presumption, a concession, or an admission of any fault, wrongdoing, or liability whatsoever on the part of Harrison Poultry or any other Released Party; provided, however, that nothing contained in this Section II(G)(10) shall prevent this Amended Settlement Agreement (or any agreement or order relating thereto) from being used, offered, or received in evidence in any

proceeding to approve, enforce, or otherwise effectuate the Amended Settlement Agreement (or any agreement or order relating thereto) or the Order and Final Judgment, or in which the reasonableness, fairness, or good faith of any Party participating in the settlement (or any agreement or order relating thereto) is in issue. This Amended Settlement Agreement may, however, be filed and used in other proceedings, where relevant, to demonstrate the fact of its existence and of this settlement, including, but not limited to, the filing of the Amended Settlement Agreement and/or the Order and Final Judgment in any other action that may be brought against any Released Party in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith settlement, waiver, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

III. MISCELLANEOUS

A. Entire Amended Agreement. This Amended Settlement Agreement constitutes the entire, complete and integrated amended agreement between the Parties pertaining to the amendment to the settlement of the Action as to Harrison Poultry, and the release of the Released Parties, and supersedes any and all prior and contemporaneous undertakings, communications, representations, understandings, negotiations, and discussions (either oral or written) of the Parties in connection therewith. All terms of the Amended Settlement Agreement are contractual and not mere recitals. The Parties agree that this Amended Settlement Agreement may be modified only by a written instrument signed by the Parties and that no party will assert any claim against another based on any alleged agreement affecting or relating to the terms of this Amended Settlement Agreement not in writing and signed by the Parties.

B. Inurement. This Amended Settlement Agreement constitutes a binding and enforceable agreement as to the terms contained herein. The terms of this Amended Settlement Agreement are and shall be binding upon and, to the fullest extent possible, insure to the benefit of

the successors, assigns, and heirs of each of the Releasing Parties and the Released Parties, and upon all other persons or entities claiming any interest in the subject matter hereto through any of the Settling Parties, Releasing Parties, or Released Parties, including any Class Members. Without limiting the generality of the foregoing, upon Final Approval, each and every covenant and agreement herein by the CIPPs shall be binding upon all members and potential members of the Class and Releasing Parties who have not validly excluded themselves from the Class.

C. Modification. This Amended Settlement Agreement may be modified or amended only by a writing executed by Co-Lead Counsel and Harrison Poultry or Settling Defendant's Counsel. Amendments and modifications may be made without notice to the Class unless notice is required by law or by the Court. The waiver of any rights conferred hereunder shall be effective only if made by written instrument of the waiving Party. The waiver by any Party of any particular breach of this Agreement shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent or contemporaneous, of this Agreement. This Agreement does not waive or otherwise limit the Parties' rights and remedies for any breach of this Agreement. Any breach of this Agreement may result in irreparable damage to a Party for which such Party will not have an adequate remedy at law. Accordingly, in addition to any other remedies and damages available, the Parties acknowledge and agree that the Parties may immediately seek enforcement of this Amended Settlement Agreement by means of specific performance or injunction, without the requirement of posting a bond or other security.

D. Drafted Mutually. For the purpose of construing or interpreting this Amended Settlement Agreement or any provision hereof, Plaintiffs, the Class and Harrison Poultry shall be deemed to have drafted it equally, and it shall not be construed strictly for or against any party.

E. Governing Law. All terms of this Amended Settlement Agreement shall be governed by and interpreted according to the substantive laws of Illinois without regard to its

choice-of-law or conflict-of-law principles.

F. Voluntary Settlement. The Parties agree that this Amended Settlement Agreement was negotiated in good faith by the Parties, and reflects a settlement and compromise that was reached voluntarily after consultation with competent counsel, and no Party has entered this Amended Settlement Agreement as the result of any coercion or duress.

G. Confidentiality. The Parties agree to continue to maintain the confidentiality of all settlement discussions and materials exchanged during the settlement negotiation. However, Harrison Poultry and CIPPs can inform other parties to this Action that they have reached a settlement agreement and disclose both the Settlement Amount and the cooperation obligations contained in this Amended Settlement Agreement. Additionally, consistent with its obligations under the Defendants' Agreement, Harrison Poultry may share copies of this Amended Settlement Agreement with parties to the Defendants' Agreement.

H. Jurisdiction. This Amended Settlement Agreement is subject to the continuing and exclusive jurisdiction of the Court for any suit, action, proceeding, or dispute arising out of or relating to this Amended Settlement Agreement or the applicability of this Amended Settlement Agreement, including, without limitation, any suit, action, proceeding, or dispute relating to the release provisions herein. If for any reason this Amended Settlement Agreement is rescinded, terminated, fails to obtain Final Approval or otherwise fails to become effective, then, in such event, neither this Amended Settlement Agreement nor any conduct required by it or the parties' previous Settlement Agreement shall constitute or be construed as any agreement to personal jurisdiction (general or specific) or subject matter jurisdiction so as to confer the jurisdiction of the District Court over the Released Parties, nor shall it constitute any waiver of any defenses based on personal or subject matter jurisdiction.

I. Counterparts. This Amended Settlement Agreement may be executed in

counterparts by Co- Lead Counsel and Settling Defendant's Counsel, each of which shall be deemed an original and all of which taken together shall constitute the same Amended Settlement Agreement. A facsimile, electronic or .pdf signature shall be deemed an original signature for purposes of executing this Amended Settlement Agreement.

J. Represented by Counsel. Plaintiffs, the Class, and Harrison Poultry each acknowledge that they have been represented by counsel, and have made their own investigations of the matters covered by this Amended Settlement Agreement to the extent they have deemed it necessary to do so and are not relying on any representation or warranty by the other party other than as set forth herein. The Settling Parties and their respective counsel agree that they will not seek to set aside any part of the Amended Settlement Agreement on the grounds of mistake.

K. Authorization. Each of the undersigned attorneys represents that he or she is fully authorized to enter into and execute this Amended Settlement Agreement, subject to Court approval; the undersigned Co-Lead Counsel represent that they are authorized to execute this Amended Settlement Agreement on behalf of Plaintiffs and the Class; and the undersigned Settling Defendant's Counsel represent that they are authorized to execute the Amended Settlement Agreement on behalf of Harrison Poultry.

L. Privilege. Nothing in this Amended Settlement Agreement or the negotiations or proceedings relating to it are intended to or shall be deemed to constitute a waiver of any applicable privilege or immunity, including, without limitation, the accountants' privilege, the attorney-client privilege, the joint defense privilege, the common interest privilege, and the attorney work product immunity.

M. Notice. Any notice, other than Class Notice, required pursuant to or in connection with this Amended Settlement Agreement ("Notice") shall be in writing and shall be given by: (1) hand delivery; (2) registered or certified mail, return receipt requested, postage prepaid; or (3) UPS

or similar overnight courier, with a courtesy copy by electronic mail, addressed, in the case of notice to any Plaintiff or Class Member, to Co-Lead Counsel at their addresses set forth below, and, in the case of notice to Harrison Poultry, to the Settling Defendants' Counsel at the addresses set forth below, or such other addresses as Co-Lead Counsel or Settling Defendants' Counsel may designate, from time to time, by giving notice to all Parties in the manner described in this Section III(M).

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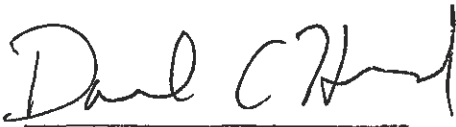
For Settling Defendant Harrison Poultry:

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patriciagorham@eversheds-sutherland.com

N. **Headings.** All headings contained in this Amended Settlement Agreement are for reference purposes only and are not intended to affect in any way the meaning or interpretation of this Amended Settlement Agreement.

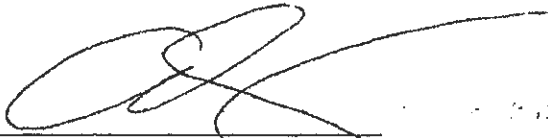
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IN WITNESS WHEREOF, the Parties hereto, through their fully authorized representatives, have agreed to this Amended Settlement Agreement as of the Execution Date.



Dated: 12/13/24

Daniel E. Gustafson
Daniel C. Hedlund
Michelle J. Looby
Joshua J. Rissman
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Dated: 12/13/24

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Lead Counsel for Commercial and Institutional Indirect Purchaser Plaintiffs



Dated: 12/16/24

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Counsel for Harrison Poultry, Inc.

EXHIBIT H

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**IN RE BROILER CHICKEN ANTITRUST
LITIGATION**

No. 1:16-cv-08637

This Document Relates To:

Honorable Thomas M. Durkin
Magistrate Judge Jeffrey T. Gilbert

**COMMERCIAL AND INSTITUTIONAL
INDIRECT PURCHASER PLAINTIFF
ACTION**

**SETTLEMENT AGREEMENT AND STIPULATION BETWEEN COMMERCIAL AND
INSTITUTIONAL INDIRECT PURCHASER PLAINTIFFS AND AGRI STATS, INC.**

THIS SETTLEMENT AGREEMENT ("Settlement Agreement") is made and entered into as of the 19th day of December 2024 ("Execution Date") by and between the Commercial and Institutional Indirect Purchaser Plaintiffs ("CIIPPs"),¹ through Co-Lead Counsel (as hereinafter defined) on behalf of the Certified Class (as hereinafter defined), and Defendant Agri Stats, Inc. (also referred to as "Settling Defendant" or "Agri Stats") in the above-captioned action (the "Action"). CIIPPs, on behalf of the Certified Class, and Agri Stats are referred to herein collectively as the "Parties" or individually as a "Party."

¹ As used herein, "CIIPPs" means Sargent's Restaurant and Lounge; Fargo Stopping Center, LLC; Wildwood Tavern LLC; Bodega Brew Pub, Inc.; Sullott Corporation; Chicken Joe's LLC; Eat This, Inc.; Alpine Special Treatment Center, Inc.; Tennis Bums, LLC; Alabama Joe's 2, Inc.; Tani Sushi Bistro, LLC; France 44 Foods, Inc.; Alliance Healthcare System, Inc.; Little Figs, Inc.; Da Big Blue Enterprises Corp.; Floersch IGA, Inc.; Avanti's of Phoenix, Inc.; Midtown Bar & Grill; Bashara and Company; Mookie's Southern Cuisine LLC; Eowyn, LLC; Peppers Grill & Bar, Inc.; Daliano's, Inc.; Sumner County Restaurant & Creamery LLC; Tic-Tac-O; Brix Tavern, LLC; Pancho's Taqueria, Inc.; Legacy 5, LLC; Roost Fried Chicken LLC; Oregano Italian, LLC; Bordenaro's Pizza, Inc.; Telavi Hospitality, Inc.; and FB Mall, LLC.

WHEREAS, CIIPPs, on behalf of themselves and as representatives of the Certified Class of similarly situated persons or entities alleged in the Action, *inter alia*, that Agri Stats participated in a conspiracy with other Defendants and alleged non-Defendant co-conspirators in the Action from at least January 1, 2008 to the present to fix, raise, maintain, and stabilize the price of Broilers (as hereinafter defined);

WHEREAS, on June 30, 2023 the Court entered an Order granting Agri Stats' Motion for Summary Judgment as to the CIIPP Class claims against Agri Stats (ECF No. 6641) (hereinafter the "MSJ Order");

WHEREAS, counsel for the Parties have engaged in arms-length negotiations on the terms of this Settlement Agreement, and this Settlement Agreement embodies all of the terms and conditions of the Settlement;

WHEREAS, Co-Lead Counsel have concluded, after investigation of the facts and after considering the circumstances and the applicable law, that it is in the best interests of the CIIPP Class to enter into this Settlement Agreement with Agri Stats to avoid the uncertainties of further litigation, and to obtain the benefits described herein for the Certified Class (as hereinafter defined) including imposition of any costs on the Certified Class, and, further, that this Settlement Agreement is fair, reasonable, adequate, and in the best interests of CIIPPs and the Certified Class;

WHEREAS, Agri Stats, notwithstanding its belief that it did nothing wrong or illegal, that it has legitimate defenses to any claims that have been, could have been, or could be asserted by the CIIPP Class against it, and that it would prevail in any appeal, enters into this Settlement Agreement to avoid the costs, expenses, and uncertainties relating thereto;

WHEREAS, arm's-length settlement negotiations have taken place between Co-Lead Counsel and the Settling Defendant's Counsel, and the settlement was reached as a result of those negotiations;

WHEREAS, in the event this Settlement does not obtain Court approval, both Parties wish to preserve all appeals, arguments, defenses, and responses to all claims in the Action, including all arguments, defenses and responses to any appeal;

NOW THEREFORE, in consideration of the foregoing, the terms and conditions set forth below, and other good and valuable consideration, it is agreed by and among the Parties, that the claims of the CIPPs be settled, compromised, and dismissed on the merits with prejudice as to Agri Stats consistent with the MSJ Order.

I. DEFINITIONS

A. Certified Class Definition. "Certified Class," "CIPP Class," or "Class" shall have the same definition and consist of the litigation classes—both the state damages classes and the nationwide injunctive relief class—certified by the Court's May 27, 2022, Order (ECF No. 5644). The state damages class is defined as:

All entities that purchased Broilers indirectly from a Defendant or named co-conspirator in an Indirect Purchaser State for their own use in commercial food preparation from January 1, 2009, until July 31, 2019.

Excluded from the [Indirect] class are: Natural persons who purchased Broilers for their personal use and not for commercial food preparation; purchases of Broilers directly from Defendants; purchases of Broilers for resale in unaltered form; purchases or [sic] Broilers from an intermediary who has further processed the Broiler; the Defendants; the officers, directors or employees of any Defendant; any entity in which any Defendant has a controlling interest; and any affiliate, legal representative, heir or assign of any Defendant; any federal, state governmental entities, any judicial officer presiding over this action and the members of her/her

immediate family and judicial staff, any juror assigned to this action;
and any co-conspirator identified in this action.

(ECF No. 5644 at 3-4 n.2, 55). The nationwide injunctive relief class consists of: "All entities that purchased Broilers indirectly from a Defendant or named co-conspirator in the United States for their own use in commercial food preparation from January 1, 2009, until July 31, 2019." *See id.* The foregoing classes exclude all persons and entities that previously filed a valid exclusion from the litigation class as set forth in ECF No. 6566-5.

B. General Definitions. The terms below and elsewhere in this Settlement Agreement with initial capital letters shall have the meanings ascribed to them for purposes of this Settlement Agreement.

1. "Action" means the putative class action filed by CIPPs in the above-captioned proceeding.

2. "Broilers" are chickens raised for meat consumption to be slaughtered before the age of 13 weeks, and which may be sold in a variety of forms, including fresh or frozen, and whole or in parts, but excluding chicken that is grown, processed, and sold according to halal, kosher, free range, or organic standards. "Broilers" does not include dark meat chicken products, such as chicken thighs. The definition also does not include certain "further processed" products, which include any chicken meat that has been breaded, cooked, or "formed," such as patties, or nuggets; or products made from mechanically separated meat such as chicken sausages; or products that are ground, sliced, diced, or cubed. Marinated, seasoned, frozen and portioned products, that are not otherwise further processed, are included within the definition of Broilers.

3. "Co-Lead Counsel" means, collectively, the law firms of Gustafson Gluek PLLC and Cotchett, Pitre & McCarthy, LLP, as appointed by the Court to represent the Certified Class of Commercial and Institutional Indirect Purchaser Plaintiffs.

4. "Court" or "District Court" means the United States District Court for the Northern District of Illinois and the Honorable Thomas M. Durkin or his successor, or any other court in which the Action is proceeding.

5. "Defendant" or "Defendants" means any or all of the Defendants named in the Commercial and Institutional Indirect Purchaser Plaintiffs' Seventh Amended Consolidated Class Action Complaint in the Action, ECF Nos. 3929 (redacted) and 3931 (unredacted).

6. "Effective Date" means the first date upon which both of the following conditions shall have been satisfied: (A) Final Approval of this Settlement Agreement; and (B) either (i) no appeal or petition to seek permission to appeal the Court's approval of the Settlement has been made within the time for filing or noticing any appeal under the Federal Rules of Appellate Procedure, *i.e.*, thirty (30) days after entry of Final Approval; or (ii) if any timely appeals from the Final Approval or notices of appeal from the Final Approval are filed, (a) the date of final dismissal of all such appeals or the final dismissal of any proceeding on certiorari or otherwise, or (b) the date the Final Judgment is finally affirmed on appeal and affirmance is no longer subject to further appeal or review.

7. "Execution Date" means the date on which this Settlement Agreement is entered into and executed by all Parties.

8. "Indirect Purchaser State" means Arizona, California, District of Columbia, Florida, Hawaii, Illinois, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, West Virginia, and Wisconsin.

9. "Notice" means the notice in accordance with Section III(N).

10. "Parties" or "Settling Parties" means Settling Defendant and the Class, as represented by CIIPPs.

11. "Plaintiffs" means the Commercial and Institutional Indirect Purchaser Plaintiffs ("CIIPPs"), individually as identified above in footnote 1 and on behalf of the Certified Class.

12. "Settling Defendant" and "Agri Stats" mean Agri Stats, Inc.

13. "Settling Defendants' Counsel" means Hogan Lovells US LLP and attorneys associated with that firm.

14. "Settlement Notice" means the notice to the Class, that is approved by the Court, in accordance with Section II(F)(2) below.

II. SETTLEMENT

A. The Parties' Efforts to Effectuate this Settlement Agreement. The Parties will cooperate in good faith and use their best efforts to seek the Court's Preliminary Approval and Final Approval of the Settlement Agreement.

B. Mutual Waiver of Right to Appeal or Further Adjudication: Upon the Effective Date, neither the CIIPP Class nor Agri Stats will seek to further adjudicate at the district court, via appeal, or any other means, the claims or defenses either has asserted in the Action or any orders of the Court in connection with the CIIPP Action as they pertain to the other Party, including but not limited to asking the Court to revise, modify, vacate, or reconsider the MSI Order. For the avoidance of doubt, this does not preclude Agri Stats from further adjudicating, via appeal or any other means, orders of the Court as part of its defense against any claims brought against Agri Stats by any other Plaintiff.

C. The CIIPP Class's Challenge to the MSJ Order as to Agri Stats. Upon filing of the motion seeking approval of this Settlement Agreement the CIIPP Class will advise the Court that they no longer intend to appeal the MSJ Order as to Agri Stats and are not asking the Court to revise, modify, vacate, or reconsider the MSJ Order as to Agri Stats pending approval of this Settlement Agreement. The CIIPP Class further agrees that it will not challenge the MSJ Order as to Agri Stats during the time period between the date of execution of this Settlement Agreement and the Effective Date (as defined herein). However, the CIIPP Class reserves the right to seek to challenge the MSJ Order as to Agri Stats and take necessary steps to preserve any such rights in the event this Settlement does not obtain Court approval. For the avoidance of doubt, the CIIPP Class's reservation of rights as described in this paragraph shall cease upon the Effective Date.

D. Settlement Consideration.

1. In consideration for the waiver of appellate or adjudication rights set forth herein, the CIIPP Class and Agri Stats each agree that they will not seek or assert against each other any claim for costs, fees, attorney's fees, or any other form of recovery in connection with the Action. Agri Stats does not waive any rights to seek any of its costs, fees, attorney's fees, or any other form of recovery in connection with the Action from any other Plaintiff in the Action. In the event this Settlement is not approved, Agri Stats does not waive any rights to seek costs, fees, attorney's fees, or any other form of recovery in connection with this Action against the CIIPP Class. Similarly, in the event this Settlement is not approved, the CIIPP Class reserves all rights to challenge and contest any effort by Agri Stats to seek to recover any costs against the CIIPP Class.

2. Agri Stats also agrees to offer CIIPP Class Members access to its Broiler price reporting service offered by Express Markets Inc. ("EMI") at no cost for six (6) months from the Effective Date. To obtain these services, CIIPP Class Members must contact

cuppsettlement@expressmarketsinc.com. Agri Stats agrees it will not use or present any arguments regarding the provision of the free EMI services or the Class Members' acceptance of the free EMI services in connection with any other litigation or any filings in this case to prove or disprove the validity or amount of any claim or defense.

E. Approval of Settlement Agreement and Dismissal

1. **Motion for Preliminary Approval.** Plaintiffs shall submit to the District Court a motion, at such time deemed appropriate in the discretion of Co-Lead Counsel (but as soon as is reasonably practicable after the Execution Date), requesting entry of an order preliminarily approving this Settlement Agreement ("Preliminary Approval Order"). As soon as practicable in advance of submission to the Court, the papers in support of the motion for Preliminary Approval, including but not limited to any draft notices to the Class, shall be provided by Co-Lead Counsel to Agri Stats for its review. To the extent that Agri Stats objects to any aspect of the motion, it shall communicate such objection to Co-Lead Counsel and the Parties shall meet and confer about any such objection and attempt to resolve that issue in good faith. The Parties shall take all reasonable actions as may be necessary to obtain Preliminary Approval. The proposed Preliminary Approval Order shall provide that, inter alia:

i. the settlement proposed in the Settlement Agreement has been negotiated at arm's-length and is preliminarily determined to be fair, reasonable, adequate, and in the best interests of the Class;

ii. after Settlement Notice has been carried out, a hearing on the settlement proposed in this Settlement Agreement shall be held by the Court to determine whether the proposed settlement is fair, reasonable, and adequate, and whether it should be finally approved by the Court (the "Fairness Hearing");

iii. Class Members who wish to object to this Agreement must submit an appropriate and timely written statement of the grounds for objection;

iv. Class Members who wish to appear in person to object to this Agreement may do so at the Fairness Hearing pursuant to directions by the Court; and

v. All proceedings in the above-captioned action with respect to Agri Stats and CIIPPs are stayed until further order of the Court, except as may be necessary to implement the settlement or comply with the terms thereof.

2. **Settlement Notice.** Settlement Notice shall provide for a right to object to the proposed settlement. The timing of a motion to direct or approve the Settlement Notice of this Settlement Agreement shall be in the discretion of Co-Lead Counsel and may be combined with Settlement Notice of other settlements in this Action. Agri Stats shall have no responsibility or liability relating to the administration or costs associated with such notice and the CIIPP class shall bear all costs to effectuate any such notice.

Notwithstanding the foregoing, any notice of this settlement shall include the following language:

On June 30, 2023 the Court granted the motion for summary judgment filed by defendant Agri Stats against the CIIPP Class. The CIIPP Class has agreed to not appeal the summary judgment order as to defendant Agri Stats in exchange for a waiver by Agri Stats of its right to seek recovery of any and all fees and costs against the CIIPP Class in conjunction with this Action. The Court approved this agreement on [DATE].

3. **Final Judgment.** If this Settlement Agreement is preliminarily approved by the Court, the Class, through Co-Lead Counsel and in accordance with any schedule set forth

in the Court's Preliminary Approval, shall seek entry of an Order and Final Judgment. As soon as practicable in advance of submission to the Court, the papers in support of the motion for Final Approval shall be provided by Co-Lead Counsel to Agri Stats for its review. To the extent that Agri Stats objects to any aspect of the motion, it shall communicate such objection to Co-Lead Counsel and the Parties shall meet and confer about any such objection and attempt to resolve that issue in good faith. The Parties shall take all reasonable actions as may be necessary to obtain Final Approval of the Settlement Agreement without modification to any of its material terms and conditions. The motion for Final Approval shall seek an entry of an order and Final Judgment that, *inter alia*:

i. finally approves this Settlement Agreement and its terms as being a fair, reasonable, and adequate settlement as to the Class Members within the meaning of Rule 23 of the Federal Rules of Civil Procedure and directing its consummation according to its terms and conditions, without material modification of those terms and conditions;

ii. determines that the Settlement Notice constituted, under the circumstances, the most effective and practicable notice of this Settlement Agreement and the Fairness Hearing, and constituted due and sufficient notice for all other purposes to all persons or entities entitled to receive notice;

iii. dismisses all claims made by CIIPPs against Agri Stats in the Action, including in all class action complaints asserted by CIIPPs, with prejudice and without further costs or fees;

iv. confirms that Agri Stats has provided the appropriate notice pursuant to CAFAs;

v. reserves to the Court continuing and exclusive jurisdiction over the

settlement and this Settlement Agreement, including the administration and consummation of this Agreement; and

vi. determines under Federal Rule of Civil Procedure 54(b) that there is no just reason for delay and directs that the judgment of dismissal as to the Parties shall be final and entered forthwith.

III. MISCELLANEOUS

A. Governing Law. All terms of this Settlement Agreement shall be governed by and interpreted according to the substantive laws of Illinois without regard to its choice-of-law or conflict-of-law principles.

B. Jurisdiction. This Settlement Agreement is subject to the continuing and exclusive jurisdiction of the Court for any suit, action, proceeding, or dispute arising out of or relating to this Settlement Agreement or the applicability of this Settlement Agreement, including, without limitation, any suit, action, proceeding, or dispute relating to the release provisions herein. If for any reason this Settlement Agreement is rescinded, terminated, fails to obtain Final Approval or otherwise fails to become effective, then, in such event, neither this Settlement Agreement nor any conduct required by it shall constitute or be construed as any agreement to personal jurisdiction (general or specific) or subject matter jurisdiction so as to confer the jurisdiction of the District Court over the Released Parties, nor shall it constitute any waiver of any defenses based on personal or subject matter jurisdiction.

C. Class Action Fairness Act. Within ten (10) days of the filing of this Settlement Agreement in court in connection with the above-mentioned motion for Preliminary Approval, Agri Stats will provide to the appropriate state officials and the appropriate federal official the notice required by the Class Action Fairness Act of 2005, 28 U.S.C. § 1715(b) ("CAFA"). Co-

Lead Class Counsel shall provide such assistance as is reasonably necessary and information as is reasonably available to comply with CAFA.

D. Authorization. Each of the undersigned attorneys represents that he or she is fully authorized to enter into and execute this Settlement Agreement, subject to Court approval; the undersigned Co-Lead Counsel represent that they are authorized to execute this Settlement Agreement on behalf of Plaintiffs and the Class; and the undersigned Settling Defendant's Counsel represent that they are authorized to execute the Settlement Agreement on behalf of Agri Stats.

It is agreed that this Settlement Agreement shall be admissible in any proceeding for establishing the terms of the Parties' agreement or for any other purpose with respect to implementing or enforcing this Settlement Agreement.

E. No Admission. The Parties expressly agree that this Settlement Agreement and its contents, and any statements, negotiations, documents, and discussions associated with it, do not constitute an admission of liability by any Party.

F. No Party is the Drafter. None of the Parties hereto shall be considered to be the drafter of this Settlement Agreement or any provision hereof for purposes of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter hereof.

G. Entire Agreement. This Settlement Agreement constitutes the entire, complete and integrated agreement between the Parties and supersedes any and all prior and contemporaneous undertakings, communications, representations, understandings, negotiations, and discussions (either oral or written) between the Parties. The Parties agree that this Settlement Agreement may be modified only by a written instrument signed by the Parties and that no party will assert any

claim against another based on any alleged agreement affecting or relating to the terms of this Settlement Agreement not in writing and signed by the Parties.

H. Modification. This Settlement Agreement may be modified or amended only by a writing executed by Co-Lead Counsel and Agri Stats or Settling Defendant's Counsel. The waiver of any rights conferred hereunder shall be effective only if made by written instrument of the waiving Party. The waiver by any Party of any particular breach of this Agreement shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent or contemporaneous, of this Agreement. This Agreement does not waive or otherwise limit the Parties' rights and remedies for any breach of this Agreement. Any breach of this Agreement may result in irreparable damage to a Party for which such Party will not have an adequate remedy at law. Accordingly, in addition to any other remedies and damages available, the Parties acknowledge and agree that the Parties may immediately seek enforcement of this Settlement Agreement by means of specific performance or injunction, without the requirement of posting a bond or other security.

I. Execution in Counterparts. This Settlement Agreement may be executed in counterparts by Co-Lead Counsel and Settling Defendant's Counsel, each of which shall be deemed an original, but all of which together shall constitute a single Settlement Agreement. A facsimile, electronic or .pdf signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

J. Represented by Counsel. Plaintiffs and Agri Stats each acknowledge that they have been represented by counsel and have made their own investigations of the matters covered by this Settlement Agreement to the extent they have deemed it necessary to do so and are not relying on any representation or warranty by the other party other than as set forth herein. The

Parties and their respective counsel agree that they will not seek to set aside any part of the Settlement Agreement on the grounds of mistake.

K. Privilege. Nothing in this Settlement Agreement or the negotiations or proceedings relating to it are intended to or shall be deemed to constitute a waiver of any applicable privilege or immunity, including, without limitation, the accountants' privilege, the attorney-client privilege, the joint defense privilege, the common interest privilege, and the attorney work product immunity.

L. Voluntary Settlement. The Parties agree that this Settlement Agreement was negotiated in good faith by the Parties, and reflects a settlement that was reached voluntarily after consultation with competent counsel, and no Party has entered this Settlement Agreement as the result of any coercion or duress.

M. Confidentiality. The Parties agree to continue to maintain the confidentiality of all settlement discussions and materials exchanged during the settlement negotiation. However, Agri Stats and CIIPPs can inform other parties to this Action that they have reached a settlement agreement. Additionally, consistent with its obligations under the Defendants' Agreement, Agri Stats may provide a copy of this Settlement Agreement with parties to the Defendants' Agreement. The Parties further agree to disclose the Settlement Agreement for the purpose of disclosure and approval from the Court consistent with the terms of the Settlement Agreement.

N. Notice. Any notice, other than Settlement Notice, required pursuant to or in connection with this Settlement Agreement ("Notice") shall be in writing and shall be given by: (1) hand delivery; (2) registered or certified mail, return receipt requested, postage prepaid; or (3) UPS or similar overnight courier, with a courtesy copy by electronic mail, addressed, in the case of notice to any Plaintiff or Class Member, to Co-Lead Counsel at their addresses set forth below,

and, in the case of notice to Agri Stats, to the Settling Defendants' Counsel at the addresses set forth below, or such other addresses as Co-Lead Counsel or Settling Defendants' Counsel may designate, from time to time, by giving notice to all Parties in the manner described in this Section III(N).

For Commercial and Institutional Indirect Purchaser Plaintiffs:

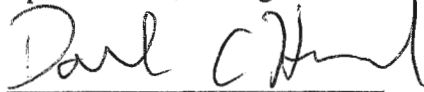
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GUSTAFSON GLUEK PLLC
120 South 6th Street, Suite 2600
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dhedlund@gustafsongluek.com

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For Settling Defendant Agri Stats, Inc.:

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Justin W. Bernick
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Washington, D.C. 20004-1109
Telephone: (202) 637-5910
Facsimile: (202) 637-5911
william.monts@hoganlovells.com
justin.bernick@hoganlovells.com

IN WITNESS WHEREOF, the Parties hereto, through their fully authorized representatives, have agreed to this Settlement Agreement as of the Execution Date.



Daniel E. Gustafson
Daniel C. Hedlund
Michelle J. Looby
Joshua J. Rissman
GUSTAFSON GLUEK PLLC
120 South 6th Street, Suite 2600

Dated: 12-20-24


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Dated: 12/20/24

Lead Counsel for Commercial and Institutional Indirect Purchaser Plaintiffs



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william.monts@hoganlovells.com
justin.bernick@hoganlovells.com

Dated: 12/19/24

Counsel for Defendant Agri Stats, Inc.

EXHIBIT I

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE BROILER CHICKEN ANTITRUST
LITIGATION

No. 1:16-cv-08637

This Document Relates To:

Honorable Thomas M. Durkin
Magistrate Judge Jeffrey T. Gilbert

COMMERCIAL AND INSTITUTIONAL
INDIRECT PURCHASER PLAINTIFF
ACTION

**SETTLEMENT AGREEMENT AND STIPULATION BETWEEN COMMERCIAL AND
INSTITUTIONAL INDIRECT PURCHASER PLAINTIFFS AND CASE DEFENDANTS**

THIS SETTLEMENT AGREEMENT (“Settlement Agreement”) is made and entered into as of the 27th day of November 2024 (“Execution Date”) by and between the Commercial and Institutional Indirect Purchaser Plaintiffs (“CIIPPs”),¹ through Co-Lead Counsel (as hereinafter defined) on behalf of the Certified Class (as hereinafter defined), and Defendants Case Foods, Inc., Case Farms, LLC, and Case Farms Processing, Inc. (collectively referred to as “Settling Defendant” or “Case Farms”) in the above-captioned action (the “Action”). CIIPPs, on behalf of the Certified Class, and Case Farms are referred to herein collectively as the “Parties” or individually as a “Party.”

¹ As used herein, “CIIPPs” means Sargent’s Restaurant and Lounge; Fargo Stopping Center, LLC; Wildwood Tavern LLC; Bodega Brew Pub, Inc.; Sullott Corporation; Chicken Joe’s LLC; Eat This, Inc.; Alpine Special Treatment Center, Inc.; Tennis Bums, LLC; Alabama Joe’s 2, Inc.; Tani Sushi Bistro, LLC; France 44 Foods, Inc.; Alliance Healthcare System, Inc.; Little Figs, Inc.; Da Big Blue Enterprises Corp.; Floersch IGA, Inc.; Avanti’s of Phoenix, Inc.; Midtown Bar & Grill; Bashara and Company; Mookie’s Southern Cuisine LLC; Eowyn, LLC; Peppers Grill & Bar, Inc.; Daliano’s, Inc.; Sumner County Restaurant & Creamery LLC; Tic-Tac-O; Brix Tavern, LLC; Pancho’s Taqueria, Inc.; Legacy 5, LLC; Roost Fried Chicken LLC; Oregano Italian, LLC; Bordenaro’s Pizza, Inc.; Telavi Hospitality, Inc.; and FB Mall, LLC.

WHEREAS, CIIPPs, on behalf of themselves and as representatives of the Certified Class of similarly situated persons or entities alleged in the Action, *inter alia*, that Case Farms participated in a conspiracy with other Defendants and alleged non-Defendant co-conspirators in the Action from at least January 1, 2008 to the present to fix, raise, maintain, and stabilize the price of Broilers (as hereinafter defined);

WHEREAS, on June 30, 2023 the Court entered an Order granting Case Farms' Motion for Summary Judgment as to the CIIPP Class claims against Case Farms (ECF No. 6641) (hereinafter the "MSJ Order");

WHEREAS, Case Farms has entered into a Second Amended Judgment Sharing Agreement with other Defendants, which Co-Lead Counsel have reviewed, and which is addressed in Section II(E) below.

WHEREAS, counsel for the Parties have engaged in arms-length negotiations on the terms of this Settlement Agreement, and this Settlement Agreement embodies all of the terms and conditions of the Settlement;

WHEREAS, Co-Lead Counsel have concluded, after investigation of the facts and after considering the circumstances and the applicable law, that it is in the best interests of the CIIPP Class to enter into this Settlement Agreement with Case Farms to avoid the uncertainties of further litigation, and to obtain the benefits described herein for the Certified Class (as hereinafter defined) including imposition of any costs on the Certified Class, and, further, that this Settlement Agreement is fair, reasonable, adequate, and in the best interests of CIIPPs and the Certified Class;

WHEREAS, Case Farms, notwithstanding its belief that it did nothing wrong or illegal, that it has legitimate defenses to any claims that have been, could have been, or could be asserted

by the CIIPP Class against it, and that it would prevail in any appeal, enters into this Settlement Agreement to avoid the costs, expenses, and uncertainties relating thereto;

WHEREAS, arm's-length settlement negotiations have taken place between Co-Lead Counsel and the Settling Defendant's Counsel, and the settlement was reached as a result of those negotiations;

WHEREAS, in the event this Settlement does not obtain Court approval, both Parties wish to preserve all appeals, arguments, defenses, and responses to all claims in the Action, including all arguments, defenses and responses to any appeal;

NOW THEREFORE, in consideration of the foregoing, the terms and conditions set forth below, and other good and valuable consideration, it is agreed by and among the Parties, that the claims of the CIIPPs be settled, compromised, and dismissed on the merits with prejudice as to Case Farms consistent with the MSJ Order.

I. DEFINITIONS

A. Certified Class Definition. "Certified Class," "CIIPP Class," or "Class" shall have the same definition and consist of the litigation classes—both the state damages classes and the nationwide injunctive relief class—certified by the Court's May 27, 2022, Order (ECF No. 5644).

The state damages class is defined as:

All entities that purchased Broilers indirectly from a Defendant or named co-conspirator in an Indirect Purchaser State for their own use in commercial food preparation from January 1, 2009, until July 31, 2019.

Excluded from the [Indirect] class are: Natural persons who purchased Broilers for their personal use and not for commercial food preparation; purchases of Broilers directly from Defendants; purchases of Broilers for resale in unaltered form; purchases or [sic] Broilers from an intermediary who has further processed the Broiler; the Defendants; the officers, directors or employees of any Defendant; any entity in which any Defendant has a controlling

interest; and any affiliate, legal representative, heir or assign of any Defendant; any federal, state governmental entities, any judicial officer presiding over this action and the members of her/her immediate family and judicial staff, any juror assigned to this action; and any co-conspirator identified in this action.

(ECF No. 5644 at 3-4 n.2, 55). The nationwide injunctive relief class consists of: “All entities that purchased Broilers indirectly from a Defendant or named co-conspirator in the United States for their own use in commercial food preparation from January 1, 2009, until July 31, 2019.” *See id.* The foregoing classes exclude all persons and entities that previously filed a valid exclusion from the litigation class as set forth in ECF No. 6566-5.

B. General Definitions. The terms below and elsewhere in this Settlement Agreement with initial capital letters shall have the meanings ascribed to them for purposes of this Settlement Agreement

1. “Action” means the putative class action filed by CIIPPs in the above-captioned proceeding.

2. “Broilers” are chickens raised for meat consumption to be slaughtered before the age of 13 weeks, and which may be sold in a variety of forms, including fresh or frozen, and whole or in parts, but excluding chicken that is grown, processed, and sold according to halal, kosher, free range, or organic standards. “Broilers” does not include dark meat chicken products, such as chicken thighs. The definition also does not include certain “further processed” products, which include any chicken meat that has been breaded, cooked, or “formed,” such as patties, or nuggets; or products made from mechanically separated meat such as chicken sausages; or products that are ground, sliced, diced, or cubed. Marinated, seasoned, frozen and portioned products, that are not otherwise further processed, are included within the definition of Broilers.

3. “Co-Lead Counsel” means, collectively, the law firms of Gustafson Gluek PLLC and Cotchett, Pitre & McCarthy, LLP, as appointed by the Court to represent the Certified Class of Commercial and Institutional Indirect Purchaser Plaintiffs.

4. “Court” or “District Court” means the United States District Court for the Northern District of Illinois and the Honorable Thomas M. Durkin or his successor, or any other court in which the Action is proceeding.

5. “Defendant” or “Defendants” means any or all of the Defendants named in the Commercial and Institutional Indirect Purchaser Plaintiffs’ Seventh Amended Consolidated Class Action Complaint in the Action, ECF Nos. 3929 (redacted) and 3931 (unredacted).

6. “Effective Date” means the first date upon which both of the following conditions shall have been satisfied: (A) Final Approval of this Settlement Agreement; and (B) either (i) no appeal or petition to seek permission to appeal the Court’s approval of the Settlement has been made within the time for filing or noticing any appeal under the Federal Rules of Appellate Procedure, *i.e.*, thirty (30) days after entry of Final Approval; or (ii) if any timely appeals from the Final Approval or notices of appeal from the Final Approval are filed, (a) the date of final dismissal of all such appeals or the final dismissal of any proceeding on certiorari or otherwise, or (b) the date the Final Judgment is finally affirmed on appeal and affirmance is no longer subject to further appeal or review.

7. “Execution Date” means the date on which this Settlement Agreement is entered into and executed by all Parties.

8. “Indirect Purchaser State” means Arizona, California, District of Columbia, Florida, Hawaii, Illinois, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota,

Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, West Virginia, and Wisconsin.

9. “Notice” means the notice in accordance with Section III(N).

10. “Parties” or “Settling Parties” means Settling Defendant and the Class, as represented by CIPPs.

11. “Plaintiffs” means the Commercial and Institutional Indirect Purchaser Plaintiffs (“CIPPs”), individually as identified above in footnote 1 and on behalf of the Certified Class.

12. “Settling Defendant” and “Case Farms” mean Case Foods, Inc., Case Farms, LLC, and Case Farms Processing, Inc.

13. “Settling Defendants’ Counsel” means Joseph D. Carney & Associates LLC, Miller Shakman Levine & Feldman LLP, D. Klar Law, and attorneys associated with those firms, and Paul L. Binder, Esq.

14. “Settlement Notice” means the notice to the Class, that is approved by the Court, in accordance with Section II(F)(2) below.

II. SETTLEMENT

A. The Parties’ Efforts to Effectuate this Settlement Agreement. The Parties will cooperate in good faith and use their best efforts to seek the Court’s Preliminary Approval and Final Approval of the Settlement Agreement.

B. Mutual Waiver of Right to Appeal or Further Adjudication: Upon the Effective Date, neither the CIIPP Class nor Case Farms will seek to further adjudicate at the district court, via appeal, or any other means, the claims or defenses either has asserted in the Action or any orders of the Court in connection with the CIIPP Action as they pertain to the other Party,

including but not limited to asking the Court to revise, modify, vacate, or reconsider the MSJ Order. For the avoidance of doubt, this does not preclude Case Farms from further adjudicating, via appeal or any other means, orders of the Court as part of its defense against any claims brought against Case Farms by any other Plaintiff.

C. The CIIPP Class's Challenge to the MSJ Order as to Case Farms. Upon filing of the motion seeking approval of this Settlement Agreement the CIIPP Class will advise the Court that they no longer intend to appeal the MSJ Order as to Case Farms and are not asking the Court to revise, modify, vacate, or reconsider the MSJ Order as to Case Farms pending approval of this Settlement Agreement. The CIIPP Class further agrees that it will not challenge the MSJ Order as to Case Farms during the time period between the date of execution of this Settlement Agreement and the Effective Date (as defined herein). However, the CIIPP Class reserves the right to seek to challenge the MSJ Order as to Case Farms and take necessary steps to preserve any such rights in the event this Settlement does not obtain Court approval. For the avoidance of doubt, the CIIPP Class's reservation of rights as described in this paragraph shall cease upon the Effective Date.

D. Settlement Consideration. In consideration for the waiver of appellate or adjudication rights set forth herein, the CIIPP Class and Case Farms each agree that they will not seek or assert against each other any claim for costs, fees, attorney's fees, or any other form of recovery in connection with the Action. Case Farms does not waive any rights to seek any of its costs, fees, attorney's fees, or any other form of recovery in connection with the Action from any other Plaintiff in the Action. In the event this Settlement is not approved, Case Farms does not waive any rights to seek costs, fees, attorney's fees, or any other form of recovery in connection with this Action against the CIIPP Class. Similarly, in the event this Settlement is not approved,

the CIIPP Class reserves all rights to challenge and contest any effort by Case Farms to seek to recover any costs against the CIIPP Class.

E. Qualified Settlement. CIIPPs have been provided with a copy of the Second Amended Judgment Sharing Agreement entered into by certain Defendants dated February 25, 2020 (hereinafter referred to as “Defendants’ Agreement”). The defined terms in Defendants’ Agreement shall have the same meaning when used in this Settlement Agreement. In the event the CIIPPs and the Certified Class (a) prevail in any appeal of the existing rulings in the Action, and (b) thereafter obtain a Final Judgment that includes as a component any damages attributable to sales of Broilers by Case Farms, the CIIPPs and the Certified Class agree that notwithstanding anything to the contrary contained in this Settlement Agreement, the CIIPPs and the Certified Class shall reduce the dollar amount collectable from any Party to the Defendants’ Agreement pursuant to any such Final Judgment the CIIPPs might obtain against any party to the Defendants’ Agreement by a percentage equal to the Sharing Percentage of Case Farms, calculated pursuant to Section 4 and Exhibits A and B of Defendants’ Agreement (as illustrated by the Appendix to Defendants’ Agreement) as if Case Farms had not settled, had been found liable on the claim, and was a Sharing Party with respect to the Final Judgment. CIIPPs agree that this undertaking is also for the benefit of any Defendant that is a Party to the Defendants’ Agreement and that this undertaking may be enforced by any or all of such Defendants as third-party beneficiaries hereof. Any ambiguity in this Section or inconsistency between this Settlement Agreement and the Defendants’ Agreement shall be resolved in favor of Defendants’ Agreement, including, without limitation, Sections 6.D.1 and 6.D.2 thereof. CIIPPs shall use their best efforts to ensure that the Settlement Agreement constitutes a Qualified Settlement under Defendants’ Agreement and to effectuate the intent of the parties to the Defendants’ Agreement to treat the Settlement

Agreement as a Qualified Settlement, including (as may be necessary) to make any amendments to this Settlement Agreement to reflect the intent to treat the Settlement Agreement as a Qualified Settlement.

F. Approval of Settlement Agreement and Dismissal

1. **Motion for Preliminary Approval.** Plaintiffs shall submit to the District Court a motion, at such time deemed appropriate in the discretion of Co-Lead Counsel (but as soon as is reasonably practicable after the Execution Date), requesting entry of an order preliminarily approving this Settlement Agreement (“Preliminary Approval Order”). As soon as practicable in advance of submission to the Court, the papers in support of the motion for Preliminary Approval, including but not limited to any draft notices to the Class, shall be provided by Co-Lead Counsel to Case Farms for its review. To the extent that Case Farms objects to any aspect of the motion, it shall communicate such objection to Co-Lead Counsel and the Parties shall meet and confer about any such objection and attempt to resolve that issue in good faith. The Parties shall take all reasonable actions as may be necessary to obtain Preliminary Approval. The proposed Preliminary Approval Order shall provide that, inter alia:

i. the settlement proposed in the Settlement Agreement has been negotiated at arm’s-length and is preliminarily determined to be fair, reasonable, adequate, and in the best interests of the Class;

ii. after Settlement Notice has been carried out, a hearing on the settlement proposed in this Settlement Agreement shall be held by the Court to determine whether the proposed settlement is fair, reasonable, and adequate, and whether it should be finally approved by the Court (the “Fairness Hearing”);

iii. Class Members who wish to object to this Agreement must submit

an appropriate and timely written statement of the grounds for objection;

iv. Class Members who wish to appear in person to object to this Agreement may do so at the Fairness Hearing pursuant to directions by the Court; and

v. All proceedings in the above-captioned action with respect to Case Farms and CIIPPs are stayed until further order of the Court, except as may be necessary to implement the settlement or comply with the terms thereof.

2. **Settlement Notice.** Settlement Notice shall provide for a right to object to the proposed settlement. The timing of a motion to direct or approve the Settlement Notice of this Settlement Agreement shall be in the discretion of Co-Lead Counsel and may be combined with Settlement Notice of other settlements in this Action. Case Farms shall have no responsibility or liability relating to the administration or costs associated with such notice and the CIIPP class shall bear all costs to effectuate any such notice.

Notwithstanding the foregoing, any notice of this settlement shall include the following language:

On June 30, 2023 the Court granted the motion for summary judgment filed by defendant Case Farms against the CIIPP Class. The CIIPP Class has agreed to not appeal the summary judgment order as to defendant Case Farms in exchange for a waiver by Case Farms of its right to seek recovery of any and all fees and costs against the CIIPP Class in conjunction with this Action. The Court approved this agreement on [DATE].

3. **Final Judgment.** If this Settlement Agreement is preliminarily approved by the Court, the Class, through Co-Lead Counsel and in accordance with any schedule set forth in the Court's Preliminary Approval, shall seek entry of an Order and Final Judgment. As soon

as practicable in advance of submission to the Court, the papers in support of the motion for Final Approval shall be provided by Co-Lead Counsel to Case Farms for its review. To the extent that Case Farms objects to any aspect of the motion, it shall communicate such objection to Co-Lead Counsel and the Parties shall meet and confer about any such objection and attempt to resolve that issue in good faith. The Parties shall take all reasonable actions as may be necessary to obtain Final Approval of the Settlement Agreement without modification to any of its material terms and conditions. The motion for Final Approval shall seek an entry of an order and Final Judgment that, inter alia:

i. finally approves this Settlement Agreement and its terms as being a fair, reasonable, and adequate settlement as to the Class Members within the meaning of Rule 23 of the Federal Rules of Civil Procedure and directing its consummation according to its terms and conditions, without material modification of those terms and conditions;

ii. determines that the Settlement Notice constituted, under the circumstances, the most effective and practicable notice of this Settlement Agreement and the Fairness Hearing, and constituted due and sufficient notice for all other purposes to all persons or entities entitled to receive notice;

iii. dismisses all claims made by CIPPs against Case Farms in the Action, including in all class action complaints asserted by CIPPs, with prejudice and without further costs or fees;

iv. confirms that Case Farms has provided the appropriate notice pursuant to CAFA;

v. reserves to the Court continuing and exclusive jurisdiction over the settlement and this Settlement Agreement, including the administration and consummation of this

Agreement; and

vi. determines under Federal Rule of Civil Procedure 54(b) that there is no just reason for delay and directs that the judgment of dismissal as to the Parties shall be final and entered forthwith.

III. MISCELLANEOUS

A. Governing Law. All terms of this Settlement Agreement shall be governed by and interpreted according to the substantive laws of Illinois without regard to its choice-of-law or conflict-of-law principles.

B. Jurisdiction. This Settlement Agreement is subject to the continuing and exclusive jurisdiction of the Court for any suit, action, proceeding, or dispute arising out of or relating to this Settlement Agreement or the applicability of this Settlement Agreement, including, without limitation, any suit, action, proceeding, or dispute relating to the release provisions herein. If for any reason this Settlement Agreement is rescinded, terminated, fails to obtain Final Approval or otherwise fails to become effective, then, in such event, neither this Settlement Agreement nor any conduct required by it shall constitute or be construed as any agreement to personal jurisdiction (general or specific) or subject matter jurisdiction so as to confer the jurisdiction of the District Court over the Released Parties, nor shall it constitute any waiver of any defenses based on personal or subject matter jurisdiction.

C. Class Action Fairness Act. Within ten (10) days of the filing of this Settlement Agreement in court in connection with the above-mentioned motion for Preliminary Approval, Case Farms will provide to the appropriate state officials and the appropriate federal official the notice required by the Class Action Fairness Act of 2005, 28 U.S.C. § 1715(b) (“CAFA”). Co-

Lead Class Counsel shall provide such assistance as is reasonably necessary and information as is reasonably available to comply with CAFA.

D. Authorization. Each of the undersigned attorneys represents that he or she is fully authorized to enter into and execute this Settlement Agreement, subject to Court approval; the undersigned Co-Lead Counsel represent that they are authorized to execute this Settlement Agreement on behalf of Plaintiffs and the Class; and the undersigned Settling Defendant's Counsel represent that they are authorized to execute the Settlement Agreement on behalf of Case Farms.

It is agreed that this Settlement Agreement shall be admissible in any proceeding for establishing the terms of the Parties' agreement or for any other purpose with respect to implementing or enforcing this Settlement Agreement,

E. No Admission. The Parties expressly agree that this Settlement Agreement and its contents, and any statements, negotiations, documents, and discussions associated with it, do not constitute an admission of liability by any Party.

F. No Party is the Drafter. None of the Parties hereto shall be considered to be the drafter of this Settlement Agreement or any provision hereof for purposes of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter hereof.

G. Entire Agreement. This Settlement Agreement constitutes the entire, complete and integrated agreement between the Parties and supersedes any and all prior and contemporaneous undertakings, communications, representations, understandings, negotiations, and discussions (either oral or written) between the Parties. The Parties agree that this Settlement Agreement may be modified only by a written instrument signed by the Parties and that no party will assert any

claim against another based on any alleged agreement affecting or relating to the terms of this Settlement Agreement not in writing and signed by the Parties.

H. Modification. This Settlement Agreement may be modified or amended only by a writing executed by Co-Lead Counsel and Case Farms Counsel. The waiver of any rights conferred hereunder shall be effective only if made by written instrument of the waiving Party. The waiver by any Party of any particular breach of this Agreement shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent or contemporaneous, of this Agreement. This Agreement does not waive or otherwise limit the Parties' rights and remedies for any breach of this Agreement. Any breach of this Agreement may result in irreparable damage to a Party for which such Party will not have an adequate remedy at law. Accordingly, in addition to any other remedies and damages available, the Parties acknowledge and agree that the Parties may immediately seek enforcement of this Settlement Agreement by means of specific performance or injunction, without the requirement of posting a bond or other security.

I. Execution in Counterparts. This Settlement Agreement may be executed in counterparts by Co- Lead Counsel and Settling Defendant's Counsel, each of which shall be deemed an original, but all of which together shall constitute a single Settlement Agreement. A facsimile, electronic or .pdf signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

J. Represented by Counsel. Plaintiffs and Case Farms each acknowledge that they have been represented by counsel and have made their own investigations of the matters covered by this Settlement Agreement to the extent they have deemed it necessary to do so and are not relying on any representation or warranty by the other party other than as set forth herein. The Parties and their respective counsel agree that they will not seek to set aside any part of the

Settlement Agreement on the grounds of mistake.

K. Privilege. Nothing in this Settlement Agreement or the negotiations or proceedings relating to it are intended to or shall be deemed to constitute a waiver of any applicable privilege or immunity, including, without limitation, the accountants' privilege, the attorney-client privilege, the joint defense privilege, the common interest privilege, and the attorney work product immunity.

L. Voluntary Settlement. The Parties agree that this Settlement Agreement was negotiated in good faith by the Parties, and reflects a settlement that was reached voluntarily after consultation with competent counsel, and no Party has entered this Settlement Agreement as the result of any coercion or duress.

M. Confidentiality. The Parties agree to continue to maintain the confidentiality of all settlement discussions and materials exchanged during the settlement negotiation. However, Case Farms and CIIPPs can inform other parties to this Action that they have reached a settlement agreement. Additionally, consistent with its obligations under the Defendants' Agreement, Case Farms may provide a copy of this Settlement Agreement with parties to the Defendants' Agreement. The Parties further agree to disclose the Settlement Agreement for the purpose of disclosure and approval from the Court consistent with the terms of the Settlement Agreement.

N. **Notice**. Any notice, other than Settlement Notice, required pursuant to or in connection with this Settlement Agreement ("Notice") shall be in writing and shall be given by: (1) hand delivery; (2) registered or certified mail, return receipt requested, postage prepaid; or (3) UPS or similar overnight courier, with a courtesy copy by electronic mail, addressed, in the case of notice to any Plaintiff or Class Member, to Co-Lead Counsel at their addresses set forth below, and, in the case of notice to Case Farms, to the Settling Defendants' Counsel at the addresses set

forth below, or such other addresses as Co-Lead Counsel or Settling Defendants' Counsel may designate, from time to time, by giving notice to all Parties in the manner described in this Section III(N).

For Commercial and Institutional Indirect Purchaser Plaintiffs:

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For Settling Defendant Case Foods, Inc., Case Farms, LLC, and Case Farms Processing, Inc.

Joseph D. Carney
JOSEPH D. CARNEY & ASSOCIATES
LLC
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1540 Peach Drive
Avon, OH 44011
Telephone: 440-249-0860
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jdc@jdcarney.com
case@jdcarney.com

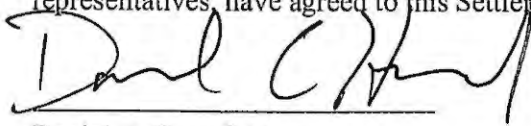
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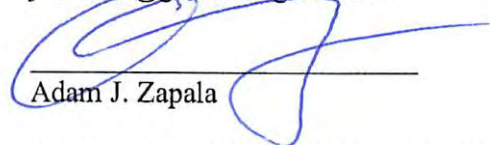
Paul L. Binder, Esq.
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Telephone: 440-376-6850
binderpl@pbinderlaw.com

IN WITNESS WHEREOF, the Parties hereto, through their fully authorized
representatives, have agreed to this Settlement Agreement as of the Execution Date.



Dated: 12-3-24

Daniel E. Gustafson
Daniel C. Hedlund
Michelle J. Looby
Joshua J. Rissman
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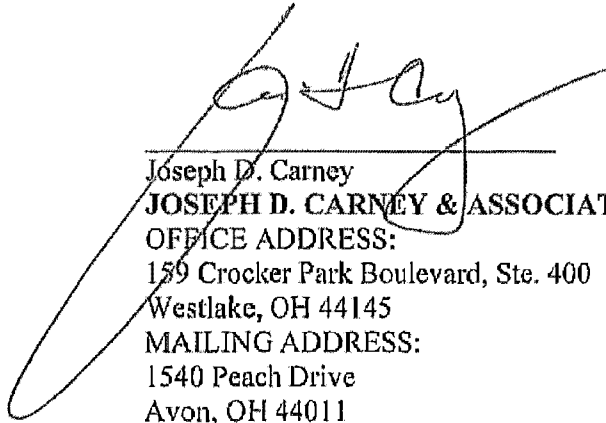


Adam J. Zapala

Dated: 12/9/24

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Lead Counsel for Commercial and Institutional Indirect Purchaser Plaintiffs



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Telephone: 440-249-0860
Facsimile: 866-270-1221
jdc@jdcarney.com
case@jdcarney.com

Dated: _____

11/27/2024

Counsel for Defendants Case Foods, Inc., Case Farms, LLC, and Case Farms Processing, Inc.

EXHIBIT J

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE BROILER CHICKEN ANTITRUST
LITIGATION

No. 1:16-cv-08637

This Document Relates To:

Honorable Thomas M. Durkin
Magistrate Judge Jeffrey T. Gilbert

COMMERCIAL AND INSTITUTIONAL
INDIRECT PURCHASER PLAINTIFF
ACTION

**SETTLEMENT AGREEMENT AND STIPULATION BETWEEN COMMERCIAL AND
INSTITUTIONAL INDIRECT PURCHASER PLAINTIFFS AND NORMAN W. FRIES,
INC. D/B/A CLAXTON POULTRY FARMS**

THIS SETTLEMENT AGREEMENT (“Settlement Agreement”) is made and entered into as of the 5th day of December 2024 (“Execution Date”) by and between the Commercial and Institutional Indirect Purchaser Plaintiffs (“CIIPPs”),¹ through Co-Lead Counsel (as hereinafter defined) on behalf of the Certified Class (as hereinafter defined), and Defendant Norman W. Fries, Inc. d/b/a Claxton Poultry Farms (also referred to as “Settling Defendant” or “Claxton”) in the above-captioned action (the “Action”). CIIPPs, on behalf of the Certified Class, and Claxton are referred to herein collectively as the “Parties” or individually as a “Party.”

¹ As used herein, “CIIPPs” means Sargent’s Restaurant and Lounge; Fargo Stopping Center, LLC; Wildwood Tavern LLC; Bodega Brew Pub, Inc.; Sullott Corporation; Chicken Joe’s LLC; Eat This, Inc.; Alpine Special Treatment Center, Inc.; Tennis Bums, LLC; Alabama Joe’s 2, Inc.; Tani Sushi Bistro, LLC; France 44 Foods, Inc.; Alliance Healthcare System, Inc.; Little Figs, Inc.; Da Big Blue Enterprises Corp.; Floersch IGA, Inc.; Avanti’s of Phoenix, Inc.; Midtown Bar & Grill; Bashara and Company; Mookie’s Southern Cuisine LLC; Eowyn, LLC; Peppers Grill & Bar, Inc.; Daliano’s, Inc.; Sumner County Restaurant & Creamery LLC; Tic-Tac-O; Brix Tavern, LLC; Pancho’s Taqueria, Inc.; Legacy 5, LLC; Roost Fried Chicken LLC; Oregano Italian, LLC; Bordenaro’s Pizza, Inc.; Telavi Hospitality, Inc.; and FB Mall, LLC.

WHEREAS, CIPPs, on behalf of themselves and as representatives of the Certified Class of similarly situated persons or entities alleged in the Action, *inter alia*, that Claxton participated in a conspiracy with other Defendants and alleged non-Defendant co-conspirators in the Action from at least January 1, 2008 to the present to fix, raise, maintain, and stabilize the price of Broilers (as hereinafter defined);

WHEREAS, on June 30, 2023 the Court entered an Order granting Claxton's Motion for Summary Judgment as to the CIPP Class claims against Claxton (ECF No. 6641) (hereinafter the "MSJ Order");

WHEREAS, Claxton has entered into a Second Amended Judgment Sharing Agreement with other Defendants, which Co-Lead Counsel have reviewed, and which is addressed in Section II(E) below.

WHEREAS, counsel for the Parties have engaged in arms-length negotiations on the terms of this Settlement Agreement, and this Settlement Agreement embodies all of the terms and conditions of the Settlement;

WHEREAS, Co-Lead Counsel have concluded, after investigation of the facts and after considering the circumstances and the applicable law, that it is in the best interests of the CIPP Class to enter into this Settlement Agreement with Claxton to avoid the uncertainties of further litigation, and to obtain the benefits described herein for the Certified Class (as hereinafter defined) including imposition of any costs on the Certified Class, and, further, that this Settlement Agreement is fair, reasonable, adequate, and in the best interests of CIPPs and the Certified Class;

WHEREAS, Claxton denies the CIPPs' claims in this Action, and, notwithstanding the MSJ Order dismissing all of CIPPs' claims against Claxton and Claxton's belief that it did nothing wrong or illegal, that it has legitimate defenses to any claims that have been, could have been, or

could be asserted by the CIIPP Class against it, and that it would prevail in any appeal, enters into this Settlement Agreement to avoid the costs, expenses, and uncertainties relating thereto;

WHEREAS, arm's-length settlement negotiations have taken place between Co-Lead Counsel and the Settling Defendant's Counsel, and the settlement was reached as a result of those negotiations;

WHEREAS, in the event this Settlement does not obtain Court approval, both Parties wish to preserve all appeals, arguments, defenses, and responses to all claims in the Action, including all arguments, defenses and responses to any appeal;

NOW THEREFORE, in consideration of the foregoing, the terms and conditions set forth below, and other good and valuable consideration, it is agreed by and among the Parties, that the CIPPs forgo appealing the MSJ Order against Claxton consistent with Paragraph II B. below and that all claims of the CIIPPs be settled, compromised, and dismissed on the merits with prejudice as to Claxton consistent with the MSJ Order.

I. DEFINITIONS

A. Certified Class Definition. "Certified Class," "CIIPP Class," or "Class" shall have the same definition and consist of the litigation classes—both the state damages classes and the nationwide injunctive relief class—certified by the Court's May 27, 2022, Order (ECF No. 5644).

The state damages class is defined as:

All entities that purchased Broilers indirectly from a Defendant or named co-conspirator in an Indirect Purchaser State for their own use in commercial food preparation from January 1, 2009, until July 31, 2019.

Excluded from the [Indirect] class are: Natural persons who purchased Broilers for their personal use and not for commercial food preparation; purchases of Broilers directly from Defendants; purchases of Broilers for resale in unaltered form; purchases or Broilers from an intermediary who has further processed the Broiler;

the Defendants; the officers, directors or employees of any Defendant; any entity in which any Defendant has a controlling interest; and any affiliate, legal representative, heir or assign of any Defendant; any federal, state governmental entities, any judicial officer presiding over this action and the members of her/her immediate family and judicial staff, any juror assigned to this action; and any co-conspirator identified in this action.

(ECF No. 5644 at 3-4 n.2, 55). The nationwide injunctive relief class consists of: “All entities that purchased Broilers indirectly from a Defendant or named co-conspirator in the United States for their own use in commercial food preparation from January 1, 2009, until July 31, 2019.” *See id.* The foregoing classes exclude all persons and entities that previously filed a valid exclusion from the litigation class as set forth in ECF No. 6566-5.

B. General Definitions. The terms below and elsewhere in this Settlement Agreement with initial capital letters shall have the meanings ascribed to them for purposes of this Settlement Agreement

1. “Action” means the class action filed by CIIPPs in the above- captioned proceeding.

2. “Broilers” are chickens raised for meat consumption to be slaughtered before the age of 13 weeks, and which may be sold in a variety of forms, including fresh or frozen, and whole or in parts, but excluding chicken that is grown, processed, and sold according to halal, kosher, free range, or organic standards. “Broilers” does not include dark meat chicken products, such as chicken thighs. The definition also does not include certain “further processed” products, which include any chicken meat that has been breaded, cooked, or “formed,” such as patties, or nuggets; or products made from mechanically separated meat such as chicken sausages; or products that are ground, sliced, diced, or cubed. Marinated, seasoned, frozen and portioned products, that are not otherwise further processed, are included within the definition of Broilers.

3. “Co-Lead Counsel” means, collectively, the law firms of Gustafson Gluek PLLC and Cotchett, Pitre & McCarthy, LLP, as appointed by the Court to represent the Certified Class of Commercial and Institutional Indirect Purchaser Plaintiffs.

4. “Court” or “District Court” means the United States District Court for the Northern District of Illinois and the Honorable Thomas M. Durkin or his successor, or any other court in which the Action is proceeding.

5. “Defendant” or “Defendants” means any or all of the Defendants named in the Commercial and Institutional Indirect Purchaser Plaintiffs’ Seventh Amended Consolidated Class Action Complaint in the Action, ECF Nos. 3929 (redacted) and 3931 (unredacted).

6. “Effective Date” means the first date upon which both of the following conditions shall have been satisfied: (A) Final Approval of this Settlement Agreement; and (B) either (i) no appeal or petition to seek permission to appeal the Court’s approval of the Settlement has been made within the time for filing or noticing any appeal under the Federal Rules of Appellate Procedure, *i.e.*, thirty (30) days after entry of Final Approval; or (ii) if any timely appeals from the Final Approval or notices of appeal from the Final Approval are filed, (a) the date of final dismissal of all such appeals or the final dismissal of any proceeding on certiorari or otherwise, or (b) the date the Final Judgment is finally affirmed on appeal and affirmance is no longer subject to further appeal or review.

7. “Execution Date” means the date on which this Settlement Agreement is entered into and executed by all Parties.

8. “Indirect Purchaser State” means Arizona, California, District of Columbia, Florida, Hawaii, Illinois, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota,

Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, West Virginia, and Wisconsin.

9. “Notice” means the notice in accordance with Section III(N).

10. “Parties” or “Settling Parties” means Settling Defendant and the Class, as represented by CIIPPs.

11. “Plaintiffs” means the Commercial and Institutional Indirect Purchaser Plaintiffs (“CIIPPs”), individually as identified above in footnote 1 and on behalf of the Certified Class.

12. “Settling Defendant” and “Claxton” mean Norman W. Fries, Inc. d/b/a Claxton Poultry Farms.

13. “Settling Defendants’ Counsel” means Winston & Strawn LLP, Vaughan & Murphy, and attorneys associated with those firms.

14. “Settlement Notice” means the notice to the Class, that is approved by the Court, in accordance with Section II(F)(2) below.

II. SETTLEMENT

A. The Parties’ Efforts to Effectuate this Settlement Agreement. The Parties will cooperate in good faith and use their best efforts to seek the Court’s Preliminary Approval and Final Approval of the Settlement Agreement.

B. Mutual Waiver of Right to Appeal or Further Adjudication: Upon the Effective Date, neither the CIIPP Class nor Claxton will seek to further adjudicate at the district court, via appeal, or any other means, the orders of the Court in connection with the CIIPP Action as they pertain to the other Party, including but not limited to asking the Court to revise, modify, vacate,

or reconsider the MSJ Order. For the avoidance of doubt, this does not preclude Claxton from further adjudicating, via appeal or any other means, orders of the Court as part of its defense against any claims brought against Claxton by any other Plaintiff. The CIIPP Class further agrees that the MSJ Order is a final judgment on the merits with respect to the CIIPP Class claims against Claxton.

C. The CIIPP Class's Challenge to the MSJ Order as to Claxton. Upon filing of the motion seeking approval of this Settlement Agreement the CIIPP Class will advise the Court that they no longer intend to appeal the MSJ Order as to Claxton and are not asking the Court to revise, modify, vacate, or reconsider the MSJ Order as to Claxton pending approval of this Settlement Agreement. The CIIPP Class further agrees that it will not challenge the MSJ Order as to Claxton during the time period between the date of execution of this Settlement Agreement and the Effective Date (as defined herein). However, the CIIPP Class reserves the right to seek to challenge the MSJ Order as to Claxton and take necessary steps to preserve any such rights in the event this Settlement does not obtain Court approval. For the avoidance of doubt, the CIIPP Class's reservation of rights as described in this paragraph shall cease upon the Effective Date.

D. Settlement Consideration. In consideration for the waiver of appellate or adjudication rights set forth herein, the CIIPP Class and Claxton each agree that they will not seek or assert against each other any claim for costs, fees, attorney's fees, or any other form of recovery in connection with the Action. Claxton does not waive any rights to seek any of its costs, fees, attorney's fees, or any other form of recovery in connection with the Action from any other Plaintiff in the Action. Similarly, in the event this Settlement is not approved, Claxton reserves all rights to seek to recover any costs and fees from the CIIPP Class, and the CIIPP Class reserves all rights to challenge and contest any effort by Claxton to seek to recover any costs against the

CIIPP Class.

E. Qualified Settlement. CIIPPs have been provided with a copy of the Second Amended Judgment Sharing Agreement entered into by certain Defendants dated February 25, 2020 (hereinafter referred to as “Defendants’ Agreement”). The defined terms in Defendants’ Agreement shall have the same meaning when used in this Settlement Agreement. In the event the CIIPPs and the Certified Class (a) prevail in any appeal of the existing rulings in the Action, and (b) thereafter obtain a Final Judgment that includes as a component any damages attributable to sales of Broilers by Claxton, the CIIPPs and the Certified Class agree that notwithstanding anything to the contrary contained in this Settlement Agreement, the CIIPPs and the Certified Class shall reduce the dollar amount collectable from any Party to the Defendants’ Agreement pursuant to any such Final Judgment the CIIPPs might obtain against any party to the Defendants’ Agreement by a percentage equal to the Sharing Percentage of Claxton, calculated pursuant to Section 4 and Exhibits A and B of Defendants’ Agreement (as illustrated by the Appendix to Defendants’ Agreement) as if Claxton had not settled, had been found liable on the claim, and was a Sharing Party with respect to the Final Judgment. CIIPPs agree that this undertaking is also for the benefit of any Defendant that is a Party to the Defendants’ Agreement and that this undertaking may be enforced by any or all of such Defendants as third-party beneficiaries hereof. Any ambiguity in this Section or inconsistency between this Settlement Agreement and the Defendants’ Agreement shall be resolved in favor of Defendants’ Agreement, including, without limitation, Sections 6.D.1 and 6.D.2 thereof. CIIPPs shall use their best efforts to ensure that the Settlement Agreement constitutes a Qualified Settlement under Defendants’ Agreement and to effectuate the intent of the parties to the Defendants’ Agreement to treat the Settlement Agreement as a Qualified Settlement, including (as may be necessary) to make any amendments

to this Settlement Agreement to reflect the intent to treat the Settlement Agreement as a Qualified Settlement.

F. Approval of Settlement Agreement and Dismissal

1. **Motion for Preliminary Approval.** Plaintiffs shall submit to the District Court a motion, at such time deemed appropriate in the discretion of Co-Lead Counsel (but as soon as is reasonably practicable after the Execution Date), requesting entry of an order preliminarily approving this Settlement Agreement (“Preliminary Approval Order”). As soon as practicable in advance of submission to the Court, the papers in support of the motion for Preliminary Approval, including but not limited to any draft notices to the Class, shall be provided by Co-Lead Counsel to Claxton for its review. To the extent that Claxton objects to any aspect of the motion, it shall communicate such objection to Co-Lead Counsel and the Parties shall meet and confer about any such objection and attempt to resolve that issue in good faith. The Parties shall take all reasonable actions as may be necessary to obtain Preliminary Approval. The proposed Preliminary Approval Order shall provide that, inter alia:

i. the settlement proposed in the Settlement Agreement has been negotiated at arm’s-length and is preliminarily determined to be fair, reasonable, adequate, and in the best interests of the Class;

ii. after Settlement Notice has been carried out, a hearing on the settlement proposed in this Settlement Agreement shall be held by the Court to determine whether the proposed settlement is fair, reasonable, and adequate, and whether it should be finally approved by the Court (the “Fairness Hearing”);

iii. Class Members who wish to object to this Agreement must submit an appropriate and timely written statement of the grounds for objection;

iv. Class Members who wish to appear in person to object to this Agreement may do so at the Fairness Hearing pursuant to directions by the Court; and

v. All proceedings in the above-captioned action with respect to Claxton and CIIPPs are stayed until further order of the Court, except as may be necessary to implement the settlement or comply with the terms thereof.

2. **Settlement Notice.** Settlement Notice shall provide for a right to object to the proposed settlement. The timing of a motion to direct or approve the Settlement Notice of this Settlement Agreement shall be in the discretion of Co-Lead Counsel and may be combined with Settlement Notice of other settlements in this Action. Claxton shall have no responsibility or liability relating to the administration or costs associated with such notice and the CIIPP class shall bear all costs to effectuate any such notice.

Notwithstanding the foregoing, any notice of this settlement shall include the following language:

On June 30, 2023 the Court granted the motion for summary judgment filed by defendant Claxton against the CIIPP Class. The CIIPP Class has agreed to not appeal the summary judgment order as to defendant Claxton in exchange for a waiver by Claxton of its right to seek recovery of any and all fees and costs against the CIIPP Class in conjunction with this Action. The Court approved this agreement on [DATE].

3. **Final Judgment.** If this Settlement Agreement is preliminarily approved by the Court, the Class, through Co-Lead Counsel and in accordance with any schedule set forth in the Court's Preliminary Approval, shall seek entry of an Order and Final Judgment. As soon as practicable in advance of submission to the Court, the papers in support of the motion for Final

Approval shall be provided by Co-Lead Counsel to Claxton for its review. To the extent that Claxton objects to any aspect of the motion, it shall communicate such objection to Co-Lead Counsel and the Parties shall meet and confer about any such objection and attempt to resolve that issue in good faith. The Parties shall take all reasonable actions as may be necessary to obtain Preliminary Approval. The motion for Final Approval shall seek an entry of an order and Final Judgment that, inter alia:

i. finally approves this Settlement Agreement and its terms as being a fair, reasonable, and adequate settlement as to the Class Members within the meaning of Rule 23 of the Federal Rules of Civil Procedure and directing its consummation according to its terms and conditions, without material modification of those terms and conditions;

ii. determines that the Settlement Notice constituted, under the circumstances, the most effective and practicable notice of this Settlement Agreement and the Fairness Hearing, and constituted due and sufficient notice for all other purposes to all persons or entities entitled to receive notice;

iii. dismisses all claims made by CIIPPs against Claxton in the Action, including in all class action complaints asserted by CIIPPs, with prejudice and without further costs or fees;

iv. confirms that Claxton has provided the appropriate notice pursuant to CAFA;

v. reserves to the Court continuing and exclusive jurisdiction over the settlement and this Settlement Agreement, including the administration and consummation of this Agreement; and

vi. determines under Federal Rule of Civil Procedure 54(b) that there

is no just reason for delay and directs that the judgment of dismissal as to the Parties shall be final and entered forthwith.

The Parties shall use all reasonable best efforts to obtain Final Approval of the Settlement Agreement without modification to any of its material terms and conditions.

III. MISCELLANEOUS

A. Governing Law. All terms of this Settlement Agreement shall be governed by and interpreted according to the substantive laws of Illinois without regard to its choice-of-law or conflict-of-law principles.

B. Jurisdiction. This Settlement Agreement is subject to the continuing and exclusive jurisdiction of the Court for any suit, action, proceeding, or dispute arising out of or relating to this Settlement Agreement or the applicability of this Settlement Agreement, including, without limitation, any suit, action, proceeding, or dispute relating to the release provisions herein. If for any reason this Settlement Agreement is rescinded, terminated, fails to obtain Final Approval or otherwise fails to become effective, then, in such event, neither this Settlement Agreement nor any conduct required by it shall constitute or be construed as any agreement to personal jurisdiction (general or specific) or subject matter jurisdiction so as to confer the jurisdiction of the District Court over the Released Parties, nor shall it constitute any waiver of any defenses based on personal or subject matter jurisdiction.

C. Class Action Fairness Act. Within ten (10) days of the filing of this Settlement Agreement in court in connection with the above-mentioned motion for Preliminary Approval, Claxton will provide to the appropriate state officials and the appropriate federal official the notice required by the Class Action Fairness Act of 2005, 28 U.S.C. § 1715(b) ("CAFA"). Co-Lead Class Counsel shall provide such assistance as is reasonably necessary and information as

is reasonably available to comply with CAFA.

D. Authorization. Each of the undersigned attorneys represents that he or she is fully authorized to enter into and execute this Settlement Agreement, subject to Court approval; the undersigned Co-Lead Counsel represent that they are authorized to execute this Settlement Agreement on behalf of Plaintiffs and the Class; and the undersigned Settling Defendant's Counsel represent that they are authorized to execute the Settlement Agreement on behalf of Claxton.

It is agreed that this Settlement Agreement shall be admissible in any proceeding for establishing the terms of the Parties' agreement or for any other purpose with respect to implementing or enforcing this Settlement Agreement,

E. No Admission. The Parties expressly agree that this Settlement Agreement and its contents, and any statements, negotiations, documents, and discussions associated with it, do not constitute an admission of liability by any Party.

F. No Party is the Drafter. None of the Parties hereto shall be considered to be the drafter of this Settlement Agreement or any provision hereof for purposes of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter hereof.

G. Entire Agreement. This Settlement Agreement constitutes the entire, complete and integrated agreement between the Parties and supersedes any and all prior and contemporaneous undertakings, communications, representations, understandings, negotiations, and discussions (either oral or written) between the Parties. The Parties agree that this Settlement Agreement may be modified only by a written instrument signed by the Parties and that no party will assert any claim against another based on any alleged agreement affecting or relating to the terms of this

Settlement Agreement not in writing and signed by the Parties.

H. Modification. This Settlement Agreement may be modified or amended only by a writing executed by Co-Lead Counsel and Claxton or Settling Defendant's Counsel, or both. The waiver of any rights conferred hereunder shall be effective only if made by written instrument of the waiving Party. The waiver by any Party of any particular breach of this Agreement shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent or contemporaneous, of this Agreement. This Agreement does not waive or otherwise limit the Parties' rights and remedies for any breach of this Agreement. Any breach of this Agreement may result in irreparable damage to a Party for which such Party will not have an adequate remedy at law. Accordingly, in addition to any other remedies and damages available, the Parties acknowledge and agree that the Parties may immediately seek enforcement of this Settlement Agreement by means of specific performance or injunction, without the requirement of posting a bond or other security.

I. Execution in Counterparts. This Settlement Agreement may be executed in counterparts by Co- Lead Counsel and Settling Defendant's Counsel, each of which shall be deemed an original, but all of which together shall constitute a single Settlement Agreement. A facsimile, electronic or .pdf signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

J. Represented by Counsel. Plaintiffs and Claxton each acknowledge that they have been represented by counsel and have made their own investigations of the matters covered by this Settlement Agreement to the extent they have deemed it necessary to do so and are not relying on any representation or warranty by the other party other than as set forth herein. The Parties and their respective counsel agree that they will not seek to set aside any part of the Settlement

Agreement on the grounds of mistake.

K. Privilege. Nothing in this Settlement Agreement or the negotiations or proceedings relating to it are intended to or shall be deemed to constitute a waiver of any applicable privilege or immunity, including, without limitation, the accountants' privilege, the attorney-client privilege, the joint defense privilege, the common interest privilege, and the attorney work product immunity.

L. Voluntary Settlement. The Parties agree that this Settlement Agreement was negotiated in good faith by the Parties, and reflects a settlement that was reached voluntarily after consultation with competent counsel, and no Party has entered this Settlement Agreement as the result of any coercion or duress.

M. Confidentiality. The Parties agree to continue to maintain the confidentiality of all settlement discussions and materials exchanged during the settlement negotiation. However, Claxton and CIIPPs can inform other parties to this Action that they have reached a settlement agreement. Additionally, consistent with its obligations under the Defendants' Agreement, Claxton may provide a copy of this Settlement Agreement to parties to the Defendants' Agreement. The Parties further agree to disclose the Settlement Agreement for the purpose of disclosure and approval from the Court consistent with the terms of the Settlement Agreement.

N. Notice. Any notice, other than Settlement Notice, required pursuant to or in connection with this Settlement Agreement ("Notice") shall be in writing and shall be given by: (1) hand delivery; (2) registered or certified mail, return receipt requested, postage prepaid; or (3) UPS or similar overnight courier, with a courtesy copy by electronic mail, addressed, in the case of notice to any Plaintiff or Class Member, to Co-Lead Counsel at their addresses set forth below, and, in the case of notice to Claxton, to the Settling Defendants' Counsel at the addresses set forth

below, or such other addresses as Co-Lead Counsel or Settling Defendants' Counsel may designate, from time to time, by giving notice to all Parties in the manner described in this Section III(N).

For Commercial and Institutional Indirect Purchaser Plaintiffs:

Daniel C. Hedlund
GUSTAFSON GLUEK PLLC
120 South 6th Street, Suite 2600
Minneapolis, MN 55402
T: (612) 333-8844
dhedlund@gustafsongluek.com

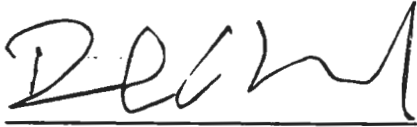
Adam J. Zapala
COTCHETT, PITRE & McCARTHY LLP
840 Malcolm Road, Suite 200
Burlingame, CA 94010
T: (650) 697-6000
azapala@cpmlegal.com

For Settling Norman W. Fries, Inc. d/b/a Claxton Poultry Farms:

James F. Herbison
Michael P. Mayer
WINSTON & STRAWN LLP
35 West Wacker Drive
Chicago, Illinois 60601
(312) 558-5600
jherbison@winston.com
mmayer@winston.com

Charles C. Murphy, Jr. (admitted pro hac vice)
VAUGHAN & MURPHY
690 S Ponce Ct NE
Atlanta, GA 30307
(404) 667-0714
cmurphy@vaughanandmurphy.com

IN WITNESS WHEREOF, the Parties hereto, through their fully authorized representatives, have agreed to this Settlement Agreement as of the Execution Date.



Dated: 12-5-24

Daniel E. Gustafson
Daniel C. Hedlund
Michelle J. Looby
Joshua J. Rissman
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Dated: 12/6/24

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azapala@cpmlegal.com

Lead Counsel for Commercial and Institutional Indirect Purchaser Plaintiffs



Dated: 12/9/24

James F. Herbison
Michael P. Mayer
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(312) 558-5600
jherbison@winston.com
mmayer@winston.com

Counsel for Defendant Norman W. Fries Inc. d/b/a Claxton Poultry Farms

EXHIBIT K

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE BROILER CHICKEN ANTITRUST
LITIGATION

No. 1:16-cv-08637

This Document Relates To:

Honorable Thomas M. Durkin
Magistrate Judge Jeffrey T. Gilbert

COMMERCIAL AND INSTITUTIONAL
INDIRECT PURCHASER PLAINTIFF
ACTION

**SETTLEMENT AGREEMENT AND STIPULATION BETWEEN COMMERCIAL AND
INSTITUTIONAL INDIRECT PURCHASER PLAINTIFFS AND FOSTER FARMS
DEFENDANTS**

THIS SETTLEMENT AGREEMENT (“Settlement Agreement”) is made and entered into as of the 5th day of December 2024 (“Execution Date”) by and between the Commercial and Institutional Indirect Purchaser Plaintiffs (“CIIPPs”),¹ through Co-Lead Counsel (as hereinafter defined) on behalf of the Certified Class (as hereinafter defined), and Defendants Foster Farms, LLC and Foster Poultry Farms LLC (collectively referred to as “Settling Defendant” or “Foster”) in the above-captioned action (the “Action”). CIIPPs, on behalf of the Certified Class, and Foster Farms are referred to herein collectively as the “Parties” or individually as a “Party.”

¹ As used herein, “CIIPPs” means Sargent’s Restaurant and Lounge; Fargo Stopping Center, LLC; Wildwood Tavern LLC; Bodega Brew Pub, Inc.; Sullott Corporation; Chicken Joe’s LLC; Eat This, Inc.; Alpine Special Treatment Center, Inc.; Tennis Bums, LLC; Alabama Joe’s 2, Inc.; Tani Sushi Bistro, LLC; France 44 Foods, Inc.; Alliance Healthcare System, Inc.; Little Figs, Inc.; Da Big Blue Enterprises Corp.; Floersch IGA, Inc.; Avanti’s of Phoenix, Inc.; Midtown Bar & Grill; Bashara and Company; Mookie’s Southern Cuisine LLC; Eowyn, LLC; Peppers Grill & Bar, Inc.; Daliano’s, Inc.; Sumner County Restaurant & Creamery LLC; Tic-Tac-O; Brix Tavern, LLC; Pancho’s Taqueria, Inc.; Legacy 5, LLC; Roost Fried Chicken LLC; Oregano Italian, LLC; Bordenaro’s Pizza, Inc.; Telavi Hospitality, Inc.; and FB Mall, LLC.

WHEREAS, CIIPPs, on behalf of themselves and as representatives of the Certified Class of similarly situated persons or entities alleged in the Action, *inter alia*, that Foster Farms participated in a conspiracy with other Defendants and alleged non-Defendant co-conspirators in the Action from at least January 1, 2008 to the present to fix, raise, maintain, and stabilize the price of Broilers (as hereinafter defined);

WHEREAS, on June 30, 2023 the Court entered an Order granting Foster Farms' Motion for Summary Judgment as to the CIIPP Class claims against Foster Farms (ECF No. 6641) (hereinafter the "MSJ Order");

WHEREAS, Foster Farms has entered into a Second Amended Judgment Sharing Agreement with other Defendants, which Co-Lead Counsel have reviewed, and which is addressed in Section II(E) below.

WHEREAS, counsel for the Parties have engaged in arms-length negotiations on the terms of this Settlement Agreement, and this Settlement Agreement embodies all of the terms and conditions of the Settlement;

WHEREAS, Co-Lead Counsel have concluded, after investigation of the facts and after considering the circumstances and the applicable law, that it is in the best interests of the CIIPP Class to enter into this Settlement Agreement with Foster Farms to avoid the uncertainties of further litigation, and to obtain the benefits described herein for the Certified Class (as hereinafter defined) including imposition of any costs on the Certified Class, and, further, that this Settlement Agreement is fair, reasonable, adequate, and in the best interests of CIIPPs and the Certified Class;

WHEREAS, Foster Farms, notwithstanding its belief that it did nothing wrong or illegal, that it has legitimate defenses to any claims that have been, could have been, or could be asserted

by the CIIPP Class against it, and that it would prevail in any appeal, enters into this Settlement Agreement to avoid the costs, expenses, and uncertainties relating thereto;

WHEREAS, arm's-length settlement negotiations have taken place between Co-Lead Counsel and the Settling Defendant's Counsel, and the settlement was reached as a result of those negotiations;

WHEREAS, in the event this Settlement does not obtain Court approval, both Parties wish to preserve all appeals, arguments, defenses, and responses to all claims in the Action, including all arguments, defenses and responses to any appeal;

NOW THEREFORE, in consideration of the foregoing, the terms and conditions set forth below, and other good and valuable consideration, it is agreed by and among the Parties, that the claims of the CIIPPs be settled, compromised, and dismissed on the merits with prejudice as to Foster Farms consistent with the MSJ Order.

I. DEFINITIONS

A. Certified Class Definition. "Certified Class," "CIIPP Class," or "Class" shall have the same definition and consist of the litigation classes—both the state damages classes and the nationwide injunctive relief class—certified by the Court's May 27, 2022, Order (ECF No. 5644).

The state damages class is defined as:

All entities that purchased Broilers indirectly from a Defendant or named co-conspirator in an Indirect Purchaser State for their own use in commercial food preparation from January 1, 2009, until July 31, 2019.

Excluded from the [Indirect] class are: Natural persons who purchased Broilers for their personal use and not for commercial food preparation; purchases of Broilers directly from Defendants; purchases of Broilers for resale in unaltered form; purchases or [sic] Broilers from an intermediary who has further processed the Broiler; the Defendants; the officers, directors or employees of any Defendant; any entity in which any Defendant has a controlling

interest; and any affiliate, legal representative, heir or assign of any Defendant; any federal, state governmental entities, any judicial officer presiding over this action and the members of her/her immediate family and judicial staff, any juror assigned to this action; and any co-conspirator identified in this action.

(ECF No. 5644 at 3-4 n.2, 55). The nationwide injunctive relief class consists of: “All entities that purchased Broilers indirectly from a Defendant or named co-conspirator in the United States for their own use in commercial food preparation from January 1, 2009, until July 31, 2019.” *See id.* The foregoing classes exclude all persons and entities that previously filed a valid exclusion from the litigation class as set forth in ECF No. 6566-5.

B. General Definitions. The terms below and elsewhere in this Settlement Agreement with initial capital letters shall have the meanings ascribed to them for purposes of this Settlement Agreement

1. “Action” means the putative class action filed by CIPPs in the above-captioned proceeding.

2. “Broilers” are chickens raised for meat consumption to be slaughtered before the age of 13 weeks, and which may be sold in a variety of forms, including fresh or frozen, and whole or in parts, but excluding chicken that is grown, processed, and sold according to halal, kosher, free range, or organic standards. “Broilers” does not include dark meat chicken products, such as chicken thighs. The definition also does not include certain “further processed” products, which include any chicken meat that has been breaded, cooked, or “formed,” such as patties, or nuggets; or products made from mechanically separated meat such as chicken sausages; or products that are ground, sliced, diced, or cubed. Marinated, seasoned, frozen and portioned products, that are not otherwise further processed, are included within the definition of Broilers.

3. “Co-Lead Counsel” means, collectively, the law firms of Gustafson Gluck PLLC and Cotchett, Pitre & McCarthy, LLP, as appointed by the Court to represent the Certified Class of Commercial and Institutional Indirect Purchaser Plaintiffs.

4. “Court” or “District Court” means the United States District Court for the Northern District of Illinois and the Honorable Thomas M. Durkin or his successor, or any other court in which the Action is proceeding.

5. “Defendant” or “Defendants” means any or all of the Defendants named in the Commercial and Institutional Indirect Purchaser Plaintiffs’ Seventh Amended Consolidated Class Action Complaint in the Action, ECF Nos. 3929 (redacted) and 3931 (unredacted).

6. “Effective Date” means the first date upon which both of the following conditions shall have been satisfied: (A) Final Approval of this Settlement Agreement; and (B) either (i) no appeal or petition to seek permission to appeal the Court’s approval of the Settlement has been made within the time for filing or noticing any appeal under the Federal Rules of Appellate Procedure, *i.e.*, thirty (30) days after entry of Final Approval; or (ii) if any timely appeals from the Final Approval or notices of appeal from the Final Approval are filed, (a) the date of final dismissal of all such appeals or the final dismissal of any proceeding on certiorari or otherwise, or (b) the date the Final Judgment is finally affirmed on appeal and affirmance is no longer subject to further appeal or review.

7. “Execution Date” means the date on which this Settlement Agreement is entered into and executed by all Parties.

8. “Indirect Purchaser State” means Arizona, California, District of Columbia, Florida, Hawaii, Illinois, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota,

Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, West Virginia, and Wisconsin.

9. “Notice” means the notice in accordance with Section III(N).

10. “Parties” or “Settling Parties” means Settling Defendant and the Class, as represented by CIPPs.

11. “Plaintiffs” means the Commercial and Institutional Indirect Purchaser Plaintiffs (“CIPPs”), individually as identified above in footnote 1 and on behalf of the Certified Class.

12. “Settling Defendant” and “Foster Farms” mean Foster Farms, LLC and Foster Poultry Farms LLC.

13. “Settling Defendants’ Counsel” means Mayer Brown LLP and attorneys associated with that firm.

14. “Settlement Notice” means the notice to the Class, that is approved by the Court, in accordance with Section II(F)(2) below.

II. SETTLEMENT

A. The Parties’ Efforts to Effectuate this Settlement Agreement. The Parties will cooperate in good faith and use their best efforts to seek the Court’s Preliminary Approval and Final Approval of the Settlement Agreement.

B. Mutual Waiver of Right to Appeal or Further Adjudication: Upon the Effective Date, neither the CIIPP Class nor Foster Farms will seek to further adjudicate at the district court, via appeal, or any other means, the claims or defenses either has asserted in the Action or any orders of the Court in connection with the CIIPP Action as they pertain to the other Party, including but not limited to asking the Court to revise, modify, vacate, or reconsider the MSJ

Order. For the avoidance of doubt, this does not preclude Foster Farms from further adjudicating, via appeal or any other means, orders of the Court as part of its defense against any claims brought against Foster Farms by any other Plaintiff.

C. The CIIPP Class's Challenge to the MSJ Order as to Foster Farms. Upon filing of the motion seeking approval of this Settlement Agreement the CIIPP Class will advise the Court that they no longer intend to appeal the MSJ Order as to Foster Farms and are not asking the Court to revise, modify, vacate, or reconsider the MSJ Order as to Foster Farms pending approval of this Settlement Agreement. The CIIPP Class further agrees that it will not challenge the MSJ Order as to Foster Farms during the time period between the date of execution of this Settlement Agreement and the Effective Date (as defined herein). However, the CIIPP Class reserves the right to seek to challenge the MSJ Order as to Foster Farms and take necessary steps to preserve any such rights in the event this Settlement does not obtain Court approval. For the avoidance of doubt, the CIIPP Class's reservation of rights as described in this paragraph shall cease upon the Effective Date.

D. Settlement Consideration. In consideration for the waiver of appellate or adjudication rights set forth herein, the CIIPP Class and Foster Farms each agree that they will not seek or assert against each other any claim for costs, fees, attorney's fees, or any other form of recovery in connection with the Action. Foster Farms does not waive any rights to seek any of its costs, fees, attorney's fees, or any other form of recovery in connection with the Action from any other Plaintiff in the Action. In the event this Settlement is not approved, Foster Farms does not waive any rights to seek costs, fees, attorney's fees, or any other form of recovery in connection with this Action against the CIIPP Class. Similarly, in the event this Settlement is not approved, the CIIPP Class reserves all rights to challenge and contest any effort by Foster Farms

to seek to recover any costs against the CIIPP Class.

E. Qualified Settlement. CIIPPs have been provided with a copy of the Second Amended Judgment Sharing Agreement entered into by certain Defendants dated February 25, 2020 (hereinafter referred to as “Defendants’ Agreement”). The defined terms in Defendants’ Agreement shall have the same meaning when used in this Settlement Agreement. In the event the CIIPPs and the Certified Class (a) prevail in any appeal of the existing rulings in the Action, and (b) thereafter obtain a Final Judgment that includes as a component any damages attributable to sales of Broilers by Foster Farms, the CIIPPs and the Certified Class agree that notwithstanding anything to the contrary contained in this Settlement Agreement, the CIIPPs and the Certified Class shall reduce the dollar amount collectable from any Party to the Defendants’ Agreement pursuant to any such Final Judgment the CIIPPs might obtain against any party to the Defendants’ Agreement by a percentage equal to the Sharing Percentage of Foster Farms, calculated pursuant to Section 4 and Exhibits A and B of Defendants’ Agreement (as illustrated by the Appendix to Defendants’ Agreement) as if Foster Farms had not settled, had been found liable on the claim, and was a Sharing Party with respect to the Final Judgment. CIIPPs agree that this undertaking is also for the benefit of any Defendant that is a Party to the Defendants’ Agreement and that this undertaking may be enforced by any or all of such Defendants as third-party beneficiaries hereof. Any ambiguity in this Section or inconsistency between this Settlement Agreement and the Defendants’ Agreement shall be resolved in favor of Defendants’ Agreement, including, without limitation, Sections 6.D.1 and 6.D.2 thereof. CIIPPs shall use their best efforts to ensure that the Settlement Agreement constitutes a Qualified Settlement under Defendants’ Agreement and to effectuate the intent of the parties to the Defendants’ Agreement to treat the Settlement Agreement as a Qualified Settlement, including (as may be necessary) to make any amendments

to this Settlement Agreement to reflect the intent to treat the Settlement Agreement as a Qualified Settlement.

F. Approval of Settlement Agreement and Dismissal

1. **Motion for Preliminary Approval.** Plaintiffs shall submit to the District Court a motion, at such time deemed appropriate in the discretion of Co-Lead Counsel (but as soon as is reasonably practicable after the Execution Date), requesting entry of an order preliminarily approving this Settlement Agreement (“Preliminary Approval Order”). As soon as practicable in advance of submission to the Court, the papers in support of the motion for Preliminary Approval, including but not limited to any draft notices to the Class, shall be provided by Co-Lead Counsel to Foster Farms for its review. To the extent that Foster Farms objects to any aspect of the motion, it shall communicate such objection to Co-Lead Counsel and the Parties shall meet and confer about any such objection and attempt to resolve that issue in good faith. The Parties shall take all reasonable actions as may be necessary to obtain Preliminary Approval. The proposed Preliminary Approval Order shall provide that, inter alia:

i. the settlement proposed in the Settlement Agreement has been negotiated at arm’s-length and is preliminarily determined to be fair, reasonable, adequate, and in the best interests of the Class;

ii. after Settlement Notice has been carried out, a hearing on the settlement proposed in this Settlement Agreement shall be held by the Court to determine whether the proposed settlement is fair, reasonable, and adequate, and whether it should be finally approved by the Court (the “Fairness Hearing”);

iii. Class Members who wish to object to this Agreement must submit an appropriate and timely written statement of the grounds for objection;

iv. Class Members who wish to appear in person to object to this Agreement may do so at the Fairness Hearing pursuant to directions by the Court; and

v. All proceedings in the above-captioned action with respect to Foster Farms and CIIPPs are stayed until further order of the Court, except as may be necessary to implement the settlement or comply with the terms thereof.

2. **Settlement Notice.** Settlement Notice shall provide for a right to object to the proposed settlement. The timing of a motion to direct or approve the Settlement Notice of this Settlement Agreement shall be in the discretion of Co-Lead Counsel and may be combined with Settlement Notice of other settlements in this Action. Foster Farms shall have no responsibility or liability relating to the administration or costs associated with such notice and the CIIPP class shall bear all costs to effectuate any such notice.

Notwithstanding the foregoing, any notice of this settlement shall include the following language:

On June 30, 2023 the Court granted the motion for summary judgment filed by defendant Foster Farms against the CIIPP Class. The CIIPP Class has agreed to not appeal the summary judgment order as to defendant Foster Farms in exchange for a waiver by Foster Farms of its right to seek recovery of any and all fees and costs against the CIIPP Class in conjunction with this Action. The Court approved this agreement on [DATE].

3. **Final Judgment.** If this Settlement Agreement is preliminarily approved by the Court, the Class, through Co-Lead Counsel and in accordance with any schedule set forth in the Court's Preliminary Approval, shall seek entry of an Order and Final Judgment. As soon as practicable in advance of submission to the Court, the papers in support of the motion for Final

Approval shall be provided by Co-Lead Counsel to Foster Farms for its review. To the extent that Foster Farms objects to any aspect of the motion, it shall communicate such objection to Co-Lead Counsel and the Parties shall meet and confer about any such objection and attempt to resolve that issue in good faith. The Parties shall take all reasonable actions as may be necessary to obtain Final Approval of the Settlement Agreement without modification to any of its material terms and conditions. The motion for Final Approval shall seek an entry of an order and Final Judgment that, inter alia:

i. finally approves this Settlement Agreement and its terms as being a fair, reasonable, and adequate settlement as to the Class Members within the meaning of Rule 23 of the Federal Rules of Civil Procedure and directing its consummation according to its terms and conditions, without material modification of those terms and conditions;

ii. determines that the Settlement Notice constituted, under the circumstances, the most effective and practicable notice of this Settlement Agreement and the Fairness Hearing, and constituted due and sufficient notice for all other purposes to all persons or entities entitled to receive notice;

iii. dismisses all claims made by CIIPPs against Foster Farms in the Action, including in all class action complaints asserted by CIIPPs, with prejudice and without further costs or fees;

iv. confirms that Foster Farms has provided the appropriate notice pursuant to CAFA;

v. reserves to the Court continuing and exclusive jurisdiction over the settlement and this Settlement Agreement, including the administration and consummation of this Agreement; and

vi. determines under Federal Rule of Civil Procedure 54(b) that there is no just reason for delay and directs that the judgment of dismissal as to the Parties shall be final and entered forthwith.

III. MISCELLANEOUS

A. Governing Law. All terms of this Settlement Agreement shall be governed by and interpreted according to the substantive laws of Illinois without regard to its choice-of-law or conflict-of-law principles.

B. Jurisdiction. This Settlement Agreement is subject to the continuing and exclusive jurisdiction of the Court for any suit, action, proceeding, or dispute arising out of or relating to this Settlement Agreement or the applicability of this Settlement Agreement, including, without limitation, any suit, action, proceeding, or dispute relating to the release provisions herein. If for any reason this Settlement Agreement is rescinded, terminated, fails to obtain Final Approval or otherwise fails to become effective, then, in such event, neither this Settlement Agreement nor any conduct required by it shall constitute or be construed as any agreement to personal jurisdiction (general or specific) or subject matter jurisdiction so as to confer the jurisdiction of the District Court over the Released Parties, nor shall it constitute any waiver of any defenses based on personal or subject matter jurisdiction.

C. Class Action Fairness Act. Within ten (10) days of the filing of this Settlement Agreement in court in connection with the above-mentioned motion for Preliminary Approval, Foster Farms will provide to the appropriate state officials and the appropriate federal official the notice required by the Class Action Fairness Act of 2005, 28 U.S.C. § 1715(b) ("CAFA"). Co-Lead Class Counsel shall provide such assistance as is reasonably necessary and information as is reasonably available to comply with CAFA.

D. Authorization. Each of the undersigned attorneys represents that he or she is fully authorized to enter into and execute this Settlement Agreement, subject to Court approval; the undersigned Co-Lead Counsel represent that they are authorized to execute this Settlement Agreement on behalf of Plaintiffs and the Class; and the undersigned Settling Defendant's Counsel represent that they are authorized to execute the Settlement Agreement on behalf of Foster Farms.

It is agreed that this Settlement Agreement shall be admissible in any proceeding for establishing the terms of the Parties' agreement or for any other purpose with respect to implementing or enforcing this Settlement Agreement,

E. No Admission. The Parties expressly agree that this Settlement Agreement and its contents, and any statements, negotiations, documents, and discussions associated with it, do not constitute an admission of liability by any Party.

F. No Party is the Drafter. None of the Parties hereto shall be considered to be the drafter of this Settlement Agreement or any provision hereof for purposes of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter hereof.

G. Entire Agreement. This Settlement Agreement constitutes the entire, complete and integrated agreement between the Parties and supersedes any and all prior and contemporaneous undertakings, communications, representations, understandings, negotiations, and discussions (either oral or written) between the Parties. The Parties agree that this Settlement Agreement may be modified only by a written instrument signed by the Parties and that no party will assert any claim against another based on any alleged agreement affecting or relating to the terms of this Settlement Agreement not in writing and signed by the Parties.

H. Modification. This Settlement Agreement may be modified or amended only by a writing executed by Co-Lead Counsel and Foster Farms' Counsel. The waiver of any rights conferred hereunder shall be effective only if made by written instrument of the waiving Party. The waiver by any Party of any particular breach of this Agreement shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent or contemporaneous, of this Agreement. This Agreement does not waive or otherwise limit the Parties' rights and remedies for any breach of this Agreement. Any breach of this Agreement may result in irreparable damage to a Party for which such Party will not have an adequate remedy at law. Accordingly, in addition to any other remedies and damages available, the Parties acknowledge and agree that the Parties may immediately seek enforcement of this Settlement Agreement by means of specific performance or injunction, without the requirement of posting a bond or other security.

I. Execution in Counterparts. This Settlement Agreement may be executed in counterparts by Co- Lead Counsel and Settling Defendant's Counsel, each of which shall be deemed an original, but all of which together shall constitute a single Settlement Agreement. A facsimile, electronic or .pdf signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

J. Represented by Counsel. Plaintiffs and Foster Farms each acknowledge that they have been represented by counsel and have made their own investigations of the matters covered by this Settlement Agreement to the extent they have deemed it necessary to do so and are not relying on any representation or warranty by the other party other than as set forth herein. The Parties and their respective counsel agree that they will not seek to set aside any part of the Settlement Agreement on the grounds of mistake.

K. Privilege. Nothing in this Settlement Agreement or the negotiations or

proceedings relating to it are intended to or shall be deemed to constitute a waiver of any applicable privilege or immunity, including, without limitation, the accountants' privilege, the attorney-client privilege, the joint defense privilege, the common interest privilege, and the attorney work product immunity.

L. Voluntary Settlement. The Parties agree that this Settlement Agreement was negotiated in good faith by the Parties, and reflects a settlement that was reached voluntarily after consultation with competent counsel, and no Party has entered this Settlement Agreement as the result of any coercion or duress.

M. Confidentiality. The Parties agree to continue to maintain the confidentiality of all settlement discussions and materials exchanged during the settlement negotiation. However, Foster Farms and CIPPs can inform other parties to this Action that they have reached a settlement agreement. Additionally, consistent with its obligations under the Defendants' Agreement, Foster Farms may provide a copy of this Settlement Agreement with parties to the Defendants' Agreement. The Parties further agree to disclose the Settlement Agreement for the purpose of disclosure and approval from the Court consistent with the terms of the Settlement Agreement.

N. Notice. Any notice, other than Settlement Notice, required pursuant to or in connection with this Settlement Agreement ("Notice") shall be in writing and shall be given by: (1) hand delivery; (2) registered or certified mail, return receipt requested, postage prepaid; or (3) UPS or similar overnight courier, with a courtesy copy by electronic mail, addressed, in the case of notice to any Plaintiff or Class Member, to Co-Lead Counsel at their addresses set forth below, and, in the case of notice to Foster Farms, to the Settling Defendants' Counsel at the addresses set forth below, or such other addresses as Co-Lead Counsel or Settling Defendants' Counsel may

designate, from time to time, by giving notice to all Parties in the manner described in this Section III(N).

For Commercial and Institutional Indirect Purchaser Plaintiffs:

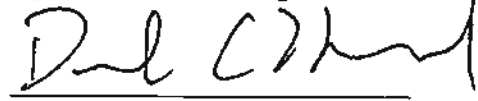
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For Settling Defendant Foster Farms, LLC and Foster Poultry Farms LLC:

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Telephone: (202) 263-3000
Facsimile: (202) 263-3300
czarlenga@mayerbrown.com
opottinger@mayerbrown.com

IN WITNESS WHEREOF, the Parties hereto, through their fully authorized representatives, have agreed to this Settlement Agreement as of the Execution Date.



Dated: 12-5-24

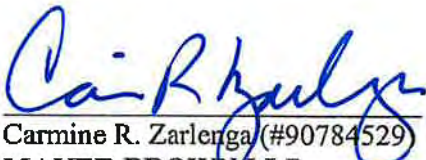
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Dated: 12-5-24

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Lead Counsel for Commercial and Institutional Indirect Purchaser Plaintiffs



Dated: 12-6-24

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opottinger@mayerbrown.com

Counsel for Defendant Foster Farms, LLC and Foster Poultry Farms LLC

EXHIBIT L

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE BROILER CHICKEN ANTITRUST
LITIGATION

Case No. 1:16-cv-08637

This Document Relates To:

Honorable Thomas M. Durkin
Magistrate Judge Jeffrey T. Gilbert

COMMERCIAL AND INSTITUTIONAL
INDIRECT PURCHASER PLAINTIFF
ACTION

**SETTLEMENT AGREEMENT AND STIPULATION BETWEEN
COMMERCIAL AND INSTITUTIONAL INDIRECT PURCHASER PLAINTIFFS
AND PERDUE DEFENDANTS**

THIS SETTLEMENT AGREEMENT (“Settlement Agreement”) is made and entered into as of the 5th day of December 2024 (“Execution Date”) by and between the Commercial and Institutional Indirect Purchaser Plaintiffs (“CIIPPs”),¹ through Co-Lead Counsel (as hereinafter defined) on behalf of the Certified Class (as hereinafter defined), and Defendants Perdue Farms, Inc. and Perdue Foods LLC (collectively referred to as “Settling Defendant” or “Perdue”) in the above-captioned action (the “Action”). CIIPPs, on behalf of the Certified Class, and Perdue are referred to herein collectively as the “Parties” or individually as a “Party.”

¹ As used herein, “CIIPPs” means Sargent’s Restaurant and Lounge; Fargo Stopping Center, LLC; Wildwood Tavern LLC; Bodega Brew Pub, Inc.; Sullott Corporation; Chicken Joe’s LLC; Eat This, Inc.; Alpine Special Treatment Center, Inc.; Tennis Bums, LLC; Alabama Joe’s 2, Inc.; Tani Sushi Bistro, LLC; France 44 Foods, Inc.; Alliance Healthcare System, Inc.; Little Figs, Inc.; Da Big Blue Enterprises Corp.; Floersch IGA, Inc.; Avanti’s of Phoenix, Inc.; Midtown Bar & Grill; Bashara and Company; Mookie’s Southern Cuisine LLC; Eowyn, LLC; Peppers Grill & Bar, Inc.; Daliano’s, Inc.; Sumner County Restaurant & Creamery LLC; Tic-Tac-O; Brix Tavern, LLC; Pancho’s Taqueria, Inc.; Legacy 5, LLC; Roost Fried Chicken LLC; Oregano Italian, LLC; Bordenaro’s Pizza, Inc.; Telavi Hospitality, Inc.; and FB Mall, LLC.

WHEREAS, CIIPPs, on behalf of themselves and as representatives of the Certified Class of similarly situated persons or entities alleged in the Action, *inter alia*, that Perdue participated in a conspiracy with other Defendants and alleged non-Defendant co-conspirators in the Action from at least January 1, 2008 to the present to fix, raise, maintain, and stabilize the price of Broilers (as hereinafter defined);

WHEREAS, on June 30, 2023 the Court entered an Order granting Perdue's Motion for Summary Judgment as to the CIIPP Class claims against Perdue (ECF No. 6641) (hereinafter the "MSJ Order");

WHEREAS, Perdue has entered into a Second Amended Judgment Sharing Agreement with other Defendants, which Co-Lead Counsel have reviewed, and which is addressed in Section II(E) below.

WHEREAS, counsel for the Parties have engaged in arms-length negotiations on the terms of this Settlement Agreement, and this Settlement Agreement embodies all of the terms and conditions of the Settlement;

WHEREAS, Co-Lead Counsel have concluded, after investigation of the facts and after considering the circumstances and the applicable law, that it is in the best interests of the CIIPP Class to enter into this Settlement Agreement with Perdue to avoid the uncertainties of further litigation, and to obtain the benefits described herein for the Certified Class (as hereinafter defined) including imposition of any costs on the Certified Class, and, further, that this Settlement Agreement is fair, reasonable, adequate, and in the best interests of CIIPPs and the Certified Class;

WHEREAS, Perdue, notwithstanding its belief that it did nothing wrong or illegal, that it has legitimate defenses to any claims that have been, could have been, or could be asserted by the

CIIPP Class against it, and that it would prevail in any appeal, enters into this Settlement Agreement to avoid the costs, expenses, and uncertainties relating thereto;

WHEREAS, arm's-length settlement negotiations have taken place between Co-Lead Counsel and the Settling Defendant's Counsel, and the settlement was reached as a result of those negotiations;

WHEREAS, in the event this Settlement does not obtain Court approval, both Parties wish to preserve all appeals, arguments, defenses, and responses to all claims in the Action, including all arguments, defenses and responses to any appeal;

NOW THEREFORE, in consideration of the foregoing, the terms and conditions set forth below, and other good and valuable consideration, it is agreed by and among the Parties, that the claims of the CIIPPs be settled, compromised, and dismissed on the merits with prejudice as to Perdue consistent with the MSJ Order.

I. DEFINITIONS

A. Certified Class Definition. "Certified Class," "CIIPP Class," or "Class" shall have the same definition and consist of the litigation classes—both the state damages classes and the nationwide injunctive relief class—certified by the Court's May 27, 2022, Order (ECF No. 5644).

The state damages class is defined as:

All entities that purchased Broilers indirectly from a Defendant or named co-conspirator in an Indirect Purchaser State for their own use in commercial food preparation from January 1, 2009, until July 31, 2019.

Excluded from the [Indirect] class are: Natural persons who purchased Broilers for their personal use and not for commercial food preparation; purchases of Broilers directly from Defendants; purchases of Broilers for resale in unaltered form; purchases or [sic] Broilers from an intermediary who has further processed the Broiler; the Defendants; the officers, directors or employees of any Defendant; any entity in which any Defendant has a controlling

interest; and any affiliate, legal representative, heir or assign of any Defendant; any federal, state governmental entities, any judicial officer presiding over this action and the members of her/her immediate family and judicial staff, any juror assigned to this action; and any co-conspirator identified in this action.

(ECF No. 5644 at 3-4 n.2, 55). The nationwide injunctive relief class consists of: “All entities that purchased Broilers indirectly from a Defendant or named co-conspirator in the United States for their own use in commercial food preparation from January 1, 2009, until July 31, 2019.” *See id.* The foregoing classes exclude all persons and entities that previously filed a valid exclusion from the litigation class as set forth in ECF No. 6566-5.

B. General Definitions. The terms below and elsewhere in this Settlement Agreement with initial capital letters shall have the meanings ascribed to them for purposes of this Settlement Agreement

1. “Action” means the putative class action filed by CIIPPs in the above-captioned proceeding.

2. “Broilers” are chickens raised for meat consumption to be slaughtered before the age of 13 weeks, and which may be sold in a variety of forms, including fresh or frozen, and whole or in parts, but excluding chicken that is grown, processed, and sold according to halal, kosher, free range, or organic standards. “Broilers” does not include dark meat chicken products, such as chicken thighs. The definition also does not include certain “further processed” products, which include any chicken meat that has been breaded, cooked, or “formed,” such as patties, or nuggets; or products made from mechanically separated meat such as chicken sausages; or products that are ground, sliced, diced, or cubed. Marinated, seasoned, frozen and portioned products, that are not otherwise further processed, are included within the definition of Broilers.

3. “Co-Lead Counsel” means, collectively, the law firms of Gustafson Gluek PLLC and Cotchett, Pitre & McCarthy, LLP, as appointed by the Court to represent the Certified Class of Commercial and Institutional Indirect Purchaser Plaintiffs.

4. “Court” or “District Court” means the United States District Court for the Northern District of Illinois and the Honorable Thomas M. Durkin or his successor, or any other court in which the Action is proceeding.

5. “Defendant” or “Defendants” means any or all of the Defendants named in the Commercial and Institutional Indirect Purchaser Plaintiffs’ Seventh Amended Consolidated Class Action Complaint in the Action, ECF Nos. 3929 (redacted) and 3931 (unredacted).

6. “Effective Date” means the first date upon which both of the following conditions shall have been satisfied: (A) Final Approval of this Settlement Agreement; and (B) either (i) no appeal or petition to seek permission to appeal the Court’s approval of the Settlement has been made within the time for filing or noticing any appeal under the Federal Rules of Appellate Procedure, *i.e.*, thirty (30) days after entry of Final Approval; or (ii) if any timely appeals from the Final Approval or notices of appeal from the Final Approval are filed, (a) the date of final dismissal of all such appeals or the final dismissal of any proceeding on certiorari or otherwise, or (b) the date the Final Judgment is finally affirmed on appeal and affirmance is no longer subject to further appeal or review.

7. “Execution Date” means the date on which this Settlement Agreement is entered into and executed by all Parties.

8. “Indirect Purchaser State” means Arizona, California, District of Columbia, Florida, Hawaii, Illinois, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota,

Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, West Virginia, and Wisconsin.

9. “Notice” means the notice in accordance with Section III(N).

10. “Parties” or “Settling Parties” means Settling Defendant and the Class, as represented by CIIPPs.

11. “Plaintiffs” means the Commercial and Institutional Indirect Purchaser Plaintiffs (“CIIPPs”), individually as identified above in footnote 1 and on behalf of the Certified Class.

12. “Settling Defendant” and “Perdue” mean Perdue Farms, Inc. and Perdue Foods LLC.

13. “Settling Defendants’ Counsel” means Venable, LLP, and attorneys associated with that firm.

14. “Settlement Notice” means the notice to the Class, that is approved by the Court, in accordance with Section II(F)(2) below.

II. SETTLEMENT

A. The Parties’ Efforts to Effectuate this Settlement Agreement. The Parties will cooperate in good faith and use their best efforts to seek the Court’s Preliminary Approval and Final Approval of the Settlement Agreement.

B. Mutual Waiver of Right to Appeal or Further Adjudication: Upon the Effective Date, neither the CIIPP Class nor Perdue will seek to further adjudicate at the district court, via appeal, or any other means, the claims or defenses either has asserted in the Action or any orders of the Court in connection with the CIIPP Action as they pertain to the other Party, including but not limited to asking the Court to revise, modify, vacate, or reconsider the MSJ Order. For the

avoidance of doubt, this does not preclude Perdue from further adjudicating, via appeal or any other means, the claims or defenses it has asserted in the Action or orders of the Court as part of its defense against any claims brought against Perdue by any other Plaintiff.

C. The CIIPP Class's Challenge to the MSJ Order as to Perdue. Upon filing of the motion seeking approval of this Settlement Agreement the CIIPP Class will advise the Court that they no longer intend to appeal the MSJ Order as to Perdue and are not asking the Court to revise, modify, vacate, or reconsider the MSJ Order as to Perdue pending approval of this Settlement Agreement. The CIIPP Class further agrees that it will not challenge the MSJ Order as to Perdue during the time period between the date of execution of this Settlement Agreement and the Effective Date (as defined herein). However, the CIIPP Class reserves the right to seek to challenge the MSJ Order as to Perdue and take necessary steps to preserve any such rights in the event this Settlement does not obtain Court approval. For the avoidance of doubt, the CIIPP Class's reservation of rights as described in this paragraph shall cease upon the Effective Date.

D. Settlement Consideration. In consideration for the waiver of appellate or adjudication rights set forth herein, the CIIPP Class and Perdue each agree that they will not seek or assert against each other any claim for costs, fees, attorney's fees, or any other form of recovery in connection with the Action. Perdue does not waive any rights to seek any of its costs, fees, attorney's fees, or any other form of recovery in connection with the Action from any other Plaintiff in the Action. In the event this Settlement is not approved, Perdue does not waive any rights to seek costs, fees, attorney's fees, or any other form of recovery in connection with this Action against the CIIPP Class. Similarly, in the event this Settlement is not approved, the CIIPP Class reserves all rights to challenge and contest any effort by Perdue to seek to recover any costs against the CIIPP Class.

E. Qualified Settlement. CIIPPs have been provided with a copy of the Second Amended Judgment Sharing Agreement entered into by certain Defendants dated February 25, 2020, (hereinafter referred to as “Defendants’ Agreement”). The defined terms in Defendants’ Agreement shall have the same meaning when used in this Settlement Agreement. In the event the CIIPPs and the Certified Class (a) prevail in any appeal of the existing rulings in the Action, and (b) thereafter obtain a Final Judgment that includes as a component any damages attributable to sales of Broilers by Perdue, the CIIPPs and the Certified Class agree that notwithstanding anything to the contrary contained in this Settlement Agreement, the CIIPPs and the Certified Class shall reduce the dollar amount collectable from any Party to the Defendants’ Agreement pursuant to any such Final Judgment the CIIPPs might obtain against any party to the Defendants’ Agreement by a percentage equal to the Sharing Percentage of Perdue, calculated pursuant to Section 4 and Exhibits A and B of Defendants’ Agreement (as illustrated by the Appendix to Defendants’ Agreement) as if Perdue had not settled, had been found liable on the claim, and was a Sharing Party with respect to the Final Judgment. CIIPPs agree that this undertaking is also for the benefit of any Defendant that is a Party to the Defendants’ Agreement and that this undertaking may be enforced by any or all of such Defendants as third-party beneficiaries hereof. Any ambiguity in this Section or inconsistency between this Settlement Agreement and the Defendants’ Agreement shall be resolved in favor of Defendants’ Agreement, including, without limitation, Sections 6.D.1 and 6.D.2 thereof. CIIPPs shall use their best efforts to ensure that the Settlement Agreement constitutes a Qualified Settlement under Defendants’ Agreement and to effectuate the intent of the parties to the Defendants’ Agreement to treat the Settlement Agreement as a Qualified Settlement, including (as may be necessary) to make any amendments to this Settlement Agreement to reflect the intent to treat the Settlement Agreement as a Qualified

Settlement.

F. Approval of Settlement Agreement and Dismissal

1. **Motion for Preliminary Approval.** Plaintiffs shall submit to the District Court a motion, at such time deemed appropriate in the discretion of Co-Lead Counsel (but as soon as is reasonably practicable after the Execution Date), requesting entry of an order preliminarily approving this Settlement Agreement (“Preliminary Approval Order”). As soon as practicable in advance of submission to the Court, the papers in support of the motion for Preliminary Approval, including but not limited to any draft notices to the Class, shall be provided by Co-Lead Counsel to Perdue for its review. To the extent that Perdue objects to any aspect of the motion, it shall communicate such objection to Co-Lead Counsel and the Parties shall meet and confer about any such objection and attempt to resolve that issue in good faith. The Parties shall take all reasonable actions as may be necessary to obtain Preliminary Approval. The proposed Preliminary Approval Order shall provide that, inter alia:

i. the settlement proposed in the Settlement Agreement has been negotiated at arm’s-length and is preliminarily determined to be fair, reasonable, adequate, and in the best interests of the Class;

ii. after Settlement Notice has been carried out, a hearing on the settlement proposed in this Settlement Agreement shall be held by the Court to determine whether the proposed settlement is fair, reasonable, and adequate, and whether it should be finally approved by the Court (the “Fairness Hearing”);

iii. Class Members who wish to object to this Agreement must submit an appropriate and timely written statement of the grounds for objection;

iv. Class Members who wish to appear in person to object to this

Agreement may do so at the Fairness Hearing pursuant to directions by the Court; and

v. All proceedings in the above-captioned action with respect to Perdue and CIIPPs are stayed until further order of the Court, except as may be necessary to implement the settlement or comply with the terms thereof.

2. **Settlement Notice.** Settlement Notice shall provide for a right to object to the proposed settlement. The timing of a motion to direct or approve the Settlement Notice of this Settlement Agreement shall be in the discretion of Co-Lead Counsel and may be combined with Settlement Notice of other settlements in this Action. Perdue shall have no responsibility or liability relating to the administration or costs associated with such notice and the CIIPP class shall bear all costs to effectuate any such notice.

Notwithstanding the foregoing, any notice of this settlement shall include the following language:

On June 30, 2023 the Court granted the motion for summary judgment filed by defendant Perdue against the CIIPP Class. The CIIPP Class has agreed to not appeal the summary judgment order as to defendant Perdue in exchange for a waiver by Perdue of its right to seek recovery of any and all fees and costs against the CIIPP Class in conjunction with this Action. The Court approved this agreement on [DATE].

3. **Final Judgment.** If this Settlement Agreement is preliminarily approved by the Court, the Class, through Co-Lead Counsel and in accordance with any schedule set forth in the Court's Preliminary Approval, shall seek entry of an Order and Final Judgment. As soon as practicable in advance of submission to the Court, the papers in support of the motion for Final Approval shall be provided by Co-Lead Counsel to Perdue for its review. To the extent that

Perdue objects to any aspect of the motion, it shall communicate such objection to Co-Lead Counsel and the Parties shall meet and confer about any such objection and attempt to resolve that issue in good faith. The Parties shall take all reasonable actions as may be necessary to obtain Final Approval of the Settlement Agreement without modification to any of its material terms and conditions. The motion for Final Approval shall seek an entry of an order and Final Judgment that, inter alia:

i. finally approves this Settlement Agreement and its terms as being a fair, reasonable, and adequate settlement as to the Class Members within the meaning of Rule 23 of the Federal Rules of Civil Procedure and directing its consummation according to its terms and conditions, without material modification of those terms and conditions;

ii. determines that the Settlement Notice constituted, under the circumstances, the most effective and practicable notice of this Settlement Agreement and the Fairness Hearing, and constituted due and sufficient notice for all other purposes to all persons or entities entitled to receive notice;

iii. dismisses all claims made by CIIPPs against Perdue in the Action, including in all class action complaints asserted by CIIPPs, with prejudice and without further costs or fees;

iv. confirms that Perdue has provided the appropriate notice pursuant to CAFA;

v. reserves to the Court continuing and exclusive jurisdiction over the settlement and this Settlement Agreement, including the administration and consummation of this Agreement; and

vi. determines under Federal Rule of Civil Procedure 54(b) that there

is no just reason for delay and directs that the judgment of dismissal as to the Parties shall be final and entered forthwith.

III. MISCELLANEOUS

A. Governing Law. All terms of this Settlement Agreement shall be governed by and interpreted according to the substantive laws of Illinois without regard to its choice-of-law or conflict-of-law principles.

B. Jurisdiction. This Settlement Agreement is subject to the continuing and exclusive jurisdiction of the Court for any suit, action, proceeding, or dispute arising out of or relating to this Settlement Agreement or the applicability of this Settlement Agreement, including, without limitation, any suit, action, proceeding, or dispute relating to the release provisions herein. If for any reason this Settlement Agreement is rescinded, terminated, fails to obtain Final Approval or otherwise fails to become effective, then, in such event, neither this Settlement Agreement nor any conduct required by it shall constitute or be construed as any agreement to personal jurisdiction (general or specific) or subject matter jurisdiction so as to confer the jurisdiction of the District Court over the Released Parties, nor shall it constitute any waiver of any defenses based on personal or subject matter jurisdiction.

C. Class Action Fairness Act. Within ten (10) days of the filing of this Settlement Agreement in court in connection with the above-mentioned motion for Preliminary Approval, Perdue will provide to the appropriate state officials and the appropriate federal official the notice required by the Class Action Fairness Act of 2005, 28 U.S.C. § 1715(b) (“CAFA”). Co-Lead Class Counsel shall provide such assistance as is reasonably necessary and information as is reasonably available to comply with CAFA.

D. Authorization. Each of the undersigned attorneys represents that he or she is fully

authorized to enter into and execute this Settlement Agreement, subject to Court approval; the undersigned Co-Lead Counsel represent that they are authorized to execute this Settlement Agreement on behalf of Plaintiffs and the Class; and the undersigned Settling Defendant's Counsel represent that they are authorized to execute the Settlement Agreement on behalf of Perdue.

It is agreed that this Settlement Agreement shall be admissible in any proceeding for establishing the terms of the Parties' agreement or for any other purpose with respect to implementing or enforcing this Settlement Agreement,

E. No Admission. The Parties expressly agree that this Settlement Agreement and its contents, and any statements, negotiations, documents, and discussions associated with it, do not constitute an admission of liability by any Party.

F. No Party is the Drafter. None of the Parties hereto shall be considered to be the drafter of this Settlement Agreement or any provision hereof for purposes of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter hereof.

G. Entire Agreement. This Settlement Agreement constitutes the entire, complete and integrated agreement between the Parties and supersedes any and all prior and contemporaneous undertakings, communications, representations, understandings, negotiations, and discussions (either oral or written) between the Parties. The Parties agree that this Settlement Agreement may be modified only by a written instrument signed by the Parties and that no party will assert any claim against another based on any alleged agreement affecting or relating to the terms of this Settlement Agreement not in writing and signed by the Parties.

H. Modification. This Settlement Agreement may be modified or amended only by a

writing executed by Co-Lead Counsel and Perdue or Settling Defendant's Counsel. The waiver of any rights conferred hereunder shall be effective only if made by written instrument of the waiving Party. The waiver by any Party of any particular breach of this Agreement shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent or contemporaneous, of this Agreement. This Agreement does not waive or otherwise limit the Parties' rights and remedies for any breach of this Agreement. Any breach of this Agreement may result in irreparable damage to a Party for which such Party will not have an adequate remedy at law. Accordingly, in addition to any other remedies and damages available, the Parties acknowledge and agree that the Parties may immediately seek enforcement of this Settlement Agreement by means of specific performance or injunction, without the requirement of posting a bond or other security.

I. Execution in Counterparts. This Settlement Agreement may be executed in counterparts by Co- Lead Counsel and Settling Defendant's Counsel, each of which shall be deemed an original, but all of which together shall constitute a single Settlement Agreement. A facsimile, electronic or .pdf signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

J. Represented by Counsel. Plaintiffs and Perdue each acknowledge that they have been represented by counsel and have made their own investigations of the matters covered by this Settlement Agreement to the extent they have deemed it necessary to do so and are not relying on any representation or warranty by the other party other than as set forth herein. The Parties and their respective counsel agree that they will not seek to set aside any part of the Settlement Agreement on the grounds of mistake.

K. Privilege. Nothing in this Settlement Agreement or the negotiations or

proceedings relating to it are intended to or shall be deemed to constitute a waiver of any applicable privilege or immunity, including, without limitation, the accountants' privilege, the attorney-client privilege, the joint defense privilege, the common interest privilege, and the attorney work product immunity.

L. Voluntary Settlement. The Parties agree that this Settlement Agreement was negotiated in good faith by the Parties, and reflects a settlement that was reached voluntarily after consultation with competent counsel, and no Party has entered this Settlement Agreement as the result of any coercion or duress.

M. Confidentiality. The Parties agree to continue to maintain the confidentiality of all settlement discussions and materials exchanged during the settlement negotiation. However, Perdue and CIIPPs can inform other parties to this Action that they have reached a settlement agreement. Additionally, consistent with its obligations under the Defendants' Agreement, Perdue may provide a copy of this Settlement Agreement with parties to the Defendants' Agreement. The Parties further agree to disclose the Settlement Agreement for the purpose of disclosure and approval from the Court consistent with the terms of the Settlement Agreement.

N. Notice. Any notice, other than Settlement Notice, required pursuant to or in connection with this Settlement Agreement ("Notice") shall be in writing and shall be given by: (1) hand delivery; (2) registered or certified mail, return receipt requested, postage prepaid; or (3) UPS or similar overnight courier, with a courtesy copy by electronic mail, addressed, in the case of notice to any Plaintiff or Class Member, to Co-Lead Counsel at their addresses set forth below, and, in the case of notice to Perdue, to the Settling Defendants' Counsel at the addresses set forth below, or such other addresses as Co-Lead Counsel or Settling Defendants' Counsel may designate, from time to time, by giving notice to all Parties in the manner described in this Section III(N).

For Commercial and Institutional Indirect Purchaser Plaintiffs:

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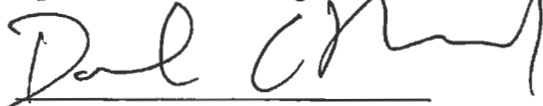
Adam J. Zapala
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For Settling Defendant Perdue Farms, Inc. and Perdue Foods, LLC:

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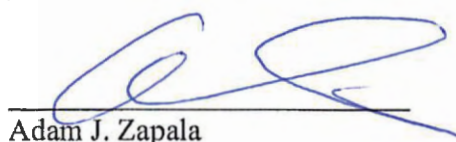
IN WITNESS WHEREOF, the Parties hereto, through their fully authorized

representatives, have agreed to this Settlement Agreement as of the Execution Date.



Dated: 12-5-24

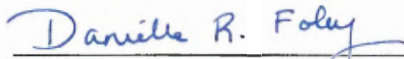
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Dated: 12-5-24

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Lead Counsel for Commercial and Institutional Indirect Purchaser Plaintiffs



Dated: 12/6/2024

Danielle R. Foley (admitted *pro hac vice*)
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Counsel for Defendant Perdue Farms, Inc. and Perdue Foods, LLC

EXHIBIT M

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE BROILER CHICKEN ANTITRUST
LITIGATION

No. 1:16-cv-08637

This Document Relates To:

Honorable Thomas M. Durkin
Magistrate Judge Jeffrey T. Gilbert

COMMERCIAL AND INSTITUTIONAL
INDIRECT PURCHASER PLAINTIFF
ACTION

**SETTLEMENT AGREEMENT AND STIPULATION BETWEEN COMMERCIAL AND
INSTITUTIONAL INDIRECT PURCHASER PLAINTIFFS AND WAYNE FARMS, LLC**

THIS SETTLEMENT AGREEMENT (“Settlement Agreement”) is made and entered into as of the 4th day of December 2024 (“Execution Date”) by and between the Commercial and Institutional Indirect Purchaser Plaintiffs (“CIIPPs”),¹ through Co-Lead Counsel (as hereinafter defined) on behalf of the Certified Class (as hereinafter defined), and Defendant Wayne Farms, LLC (also referred to as “Settling Defendant” or “Wayne”) in the above-captioned action (the “Action”). CIIPPs, on behalf of the Certified Class, and Wayne are referred to herein collectively as the “Parties” or individually as a “Party.”

¹ As used herein, “CIIPPs” means Sargent’s Restaurant and Lounge; Fargo Stopping Center, LLC; Wildwood Tavern LLC; Bodega Brew Pub, Inc.; Sullott Corporation; Chicken Joe’s LLC; Eat This, Inc.; Alpine Special Treatment Center, Inc.; Tennis Bums, LLC; Alabama Joe’s 2, Inc.; Tani Sushi Bistro, LLC; France 44 Foods, Inc.; Alliance Healthcare System, Inc.; Little Figs, Inc.; Da Big Blue Enterprises Corp.; Floersch IGA, Inc.; Avanti’s of Phoenix, Inc.; Midtown Bar & Grill; Bashara and Company; Mookie’s Southern Cuisine LLC; Eowyn, LLC; Peppers Grill & Bar, Inc.; Daliano’s, Inc.; Sumner County Restaurant & Creamery LLC; Tic-Tac-O; Brix Tavern, LLC; Pancho’s Taqueria, Inc.; Legacy 5, LLC; Roost Fried Chicken LLC; Oregano Italian, LLC; Bordenaro’s Pizza, Inc.; Telavi Hospitality, Inc.; and FB Mall, LLC.

WHEREAS, CIIPPs, on behalf of themselves and as representatives of the Certified Class of similarly situated persons or entities alleged in the Action, *inter alia*, that Wayne participated in a conspiracy with other Defendants and alleged non-Defendant co-conspirators in the Action from at least January 1, 2008 to the present to fix, raise, maintain, and stabilize the price of Broilers (as hereinafter defined);

WHEREAS, on June 30, 2023 the Court entered an Order granting Wayne's Motion for Summary Judgment as to the CIIPP Class claims against Wayne (ECF No. 6641) (hereinafter the "MSJ Order");

WHEREAS, Wayne has entered into a Second Amended Judgment Sharing Agreement with other Defendants, which Co-Lead Counsel have reviewed, and which is addressed in Section II(E) below.

WHEREAS, counsel for the Parties have engaged in arms-length negotiations on the terms of this Settlement Agreement, and this Settlement Agreement embodies all of the terms and conditions of the Settlement;

WHEREAS, Co-Lead Counsel have concluded, after investigation of the facts and after considering the circumstances and the applicable law, that it is in the best interests of the CIIPP Class to enter into this Settlement Agreement with Wayne to avoid the uncertainties of further litigation, and to obtain the benefits described herein for the Certified Class (as hereinafter defined) including imposition of any costs on the Certified Class, and, further, that this Settlement Agreement is fair, reasonable, adequate, and in the best interests of CIIPPs and the Certified Class;

WHEREAS, Wayne, notwithstanding its belief that it did nothing wrong or illegal, that it has legitimate defenses to any claims that have been, could have been, or could be asserted by the

CIIPP Class against it, and that it would prevail in any appeal, enters into this Settlement Agreement to avoid the costs, expenses, and uncertainties relating thereto;

WHEREAS, arm's-length settlement negotiations have taken place between Co-Lead Counsel and the Settling Defendant's Counsel, and the settlement was reached as a result of those negotiations;

WHEREAS, in the event this Settlement does not obtain Court approval, both Parties wish to preserve all appeals, arguments, defenses, and responses to all claims in the Action, including all arguments, defenses and responses to any appeal;

NOW THEREFORE, in consideration of the foregoing, the terms and conditions set forth below, and other good and valuable consideration, it is agreed by and among the Parties, that the claims of the CIIPPs be settled, compromised, and dismissed on the merits with prejudice as to Wayne consistent with the MSJ Order.

I. DEFINITIONS

A. Certified Class Definition. "Certified Class," "CIIPP Class," or "Class" shall have the same definition and consist of the litigation classes—both the state damages classes and the nationwide injunctive relief class—certified by the Court's May 27, 2022, Order (ECF No. 5644).

The state damages class is defined as:

All entities that purchased Broilers indirectly from a Defendant or named co-conspirator in an Indirect Purchaser State for their own use in commercial food preparation from January 1, 2009, until July 31, 2019.

Excluded from the [Indirect] class are: Natural persons who purchased Broilers for their personal use and not for commercial food preparation; purchases of Broilers directly from Defendants; purchases of Broilers for resale in unaltered form; purchases or [sic] Broilers from an intermediary who has further processed the Broiler; the Defendants; the officers, directors or employees of any Defendant; any entity in which any Defendant has a controlling

interest; and any affiliate, legal representative, heir or assign of any Defendant; any federal, state governmental entities, any judicial officer presiding over this action and the members of her/her immediate family and judicial staff, any juror assigned to this action; and any co-conspirator identified in this action.

(ECF No. 5644 at 3-4 n.2, 55). The nationwide injunctive relief class consists of: “All entities that purchased Broilers indirectly from a Defendant or named co-conspirator in the United States for their own use in commercial food preparation from January 1, 2009, until July 31, 2019.” *See id.* The foregoing classes exclude all persons and entities that previously filed a valid exclusion from the litigation class as set forth in ECF No. 6566-5.

B. General Definitions. The terms below and elsewhere in this Settlement Agreement with initial capital letters shall have the meanings ascribed to them for purposes of this Settlement Agreement

1. “Action” means the putative class action filed by CIIPPs in the above-captioned proceeding.

2. “Broilers” are chickens raised for meat consumption to be slaughtered before the age of 13 weeks, and which may be sold in a variety of forms, including fresh or frozen, and whole or in parts, but excluding chicken that is grown, processed, and sold according to halal, kosher, free range, or organic standards. “Broilers” does not include dark meat chicken products, such as chicken thighs. The definition also does not include certain “further processed” products, which include any chicken meat that has been breaded, cooked, or “formed,” such as patties, or nuggets; or products made from mechanically separated meat such as chicken sausages; or products that are ground, sliced, diced, or cubed. Marinated, seasoned, frozen and portioned products, that are not otherwise further processed, are included within the definition of Broilers.

3. “Co-Lead Counsel” means, collectively, the law firms of Gustafson Gluek PLLC and Cotchett, Pitre & McCarthy, LLP, as appointed by the Court to represent the Certified Class of Commercial and Institutional Indirect Purchaser Plaintiffs.

4. “Court” or “District Court” means the United States District Court for the Northern District of Illinois and the Honorable Thomas M. Durkin or his successor, or any other court in which the Action is proceeding.

5. “Defendant” or “Defendants” means any or all of the Defendants named in the Commercial and Institutional Indirect Purchaser Plaintiffs’ Seventh Amended Consolidated Class Action Complaint in the Action, ECF Nos. 3929 (redacted) and 3931 (unredacted).

6. “Effective Date” means the first date upon which both of the following conditions shall have been satisfied: (A) Final Approval of this Settlement Agreement; and (B) either (i) no appeal or petition to seek permission to appeal the Court’s approval of the Settlement has been made within the time for filing or noticing any appeal under the Federal Rules of Appellate Procedure, *i.e.*, thirty (30) days after entry of Final Approval; or (ii) if any timely appeals from the Final Approval or notices of appeal from the Final Approval are filed, (a) the date of final dismissal of all such appeals or the final dismissal of any proceeding on certiorari or otherwise, or (b) the date the Final Judgment is finally affirmed on appeal and affirmance is no longer subject to further appeal or review.

7. “Execution Date” means the date on which this Settlement Agreement is entered into and executed by all Parties.

8. “Indirect Purchaser State” means Arizona, California, District of Columbia, Florida, Hawaii, Illinois, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota,

Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, West Virginia, and Wisconsin.

9. “Notice” means the notice in accordance with Section III(N).

10. “Parties” or “Settling Parties” means Settling Defendant and the Class, as represented by CIIPPs.

11. “Plaintiffs” means the Commercial and Institutional Indirect Purchaser Plaintiffs (“CIIPPs”), individually as identified above in footnote 1 and on behalf of the Certified Class.

12. “Settling Defendant” and “Wayne” mean Wayne Farms, LLC.

13. “Settling Defendants’ Counsel” means Proskauer Rose LLP and attorneys associated with that firm.

14. “Settlement Notice” means the notice to the Class, that is approved by the Court, in accordance with Section II(F)(2) below.

II. SETTLEMENT

A. The Parties’ Efforts to Effectuate this Settlement Agreement. The Parties will cooperate in good faith and use their best efforts to seek the Court’s Preliminary Approval and Final Approval of the Settlement Agreement.

B. Mutual Waiver of Right to Appeal or Further Adjudication: Upon the Effective Date, neither the CIIPP Class nor Wayne will seek to further adjudicate at the district court, via appeal, or any other means, the claims or defenses either has asserted in the Action or any orders of the Court in connection with the CIIPP Action as they pertain to the other Party, including but not limited to asking the Court to revise, modify, vacate, or reconsider the MSJ Order. For the avoidance of doubt, this does not preclude Wayne from further adjudicating, via appeal or any

other means, orders of the Court as part of its defense against any claims brought against Wayne by any other Plaintiff.

C. The CIIPP Class's Challenge to the MSJ Order as to Wayne. Upon filing of the motion seeking approval of this Settlement Agreement the CIIPP Class will advise the Court that they no longer intend to appeal the MSJ Order as to Wayne and are not asking the Court to revise, modify, vacate, or reconsider the MSJ Order as to Wayne pending approval of this Settlement Agreement. The CIIPP Class further agrees that it will not challenge the MSJ Order as to Wayne during the time period between the date of execution of this Settlement Agreement and the Effective Date (as defined herein). However, the CIIPP Class reserves the right to seek to challenge the MSJ Order as to Wayne and take necessary steps to preserve any such rights in the event this Settlement does not obtain Court approval. For the avoidance of doubt, the CIIPP Class's reservation of rights as described in this paragraph shall cease upon the Effective Date.

D. Settlement Consideration. In consideration for the waiver of appellate or adjudication rights set forth herein, the CIIPP Class and Wayne each agree that they will not seek or assert against each other any claim for costs, fees, attorney's fees, or any other form of recovery in connection with the Action. Wayne does not waive any rights to seek any of its costs, fees, attorney's fees, or any other form of recovery in connection with the Action from any other Plaintiff in the Action. In the event this Settlement is not approved, Wayne does not waive any rights to seek costs, fees, attorney's fees, or any other form of recovery in connection with this Action against the CIIPP Class. Similarly, in the event this Settlement is not approved, the CIIPP Class reserves all rights to challenge and contest any effort by Wayne to seek to recover any costs against the CIIPP Class.

E. Qualified Settlement. CIIPPs have been provided with a copy of the Second

Amended Judgment Sharing Agreement entered into by certain Defendants dated February 25, 2020 (hereinafter referred to as “Defendants’ Agreement”). The defined terms in Defendants’ Agreement shall have the same meaning when used in this Settlement Agreement. In the event the CIIPPs and the Certified Class (a) prevail in any appeal of the existing rulings in the Action, and (b) thereafter obtain a Final Judgment that includes as a component any damages attributable to sales of Broilers by Wayne, the CIIPPs and the Certified Class agree that notwithstanding anything to the contrary contained in this Settlement Agreement, the CIIPPs and the Certified Class shall reduce the dollar amount collectable from any Party to the Defendants’ Agreement pursuant to any such Final Judgment the CIIPPs might obtain against any party to the Defendants’ Agreement by a percentage equal to the Sharing Percentage of Wayne, calculated pursuant to Section 4 and Exhibits A and B of Defendants’ Agreement (as illustrated by the Appendix to Defendants’ Agreement) as if Wayne had not settled, had been found liable on the claim, and was a Sharing Party with respect to the Final Judgment. CIIPPs agree that this undertaking is also for the benefit of any Defendant that is a Party to the Defendants’ Agreement and that this undertaking may be enforced by any or all of such Defendants as third-party beneficiaries hereof. Any ambiguity in this Section or inconsistency between this Settlement Agreement and the Defendants’ Agreement shall be resolved in favor of Defendants’ Agreement, including, without limitation, Sections 6.D.1 and 6.D.2 thereof. CIIPPs shall use their best efforts to ensure that the Settlement Agreement constitutes a Qualified Settlement under Defendants’ Agreement and to effectuate the intent of the parties to the Defendants’ Agreement to treat the Settlement Agreement as a Qualified Settlement, including (as may be necessary) to make any amendments to this Settlement Agreement to reflect the intent to treat the Settlement Agreement as a Qualified Settlement.

F. Approval of Settlement Agreement and Dismissal

1. **Motion for Preliminary Approval.** Plaintiffs shall submit to the District Court a motion, at such time deemed appropriate in the discretion of Co-Lead Counsel (but as soon as is reasonably practicable after the Execution Date), requesting entry of an order preliminarily approving this Settlement Agreement (“Preliminary Approval Order”). As soon as practicable in advance of submission to the Court, the papers in support of the motion for Preliminary Approval, including but not limited to any draft notices to the Class, shall be provided by Co-Lead Counsel to Wayne for its review. To the extent that Wayne objects to any aspect of the motion, it shall communicate such objection to Co-Lead Counsel and the Parties shall meet and confer about any such objection and attempt to resolve that issue in good faith. The Parties shall take all reasonable actions as may be necessary to obtain Preliminary Approval. The proposed Preliminary Approval Order shall provide that, inter alia:

i. the settlement proposed in the Settlement Agreement has been negotiated at arm’s-length and is preliminarily determined to be fair, reasonable, adequate, and in the best interests of the Class;

ii. after Settlement Notice has been carried out, a hearing on the settlement proposed in this Settlement Agreement shall be held by the Court to determine whether the proposed settlement is fair, reasonable, and adequate, and whether it should be finally approved by the Court (the “Fairness Hearing”);

iii. Class Members who wish to object to this Agreement must submit an appropriate and timely written statement of the grounds for objection;

iv. Class Members who wish to appear in person to object to this Agreement may do so at the Fairness Hearing pursuant to directions by the Court; and

v. All proceedings in the above-captioned action with respect to Wayne and CIIPPs are stayed until further order of the Court, except as may be necessary to implement the settlement or comply with the terms thereof.

2. **Settlement Notice.** Settlement Notice shall provide for a right to object to the proposed settlement. The timing of a motion to direct or approve the Settlement Notice of this Settlement Agreement shall be in the discretion of Co-Lead Counsel and may be combined with Settlement Notice of other settlements in this Action. Wayne shall have no responsibility or liability relating to the administration or costs associated with such notice and the CIIPP class shall bear all costs to effectuate any such notice.

Notwithstanding the foregoing, any notice of this settlement shall include the following language:

On June 30, 2023 the Court granted the motion for summary judgment filed by defendant Wayne against the CIIPP Class. The CIIPP Class has agreed to not appeal the summary judgment order as to defendant Wayne in exchange for a waiver by Wayne of its right to seek recovery of any and all fees and costs against the CIIPP Class in conjunction with this Action. The Court approved this agreement on [DATE].

3. **Final Judgment.** If this Settlement Agreement is preliminarily approved by the Court, the Class, through Co-Lead Counsel and in accordance with any schedule set forth in the Court's Preliminary Approval, shall seek entry of an Order and Final Judgment. As soon as practicable in advance of submission to the Court, the papers in support of the motion for Final Approval shall be provided by Co-Lead Counsel to Wayne for its review. To the extent that Wayne objects to any aspect of the motion, it shall communicate such objection to Co-Lead

Counsel and the Parties shall meet and confer about any such objection and attempt to resolve that issue in good faith. The Parties shall take all reasonable actions as may be necessary to obtain Final Approval of the Settlement Agreement without modification to any of its material terms and conditions. The motion for Final Approval shall seek an entry of an order and Final Judgment that, inter alia:

i. finally approves this Settlement Agreement and its terms as being a fair, reasonable, and adequate settlement as to the Class Members within the meaning of Rule 23 of the Federal Rules of Civil Procedure and directing its consummation according to its terms and conditions, without material modification of those terms and conditions;

ii. determines that the Settlement Notice constituted, under the circumstances, the most effective and practicable notice of this Settlement Agreement and the Fairness Hearing, and constituted due and sufficient notice for all other purposes to all persons or entities entitled to receive notice;

iii. dismisses all claims made by CIPPs against Wayne in the Action, including in all class action complaints asserted by CIPPs, with prejudice and without further costs or fees;

iv. confirms that Wayne has provided the appropriate notice pursuant to CAFA;

v. reserves to the Court continuing and exclusive jurisdiction over the settlement and this Settlement Agreement, including the administration and consummation of this Agreement; and

vi. determines under Federal Rule of Civil Procedure 54(b) that there is no just reason for delay and directs that the judgment of dismissal as to the Parties shall be final

and entered forthwith.

III. MISCELLANEOUS

A. Governing Law. All terms of this Settlement Agreement shall be governed by and interpreted according to the substantive laws of Illinois without regard to its choice-of-law or conflict-of-law principles.

B. Jurisdiction. This Settlement Agreement is subject to the continuing and exclusive jurisdiction of the Court for any suit, action, proceeding, or dispute arising out of or relating to this Settlement Agreement or the applicability of this Settlement Agreement, including, without limitation, any suit, action, proceeding, or dispute relating to the release provisions herein. If for any reason this Settlement Agreement is rescinded, terminated, fails to obtain Final Approval or otherwise fails to become effective, then, in such event, neither this Settlement Agreement nor any conduct required by it shall constitute or be construed as any agreement to personal jurisdiction (general or specific) or subject matter jurisdiction so as to confer the jurisdiction of the District Court over the Released Parties, nor shall it constitute any waiver of any defenses based on personal or subject matter jurisdiction.

C. Class Action Fairness Act. Within ten (10) days of the filing of this Settlement Agreement in court in connection with the above-mentioned motion for Preliminary Approval, Wayne will provide to the appropriate state officials and the appropriate federal official the notice required by the Class Action Fairness Act of 2005, 28 U.S.C. § 1715(b) (“CAFA”). Co-Lead Class Counsel shall provide such assistance as is reasonably necessary and information as is reasonably available to comply with CAFA.

D. Authorization. Each of the undersigned attorneys represents that he or she is fully authorized to enter into and execute this Settlement Agreement, subject to Court approval; the

undersigned Co-Lead Counsel represent that they are authorized to execute this Settlement Agreement on behalf of Plaintiffs and the Class; and the undersigned Settling Defendant's Counsel represent that they are authorized to execute the Settlement Agreement on behalf of Wayne.

It is agreed that this Settlement Agreement shall be admissible in any proceeding for establishing the terms of the Parties' agreement or for any other purpose with respect to implementing or enforcing this Settlement Agreement,

E. No Admission. The Parties expressly agree that this Settlement Agreement and its contents, and any statements, negotiations, documents, and discussions associated with it, do not constitute an admission of liability by any Party.

F. No Party is the Drafter. None of the Parties hereto shall be considered to be the drafter of this Settlement Agreement or any provision hereof for purposes of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter hereof.

G. Entire Agreement. This Settlement Agreement constitutes the entire, complete and integrated agreement between the Parties and supersedes any and all prior and contemporaneous undertakings, communications, representations, understandings, negotiations, and discussions (either oral or written) between the Parties. The Parties agree that this Settlement Agreement may be modified only by a written instrument signed by the Parties and that no party will assert any claim against another based on any alleged agreement affecting or relating to the terms of this Settlement Agreement not in writing and signed by the Parties.

H. Modification. This Settlement Agreement may be modified or amended only by a writing executed by Co-Lead Counsel and Wayne or Settling Defendant's Counsel. The waiver

of any rights conferred hereunder shall be effective only if made by written instrument of the waiving Party. The waiver by any Party of any particular breach of this Agreement shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent or contemporaneous, of this Agreement. This Agreement does not waive or otherwise limit the Parties' rights and remedies for any breach of this Agreement. Any breach of this Agreement may result in irreparable damage to a Party for which such Party will not have an adequate remedy at law. Accordingly, in addition to any other remedies and damages available, the Parties acknowledge and agree that the Parties may immediately seek enforcement of this Settlement Agreement by means of specific performance or injunction, without the requirement of posting a bond or other security.

I. Execution in Counterparts. This Settlement Agreement may be executed in counterparts by Co- Lead Counsel and Settling Defendant's Counsel, each of which shall be deemed an original, but all of which together shall constitute a single Settlement Agreement. A facsimile, electronic or .pdf signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

J. Represented by Counsel. Plaintiffs and Wayne each acknowledge that they have been represented by counsel and have made their own investigations of the matters covered by this Settlement Agreement to the extent they have deemed it necessary to do so and are not relying on any representation or warranty by the other party other than as set forth herein. The Parties and their respective counsel agree that they will not seek to set aside any part of the Settlement Agreement on the grounds of mistake.

K. Privilege. Nothing in this Settlement Agreement or the negotiations or proceedings relating to it are intended to or shall be deemed to constitute a waiver of any

applicable privilege or immunity, including, without limitation, the accountants' privilege, the attorney-client privilege, the joint defense privilege, the common interest privilege, and the attorney work product immunity.

L. Voluntary Settlement. The Parties agree that this Settlement Agreement was negotiated in good faith by the Parties, and reflects a settlement that was reached voluntarily after consultation with competent counsel, and no Party has entered this Settlement Agreement as the result of any coercion or duress.

M. Confidentiality. The Parties agree to continue to maintain the confidentiality of all settlement discussions and materials exchanged during the settlement negotiation. However, Wayne and CIIPPs can inform other parties to this Action that they have reached a settlement agreement. Additionally, consistent with its obligations under the Defendants' Agreement, Wayne may provide a copy of this Settlement Agreement with parties to the Defendants' Agreement. The Parties further agree to disclose the Settlement Agreement for the purpose of disclosure and approval from the Court consistent with the terms of the Settlement Agreement.

N. Notice. Any notice, other than Settlement Notice, required pursuant to or in connection with this Settlement Agreement ("Notice") shall be in writing and shall be given by: (1) hand delivery; (2) registered or certified mail, return receipt requested, postage prepaid; or (3) UPS or similar overnight courier, with a courtesy copy by electronic mail, addressed, in the case of notice to any Plaintiff or Class Member, to Co-Lead Counsel at their addresses set forth below, and, in the case of notice to Wayne, to the Settling Defendants' Counsel at the addresses set forth below, or such other addresses as Co-Lead Counsel or Settling Defendants' Counsel may designate, from time to time, by giving notice to all Parties in the manner described in this Section III(N).

For Commercial and Institutional Indirect Purchaser Plaintiffs:

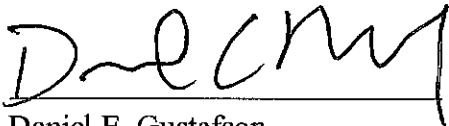
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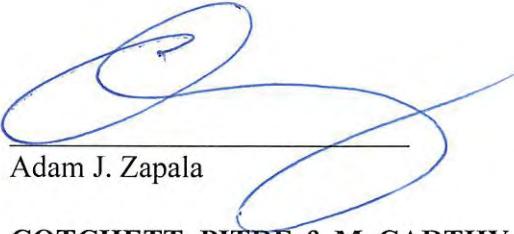
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IN WITNESS WHEREOF, the Parties hereto, through their fully authorized representatives,
have agreed to this Settlement Agreement as of the Execution Date.



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Dated: Dec. 4, 2024


Adam J. Zapala

Dated: Dec. 4, 2024

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Lead Counsel for Commercial and Institutional Indirect Purchaser Plaintiffs



Dated: 12/04/2024

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EXHIBIT N

COMMERCIAL & INSTITUTIONAL INDIRECT PURCHASER PLAINTIFFS' PLAN OF ALLOCATION

This document describes the methods by which the Round 2 settlement funds will be allocated and distributed to the Commercial & Institutional Indirect Purchaser Plaintiffs (also referred to as, "CIIPPs") that are members of the settlement classes with qualifying purchases eligible for distribution.

Settlements have now been reached on behalf of CIIPPs with Defendants: • Harrison Poultry, Inc. ("Harrison Poultry"); • House of Raeford Farms, Inc. ("House of Raeford"); • Koch Foods, Inc., JCG Foods of Alabama, LLC, JCG Foods of Georgia, LLC, and Koch Meat Co., Inc. ("collectively "Koch Foods"); • Mountaire Farms, LLC and Mountaire Farms of Delaware, Inc. ("collectively "Mountaire"); • O.K. Foods, Inc., O.K. Farms, Inc., and O.K. Industries, Inc. (collectively, "O.K. Foods"); • Sanderson Farms, LLC (f/k/a Sanderson Farms, Inc.), Sanderson Farms Foods, LLC (f/k/a Sanderson Farms, Inc. (Foods Division)), Sanderson Farms Production, LLC (f/k/a Sanderson Farms, Inc. (Production Division)), and Sanderson Farms Processing, LLC (f/k/a Sanderson Farms, Inc. (Processing Division)) (collectively "Sanderson Farms"); • Simmons Foods, Inc. and Simmons Prepared Foods, Inc. (collectively "Simmons Foods"); • Agri Stats, Inc. ("Agri Stats"); • Case Foods, Inc., Case Farms, LLC, and Case Farms Processing, Inc. (collectively "Case Foods"); • Norman W. Fries, Inc., d/b/a Claxton Poultry Farms ("Claxton"); • Foster Farms, LLC and Foster Poultry Farms (collectively "Foster Farms"); • Perdue Farms, Inc. and Perdue Foods LLC (collectively "Perdue"); and • Wayne Farms, LLC ("Wayne Farms") (collectively, the "Round 2 Settling Defendants" and "Round 2 Settlements"). Some Round 2 Settling Defendants have agreed to pay settlements totaling approximately \$41,250,000.00.

Eligibility for a Share of the Monetary Settlements

You could receive money from class action settlements if you indirectly purchased broiler chicken products ("Broilers") from Round 2 Settling Defendants for commercial or institutional food preparation in one of the following states: Arizona, California, District of Columbia, Florida, Hawaii, Illinois, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, West Virginia, and Wisconsin ("Indirect Purchaser States").¹ Your purchase of Broilers must have occurred in the time period of January 1, 2009 to July 31, 2019.

The definition of "Broilers" is chickens raised for meat consumption to be slaughtered before the age of 13 weeks, and which may be sold in a variety of forms, including fresh or frozen, and whole or in parts, but excluding chicken that is grown, processed, and sold according to halal, kosher, free range, or organic standards. "Broilers" does not include dark meat chicken products, such as chicken thighs.

The definition also does not include "Further Processed Products", which include any chicken meat that has been breaded, cooked, or "formed," such as patties, or nuggets; or products made from mechanically separated meat such as chicken sausages; or products that are ground,

¹ To the extent a state is not listed as an "Indirect Purchaser State", it is because that particular state's law does not permit indirect purchasers to sue for damages in antitrust cases.

sliced, diced, or cubed. Marinated, seasoned, frozen and portioned products, that are not otherwise further processed, are included within the definition of Broilers. Additionally, the definition does not include Other Miscellaneous Products that do not meet the definition of any defined product category, such as chicken cuts containing a breast and a wing. Accordingly, for the Round 2 Settlements, certain purchases of chicken products will not be compensated in the same manner as the Round 1 Settlements. For purposes of the Round 2 Settlements, only breast products, whole birds, and wing products will be compensated, in accord with the definition of Broilers that was certified with the class. For example, so-called “further processed product” purchases will not be compensated with respect to the Round 2 Settlements as they are not qualifying products.

The “Net Settlement Amount”

The “Net Settlement Amount” is the amount of money that will be available for distribution to qualified class members after all attorneys’ fees, litigation expenses, costs of notice and claims administration, interim Class Representative service awards, taxes and tax preparation costs, and other costs or payments as approved by the Court are deducted from the gross settlement amounts.

Definitions of Broiler Products

The Broiler chicken categories are defined as follows:

Whole Bird Products are products that contain breasts, wings, and dark meat together and include both chickens that are sold intact (with or without giblets) and chickens that have been cut up into halves, quarters, eight pieces, or nine pieces. Products can be marinated or seasoned, but products that meet the definition of Further Processed Products (defined above) do not count as Whole Bird Products.

Breast Products include both bone-in and boneless products that have meat from the breast and/or tenderloin of the chicken and do not also contain wings or dark meat. Products can be marinated or seasoned, but products that meet the definition of Further Processed Products (defined above) do not count as Breast Products.

Wing Products include both whole wings or products containing first joint (*i.e.*, drumettes) and/or second joint (*i.e.*, flats). Wings that are sold along with the breast are considered Other Miscellaneous Products rather than Wing Products. Additionally, “boneless wings” do not count as Wing Products because they are made from further processed breast meat and are therefore included in Further Processed Products. Wing Products can be marinated or seasoned but wings that meet the definition of Further Processed Products (*i.e.*, breaded and/or cooked wings) do not count as Wing Products.

Conditions for Distribution

In order to receive a distribution from the Round 2 Settlements, the following conditions must be met: (1) the entity is a member of one or more of the CIIPP Settlement Classes; (2) the entity made its indirect purchase(s) of Broilers in one of the Indirect Purchaser States; (3) the purchases were made during the Class Period; and (4) the Court finally approves the Round 2 Settlements, and any appeals are resolved such that the settlements are final.

Pro Rata Plan of Distribution for Purchases of Broilers in the Indirect Purchaser States

Payments will be determined on a *pro rata* basis for qualifying purchases made in the Indirect Purchaser States. The proposed procedure will be to score each claim based on dollars purchased of qualifying purchases, (*i.e.*, purchases that meet the class definition and the definition of the products included in the certified class, and that occurred in an Indirect Purchaser State). Because CIIPPs' expert work found different overcharge percentages for different product categories over two time periods, purchases of different Broiler parts will be weighted differently and then paid out *pro rata* based on that weighting, as reflected in the below chart, which shows the points per dollar of qualifying purchases used in computing the score for each claim:

<u>Product Category</u>	<u>Time Period of Purchase:</u> January 1, 2008 through November 30, 2011	<u>Time Period of Purchase:</u> December 1, 2011 through July 31, 2019
Breast Products	1	3.5
Whole Bird Products	1.3	2.6
Wing Products	3.5	6.1

Additionally, Class Counsel is considering adopting a minimum payment for all valid claimants to ensure that payments to Class Members are economically feasible from a claims administration standpoint. Once claims are received and processed, Class Counsel will make a determination regarding minimum payments and post it on the settlement website. Be sure to check the settlement website in the future for additional information.