

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

VASSILIOS KUKORINIS,
individually and on behalf of all
others similarly situated,

Plaintiff,

v.

WALMART, INC.,

Defendant.

CASE No. 8:22-cv-02402-VMC-TGW

STIPULATION AND AGREEMENT OF CLASS ACTION SETTLEMENT

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1. PREAMBLE

1.1. This Stipulation and Agreement of Class Action Settlement (“Agreement”) is made and entered into in this Litigation as of the date of Execution, by and between Plaintiff, Vassilios Kukorinis, individually and on behalf of the Settlement Class Members, and Defendant, Walmart Inc. (collectively the “Parties”), by and through their counsel.

1.2. This Agreement memorializes the terms on which the Parties have agreed to resolve this Litigation (the “Settlement”), and is intended to fully, finally, and forever resolve, discharge, and settle the Released Claims, subject to approval of the Court and the terms and conditions in this Stipulation.

2. DEFINITIONS

2.1. “Agreement” or “Settlement Agreement” means this Stipulation and Agreement of Class Action Settlement.

2.2. “Amended Complaint” means the operative complaint in the Litigation filed at Dkt. No. 52.

2.3. “Approved Claimant” means any Claimant whose Claim is approved by the Claims Administrator pursuant to the terms of this Agreement.

2.4. “Attorneys’ Fees, Costs, and Expenses” means (a) attorneys’ fees; plus (b) expenses or charges in connection with prosecuting the Litigation; plus (c) any interest on such attorneys’ fees and expenses at the same rate and for the same periods as earned by the Class Settlement Fund (until paid), as may be awarded by the Court, to be paid from the Class Settlement Fund.

2.5. “Bagged Citrus” means the organic oranges, grapefruit, tangerines, and navel oranges sold in bulk in mesh or plastic bags and bearing UPC Codes listed on Addendum B. The Parties agree that Addendum B may be updated to bring current through a date up to the grant of preliminary approval.

2.6. “Claim” means a claim submitted by a Settlement Class Member by way of a Claim Form to receive a payment in accordance with the procedures set forth in this Agreement.

2.7. “Claim Form” means a form substantially similar to the form attached hereto as Exhibit 1B, which Settlement Class Members shall use to submit their Claim to the Claims Administrator.

2.8. “Claimant” means any Settlement Class Member who submits a Claim.

2.9. “Claims Administrator” means, subject to Court approval, Angeion Group, the entity who shall perform notice and claims administration functions in accordance with this Agreement.

2.10. “Class Counsel” means Kimberly M. Donaldson-Smith, Nicholas E. Chimicles, and Zachary P. Beatty of Chimicles Schwartz Kriner & Donaldson-Smith, LLP, 361 W. Lancaster Avenue, Haverford, Pennsylvania 19041.

EXECUTION VERSION

- 2.11.** “Class Settlement Amount” means forty-five million dollars (\$45,000,000.00) in cash to be paid by Walmart into the Escrow Account, as required by ¶¶5.1-5.2 of this Agreement. Under no circumstances shall Walmart be obligated to pay more than the Class Settlement Amount in connection with this Settlement.
- 2.12.** “Class Settlement Fund” means the Class Settlement Amount plus all interest and accretions thereto. The Class Settlement Fund is non-reversionary.
- 2.13.** “Complaint” means the initial complaint filed in the Litigation at Dkt. No.1.
- 2.14.** “Court” means the United States District Court for the Middle District of Florida and any appellate court which may review any orders entered by the United States District Court for the Middle District of Florida related to this Settlement.
- 2.15.** “Days” as used to calculate dates for events provided herein (unless the date is expressed in terms of “business days”) has the same meaning as used when calculating days under the Federal Rules of Civil Procedure.
- 2.16.** “Effective Date” or “the date upon which this Settlement becomes Effective,” means the first day following the last of the following occurrences:
- (a) The Settlement Amount has been deposited into the Escrow Account;
 - (b) The Court has entered the Preliminary Approval Order, substantially in the form set forth in Exhibit 1 attached hereto;
 - (c) The Court has granted final approval to the Settlement, following notice to the Class as required by Rule 23;
 - (d) The Court has entered the Judgment and Order of Dismissal approving the Settlement and dismissing this Litigation; and
 - (e) The Judgment has become Final.
- 2.17.** “Escrow Account” means the Qualified Settlement Fund to be established in accordance with ¶¶11.1-11.12 of this Agreement.
- 2.18.** “Escrow Agent” means Huntington National Bank.
- 2.19.** “Escrow Agreement” means the agreement between Class Counsel and Escrow Agent setting forth the terms under which the Escrow Agent shall maintain the Escrow Account.
- 2.20.** “Execution” means the signing of this Agreement by all signatories hereto.
- 2.21.** “Judgment and Order of Dismissal” or “Judgment” means the Judgment and Order of Dismissal approving the Settlement and dismissing the Litigation with prejudice as against Walmart, to be entered by the Court, substantially in the form attached hereto as Exhibit 2.

2.22. “Final” with respect to the Judgment and Order of Dismissal, or any other court order, means:

(a) The date the time to appeal or seek permission to appeal or seek other judicial review of the entry of the Judgment and Order of Dismissal approving the Settlement and dismissing this Litigation with prejudice as to Walmart has expired with no appeal or other judicial review having been taken or sought; or

(b) If an appeal or other judicial review has been taken or sought, the latest of: (i) the date the Judgment and Order of Dismissal is finally affirmed by an appellate court with no possibility of subsequent appeal or other judicial review therefrom; or (ii) the date the appeal(s) or other judicial review therefrom are finally dismissed with no possibility of subsequent appeal or other judicial review; or (iii) if remanded to the Court or to a lower appellate court following an appeal or other review, the date the Judgment and Order of Dismissal is entered by the Court after remand and the time to appeal or seek permission to appeal or seek other judicial review of the entry of that Judgment and Order of Dismissal has expired with no further appeal or other judicial review having been taken or sought. If further appeal is sought after a remand, the time periods in this Subsection shall apply.

(c) Any appeal or proceeding seeking subsequent judicial review concerning only the issue of Attorneys’ Fees, Costs, or Expenses shall not in any way delay or preclude the Judgment and Order of Dismissal from becoming Final.

2.23. “Final Approval Hearing” means the hearing to be held by the Court to consider, *inter alia*, whether the proposed Settlement is fair, reasonable, and adequate and should be approved, whether to enter the Judgment and Order of Dismissal, and Plaintiff’s motion for Attorneys’ Fees, Costs, and Expenses.

2.24. “Litigation” or “Action” means the case of *Kukorinis v. Walmart Inc.*, No. 8:22-cv-02402-VMC-TGW (M.D. Fla.). “Dkt. No.” citations are to the docket in this Litigation.

2.25. “Net Class Settlement Fund” means the Class Settlement Fund less (i) all Court-awarded Attorneys’ Fees, Costs, and Expenses, (ii) Notice and Administration Costs; (iii) Taxes and Tax Expenses, and (iv) any other Court-approved fees, expenses or deductions.

2.26. “Notice and Administration Costs” means all costs, fees, and expenses incurred in connection with effectuating the Notice Plan and the administration of the Settlement, including but not limited to: (i) providing notice of the proposed Settlement to the Settlement Class Members; (ii) receiving and reviewing Claims; (iii) communicating with Persons regarding the proposed Settlement and claims administration process; (iv) distributing the Net Settlement Fund; (v) fees related to the Escrow Account, taxes, and investment of the Settlement Fund; and (vi) performing other settlement administration functions in accordance with this Agreement.

2.27. “Notice” means the long-form notice of pendency and proposed settlement of class action, substantially in the form of Exhibit 1A, and shall include information about the Settlement, how to submit a Claim, the opt-out and objection processes, and Attorneys’ Fees, Costs, and Expenses.

EXECUTION VERSION

2.28. “Notice Plan” means the document describing: (i) the various methods by which notice will be provided to Settlement Class Members, including through direct and digital notice, publication of the Summary Notice, and the Settlement Website, and (ii) the time during which the notice will begin and conclude. The Notice Plan will be provided by Plaintiff to the Court as part of the Motion for Preliminary Approval of the Settlement seeking entry of the Preliminary Approval Order, or in a supplemental filing, if necessary, subject to Walmart’s right of approval as set forth in Section 6.2.

2.29. “Objection Deadline” means the last day on which a Settlement Class Member may file an objection to the Settlement, including Class Counsel’s request for Attorneys’ Fees, Costs, and Expenses, which deadline will be twenty-one (21) Days before the Final Approval Hearing.

2.30. “Opt-Out Deadline” means the last day on which a Settlement Class Member must mail their Opt-Out Request to be excluded from the Settlement Class, which will be twenty-one (21) Days before the Final Approval Hearing.

2.31. “Opt-Out Request” means a request by a Settlement Class Member to exclude himself or herself from the Settlement Class using the procedures set forth in this Agreement.

2.32. “Parties” means the Settlement Class Representative and Walmart.

2.33. “Person” means an individual, corporation, limited liability corporation, professional corporation, partnership, limited partnership, limited liability partnership, limited liability company, joint venture, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity and their spouses, heirs, predecessors, successors, representatives, or assignees.

2.34. “Plaintiff” or “Settlement Class Representative” means Vassilios Kukorinis, the named Plaintiff in the Litigation, who is a member of the Settlement Class.

2.35. “Plaintiff’s Individual Release” means the release set forth in in ¶12.9 of this Agreement.

2.36. “Preliminary Approval Order” means the order of the Court substantially in the form of Exhibit 1 attached hereto, to be entered by the Court preliminarily approving the Settlement, approving and directing the Notice Plan, setting deadlines by which Class Members must Opt-Out from the Settlement Class or object to the Settlement, and approving the certification of this Action under Fed. R. Civ. P. 23 for settlement purposes only.

2.37. “Purchased” or “Purchasing” means the purchase of Weighted Goods and/or Bagged Citrus in person, at a Walmart Store, and not for resale, that were not returned by the Settlement Class Member.

2.38. “Released Claims” means Settlement Class Member Released Claims, Walmart Released Claims and Plaintiff’s Individual Release.

2.39. “Released Parties” means Walmart’s Released Parties and Plaintiff’s Released Parties.

- 2.40.** “Releases” means the releases set forth in ¶12 of this Agreement.
- 2.41.** “Releasing Parties” means Plaintiff, Releasing Settlement Class Members and Walmart Releasing Parties.
- 2.42.** “Releasing Settlement Class Members” and “Released Settlement Class Members” means Plaintiff, Class Counsel, and Settlement Class Members, excluding any Settlement Class Member who submits a timely and valid Opt-Out Request.
- 2.43.** “Settlement” means the compromise and settlement of the Litigation as set forth in this Agreement.
- 2.44.** “Settlement Class” means all Persons who Purchased Weighted Goods and/or Bagged Citrus in-person at a Walmart retail store, supercenter, or neighborhood market in the United States or Puerto Rico (collectively “Walmart Store”) during the Settlement Class Period. Excluded from the Settlement Class are: (1) the judges presiding over this Litigation and members of their direct families; (2) Walmart Inc.’s directors, officers, and executives; (3) Class Counsel; and (4) Settlement Class Members who submit a valid and timely Opt-Out Request approved by the Court.
- 2.45.** “Settlement Class Member Released Claims” means the claims, demands, rights, liabilities, obligations, damages (including attorneys’ fees and expenses), and causes of action of every nature and description, whether known or unknown claims, in law or equity, whether arising under federal, state, common or foreign law, that Plaintiff and any and all Settlement Class Members asserted in the Complaint or Amended Complaint or could have asserted the Complaint, Amended Complaint or in any other forum that arise out of, relate to, or are based upon the allegations, transactions, facts, matters or occurrences, representations or omissions, set forth in the Complaint or Amended Complaint relating to or arising out of Settlement Class Members allegations that they paid more than the lowest price advertised in the Walmart Store for Weighted Goods and/or Bagged Citrus during the Settlement Class Period. Settlement Class Member Released Claims do not include: (i) any claims relating to the enforcement of the Settlement; (ii) any claims of Persons who submit a valid and timely Opt-Out Request; and (iii) claims related to personal injury or wrongful death.
- 2.46.** “Settlement Class Members” or “Member of the Settlement Class” means a Person who falls within the definition of the Settlement Class.
- 2.47.** “Settlement Class Period” means the period from October 19, 2018 through and including the date the Court grants the Preliminary Approval Order.
- 2.48.** “Settlement Website” means the website created and managed by the Claims Administrator which will provide Settlement Class Members with access to the Notice, the Claim Form, case documents, and other information regarding the Settlement, to be established as set forth in the Notice Plan and Preliminary Approval Order. The Settlement Website will be located at www.WalmartWeightedGroceriesSettlement.com.
- 2.49.** “Shelf Tag(s)” means the tag situated on the shelf in a Walmart retail store, supercenter or neighborhood market that is typically within close proximity of a product, that typically provides

a Person with an abbreviated description of the product, the product's retail price, and (in some instances) the unit price (the per ounce or per pound price) of the product.

2.50. "Summary Notice" means a short form of the Notice, substantially similar to the form attached hereto as Exhibit 1C, to be published as set forth in the Notice Plan and Preliminary Approval Order.

2.51. "Tax" or "Taxes" mean any and all taxes, fees, levies, duties, tariffs, imposts, and other charges of any kind (together with any and all interest, penalties, additions to tax and additional amounts imposed with respect thereto) imposed by any governmental authority incurred in connection with the operation and implementation of the Escrow Account and Class Settlement Fund.

2.52. "Tax Expenses" means expenses and costs incurred in connection with the operation and implementation of the Escrow Account and Class Settlement Fund (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing (or failing to file) the returns described in ¶¶11.1-11.12).

2.53. "Walmart" means Walmart Inc.

2.54. "Walmart's Counsel" means Naomi G. Beer, of Greenberg Traurig, LLP, 1144 15th Street, Ste. 3300, Denver, Colorado 80202, and; Christopher Torres and Raymond D. Jackson of Greenberg Traurig, P.A., 101 E. Kennedy Blvd., Ste. 1900, Tampa, Florida 33602.

2.55. "Walmart Released Claims" means all claims, demands, rights, liabilities and causes of action of every nature and description, whether known or unknown claims, whether arising under federal, state, common or foreign law, that arise out of or relate in any way to the institution, prosecution, or settlement of the Settlement Class Member Released Claims against Walmart, except for claims relating to the enforcement of the Settlement.

2.56. "Walmart Released Parties" and "Walmart Releasing Parties" means Walmart and its predecessors and successors in interest, parents, subsidiaries, affiliates, and assigns; and its past, present, and future officers, directors, agents, representatives, servants, employees, attorneys, and insurers.

2.57. "Walmart Store(s)" means Walmart retail store, supercenter or neighborhood market in the United States and Puerto Rico.

2.58. "Weighted Goods" means variable weight meat, poultry, pork and seafood products that are labeled with a price embedded bar code and designated by Walmart as part of its Department 93 products. At times, Weighted Goods that are nearing their expiration dates may have been labelled with a yellow sticker that provided a discounted "You Pay!" price. The Weighted Goods and their UPCs are listed on Addendum A. The Parties agree that Addendum A may be updated to bring current through a date up to the grant of preliminary approval.

3. RECITALS

3.1. On October 19, 2022, Plaintiff brought this putative class action against Walmart in the United States District Court for the Middle District of Florida, Case Number 8:22-cv-02402-VMC-TGW.

3.2. In the Litigation, Plaintiff alleges that the following conduct caused a Person who Purchased Weighted Goods or Bagged Citrus at a Walmart Store during the Settlement Class Period to pay more than the lowest in-store advertised price for those products: (1) With respect to Weighted Goods, Plaintiff alleged that when the per unit price (*e.g.* the per pound or per ounce price) appearing on a Shelf Tag and/or in Walmart's point-of-sale system in the store was lower than what appeared on the price label affixed to the product, Walmart's in-store point-of-sale system would instead charge a Person at checkout the higher total price for the product by inflating the products' weight; (2) With respect to Bagged Citrus, Plaintiff alleged that the Shelf Tags in Walmart Stores displayed a weight that was higher than the weight of the Bagged Citrus appearing on its label and that Persons were charged for more Bagged Citrus than purchased; (3) With respect to Weighted Goods that were nearing expiration, Plaintiff alleged that the yellow sticker on the product that advertised the product's reduced price could state a lower per unit price than what the Person was charged for the product in the store. Plaintiff, on behalf of the Settlement Class, brought claims under Florida's Deceptive and Unfair Trade Practices Act, Florida Statute Section 501.201, *et seq.* ("FDUTPA") and similar state consumer protection statutes, and for unjust enrichment.

3.3. On July 6, 2023, the Court granted in part and denied in part Walmart's motion to dismiss Plaintiff's Complaint (the "MTD Order"). The Court held in the MTD Order that a prior settlement in *Kukorinis, et al. v. Walmart Inc., et al.*, No. 1:19-cv-20592-JEM (S.D. Fla.) barred certain claims prior to August 26, 2020; the Parties disagree as to extent of the Plaintiff's claims that were barred. In the MTD Order, the Court also dismissed Plaintiff's unjust enrichment claim with prejudice and dismissed Plaintiff's multistate consumer protection claims with leave to amend.

3.4. On July 20, 2023, Plaintiff filed the Amended Complaint, which re-alleged claims under state consumer protection statutes on behalf of a nationwide class, a multistate class, and a Florida class. On August 10, 2023, Walmart filed its partial motion to dismiss the Amended Complaint, and on August 31, 2023, Plaintiff filed his opposition to Walmart's motion. On September 23, 2023, upon notification by the Parties that they had reached a settlement-in-principle, the Court denied without prejudice Walmart's partial motion to dismiss the Amended Complaint.

3.5. Walmart denied and continues to deny all of Plaintiff's material allegations including, but not limited to, those made in the Complaint and the Amended Complaint.

3.6. Plaintiff engaged in fact and expert discovery with respect to the claims, including but not limited to: obtaining over 100 gigabytes of transactional data from Walmart consisting of hundreds of millions of lines of transaction data for Weighted Goods and Bagged Citrus during the Settlement Class Period; engaging a forensic data and damages expert to, among other things, interpret and analyze the data, and calculate damages from the transaction data; serving discovery, including requests for production to which Walmart responded with written discovery and document productions; conducting numerous exchanges of information and discovery on the claims in accordance with Middle District Discovery, Section IV.A.1; preparing and serving a Fed.

R. Civ. P. 30(b)(6) notice of deposition calling for the depositions of Walmart's designees on numerous subject matters; engaging in substantial informal discovery in connection with settlement negotiations; and, after a settlement-in-principle was reached, engaging in confirmatory discovery.

3.7. Plaintiff and Walmart participated in a private mediation with Mr. Robert A. Meyer of JAMS, including two all-day sessions and several months of negotiations facilitated by Mr. Meyer. As a result of mediation, the mediator facilitated negotiations, and other arms-length discussions and negotiations between the Parties, and on September 18, 2023, the Parties reached an agreement-in-principle to settle the Litigation.

3.8. Plaintiff believes the claims asserted in the Litigation have merit and that evidence exists to support them. Plaintiff and Class Counsel, however, recognize and acknowledge the expense and length of continued proceedings necessary to prosecute the Litigation through trial and appeals. They have also taken into account the uncertainty and risk of continued litigation through discovery, expert discovery, class certification, summary judgment, and trial, including the difficulties and delays inherent in complicated consumer class actions, and have taken into account the availability to Walmart of defenses to and arguments against class certification. Accordingly, Plaintiff and Class Counsel believe that the Settlement confers substantial benefits on the Settlement Class while eliminating the risk and uncertainty of continued litigation, including the possibility that Walmart might prevail, in whole or in part. Thus, Plaintiff and Class Counsel have concluded, after due investigation and carefully considering the relevant circumstances, including, without limitation, the claims asserted in the Litigation, the legal and factual defenses thereto, and the applicable law, that (i) it is in the best interests of the Settlement Class to enter into this Settlement Agreement in order to avoid the uncertainties of litigation and to ensure that the benefits reflected herein are obtained for the Settlement Class, and (ii) the terms and conditions of this Settlement Agreement are fair, reasonable, and adequate, and in the best interests of the Settlement Class Members.

3.9. Walmart denies any liability or wrongdoing of any kind associated with the claims alleged and contends that this Litigation is not appropriate for class action treatment pursuant to Rule 23 of the Federal Rules of Civil Procedure or any other federal or state rule, statute, law, or provision. Walmart continues to assert that the Litigation fails to meet the prerequisites necessary for class action treatment under applicable law, especially, but not solely, with respect to predominance and manageability. Walmart further asserts that it has complied with all applicable provisions of federal or state statutory and common law. Walmart further states that despite its good faith belief that it is not liable for any of the claims asserted, and despite its good faith belief that certification is not appropriate, Walmart will not oppose the Court's certification of the Settlement Class contemplated by this Agreement solely for purposes of effectuating this Settlement.

3.10. The Parties agree to cooperate and take all steps necessary and appropriate to seek the Court's approval to stay and suspend all activity and deadlines in this Litigation, except as necessary to present the Settlement to the Court, upon execution of this Agreement.

3.11. The Parties agree to cooperate and take all steps necessary and appropriate to effectuate and implement all terms and conditions of this Settlement Agreement, to exercise their best efforts to accomplish the following terms and conditions of this Settlement Agreement, including to obtain

preliminary and final approval of this Settlement, to effectuate its terms, and, to the extent of the obligations set forth herein, to dismiss this Litigation against Walmart with prejudice.

3.12. The entry of Judgment in this Litigation shall dismiss with prejudice all claims that were or could have been alleged in the Litigation against Walmart, with the exception of any claims which might be retained by Settlement Class Members who exclude themselves from the Settlement, if any, in accordance with the Opt-Out Request process described in this Agreement. Walmart can and expressly does retain any defenses to such excluded claims.

4. CERTIFICATION OF THE SETTLEMENT CLASS

4.1. The Parties shall request that the Court enter an order (as part of the Preliminary Approval Order, substantially in the form of Exhibit 1) conditionally certifying the Settlement Class, solely for purposes of Settlement, to cover the Settlement Class Period and all claims and individuals covered by this Settlement.

4.2. This Settlement is conditioned on the Court's certifying the Settlement Class for settlement purposes. Walmart and Class Counsel may jointly request that the Court certify additional settlement subclasses if appropriate.

4.3. Any certification of the Settlement Class is a conditional certification for settlement purposes only, and if for any reason the Court does not grant final approval of the Settlement, or if final approval is not granted following the appeal of any order by the Court, or if for any reason the Effective Date does not occur, the certification of the Settlement Class for settlement purposes shall be deemed null and void, and each Party shall retain all of their respective rights as they existed prior to execution of this Settlement Agreement, and neither this Settlement Agreement, nor any of its accompanying exhibits or any orders entered by the Court in connection with this Settlement Agreement, shall be admissible or used for any purpose in this Litigation.

4.4. Any certification of the Settlement Class for settlement purposes is in no way an admission by Walmart that class certification is proper in this Litigation or any other litigation against Walmart. The Parties and Class Counsel further agree that, other than to effectuate the Settlement of this Litigation in this jurisdiction, the certification of the Settlement Class for settlement purposes and all documents related thereto, including this Agreement and all accompanying exhibits and all orders entered by the Court in connection with this Agreement, are only intended to be used under the specific facts and circumstances of this case and are not intended to be used in any other judicial, arbitral, administrative, investigative, or other court, tribunal, forum, or other proceeding against Walmart.

5. MONETARY RELIEF TO THE SETTLEMENT CLASS

5.1. Walmart will pay forty-five million dollars (\$45,000,000) (the "Class Settlement Amount") into the Escrow Account within thirty (30) Days after entry of the Preliminary Approval Order or the date on which Walmart's Counsel receives the information necessary to transfer the Class Settlement Amount into the Escrow Account, whichever is later.

5.2. Upon the Effective Date, any and all remaining interest or right of Walmart in or to the Escrow Account and the Class Settlement Amount and Class Settlement Fund, if any, shall be absolutely and forever extinguished.

5.3. The Class Settlement Fund shall be applied as follows:

(a) To pay all Notice and Administration Costs, which shall be paid promptly and on a non-recourse basis from the Class Settlement Fund upon Class Counsel's receipt of invoices from the Claims Administrator;

(b) To pay all Taxes and Tax Expenses, which shall be paid promptly and on a non-recourse basis from the Class Settlement Fund;

(c) To pay an award of Attorneys' Fees, Costs, and Expenses to Class Counsel approved by the Court and in accordance with ¶¶8.1-8.5 below; and

(d) After the Effective Date, to distribute the Net Class Settlement Fund to all Approved Claimants in accordance with ¶5.4 below.

5.4. The Claims Administrator will process the Claims and pay Approved Claimants from the Net Class Settlement Fund in accordance with the following parameters:

(a) An Approved Claimant shall be entitled to receive only one of the following individual payment amounts in ¶5.4(a)(i)-(v) from the Net Class Settlement Fund, ***except that all amounts are subject to a potential pro rata increase or decrease and to a supplemental distribution*** as set forth at ¶5.4(b).

(i) If the Approved Claimant does not have receipts, proof of purchase, or other documentation but attests to Purchasing up to 50 Weighted Goods and/or Bagged Citrus in-person in a Walmart Store during the Settlement Class Period, then that Approved Claimant will be entitled to ten dollars (\$10.00);

(ii) If the Approved Claimant does not have receipts, proof of purchase, or other documentation but attests to Purchasing 51 up to 75 Weighted Goods and/or Bagged Citrus in-person in a Walmart Store during the Settlement Class Period, then that Approved Claimant will be entitled to fifteen dollars (\$15.00);

(iii) If the Approved Claimant does not have receipts, proof of purchase, or other documentation but attests to Purchasing 76 up to 100 Weighted Goods and/or Bagged Citrus in-person in a Walmart Store during the Settlement Class Period, then that Approved Claimant will be entitled to twenty dollars (\$20.00);

(iv) If the Approved Claimant does not have receipts, proof of purchase, or other documentation but attests to Purchasing 101 or more Weighted Goods and/or Bagged Citrus in-person in a Walmart Store

during the Settlement Class Period, then that Approved Claimant will be entitled to twenty-five dollars (\$25.00); or

- (v) If the Approved Claimant has receipts, proof of purchase, or other documentation that substantiates (a) each Weighted Good and/or Bagged Citrus Purchased in-person in a Walmart Store during the Settlement Class Period, and (b) the amount paid for each Weighted Good and/or Bagged Citrus Purchased, then that Approved Claimant will be entitled to receive 2% of the total cost of the substantiated Weighted Goods and/or Bagged Citrus Purchased, capped at five hundred dollars (\$500.00).

(b) In the event that the amount due to Approved Claimants exceeds the Net Class Settlement Fund, then the payment due to each Approved Claimant shall be decreased on a pro rata basis. In the event that the amount due to Approved Claimants is less than the Net Class Settlement Fund, then the Claims Administrator shall make supplemental distributions on a pro rata basis to all Approved Claimants until such distributions are no longer economically feasible. In the event that supplemental distributions are no longer economically feasible, Class Counsel shall, after consultation with Walmart regarding the appropriate non-profit organizations, apply to the Court for approval of the payment of such residual to one or more non-profit organizations.

(c) Claims shall be made by mailing, emailing, or submitting via the Settlement Website a fully completed and signed Claim Form to the Claims Administrator.

i. The Claim Form shall be substantially similar to the form attached hereto as Exhibit 1B and shall include a statement by the Claimant verifying that she is a Settlement Class Member.

ii. To be timely, a Claim Form must be submitted to the Claims Administrator via email, the Settlement Website, or, if mailed, postmarked, on or before the Claim Filing Deadline, as approved by the Court.

iii. To be valid, a Claim Form must be completed in full and be signed under penalty of perjury.

(d) The Claims Administrator shall distribute settlement payments to Approved Claimants within a reasonable time after the Effective Date. Payments shall be made to the best practicable extent by electronic means through either Venmo, Zelle, ACH or virtual pre-paid MasterCard at each Approved Claimant's election, but an Approved Claimant can request a paper check if they are unable to receive an electronic payment.

(e) Each Class Member can only submit one Claim Form. The Claims Administrator will limit the number of payments per household absent sufficient documentation or proof of separate purchases by individual Claimants residing at the same address.

(f) To the extent the Claims Administrator determines a claim is deficient in whole or part, within a reasonable time of making such a determination, the Claims Administrator shall notify the Settlement Class Member of the deficiencies (“Deficiency Notice”) and give the Claimant twenty-one (21) Days to cure the deficiencies by informing the Claims Administrator of the reasons the claimant contests the rejection along with supporting documentation. The Deficiency Notice shall be sent via email, unless the claimant did not provide an email address, in which case it shall be sent via U.S. mail. If the Claimant attempts to cure the deficiencies but, at the sole discretion and authority of the Claims Administrator, fails to do so, the Claims Administrator shall notify the Claimant of that determination within a reasonable time. The Claims Administrator may consult jointly with Class Counsel and Defense Counsel in making such determinations. The Deficiency Notice will inform the claimant that if an issue concerning a claim cannot otherwise be resolved, the claimant may thereafter present the request for review to the Court.

(g) No discovery shall be allowed on the merits of the Action or the Settlement in connection with processing any Claim Form.

(h) As part of the Claim Form, each Settlement Class Member shall submit to the jurisdiction of the Court with respect to the claim submitted, and shall, upon the Effective Date, release all Released Claims.

(i) The Claims Administrator will be bound by Walmart’s requirements with respect to the data security of any data or other information that Walmart provides to the Claims Administrator in connection with this Settlement.

6. NOTICE TO THE CLASS

6.1. The Parties agree that a combination of direct (including by email), digital, and publication notice is the best practicable notice of this Settlement to the Settlement Class Members. The Notice and Summary Notice to be provided shall be substantially similar to the forms attached hereto as Exhibits 1A and 1C.

6.2. The Parties shall confer regarding the Notice Plan prior to its submission to the Court and Walmart has the right to approve the proposed Notice Plan prior to its submission to the Court, which approval Walmart shall not unreasonably withhold.

6.3. The Claims Administrator shall provide notice of the Settlement to Settlement Class Members in accordance with the Notice Plan as approved by the Court.

6.4. Settlement Class Members shall also be notified of the Settlement via the establishment of a Settlement Website. The Settlement Website shall be established by the Claims Administrator and shall contain information about the Settlement, including electronic copies of this Agreement as well as the Exhibits, including a long form Notice of the Settlement substantially in the form attached hereto as Exhibit 1A.

6.5. The Claims Administrator will effectuate notice to the Settlement Class Members and establish the Settlement Website as described in the Notice Plan.

7. CAFA NOTICE

7.1. Walmart shall provide notice to the appropriate governmental authorities pursuant to 28 U.S.C. § 1715(b) not later than ten (10) Days after the Agreement is filed with the Court.

8. PLAINTIFF'S ATTORNEYS' FEES, COSTS, AND EXPENSES

8.1. Class Counsel intends to apply to the Court for an award of Attorneys' Fees, Costs, and Expenses seeking fees up to, but not to exceed, 20% of the Class Settlement Amount plus reimbursement of costs and expenses incurred in connection with prosecuting the Action, plus any interest on such attorneys' fees, costs, and expenses at the same rate and for the same periods as earned by the Class Settlement Fund (until paid).

8.2. Any Court-awarded Attorneys' Fees, Costs, and Expenses to Class Counsel will be paid solely from the Class Settlement Fund to an account designated by Class Counsel within five (5) business days after the Court enters both the Judgment and Order of Dismissal and an order awarding such Attorneys' Fees, Costs, and Expenses, notwithstanding the existence of any timely filed objections thereto or to the Settlement, the potential for appeal therefrom, collateral attack on Plaintiff's motion for Attorneys' Fees, Costs, and Expenses or the Settlement or any part thereof, or any appeal therefrom.

8.3. Each Party shall have the right of appeal to the extent the award is inconsistent with the Settlement Agreement.

8.4. If the Effective Date does not occur, or the Judgment and Order of Dismissal does not become Final, or the order awarding Attorneys' Fees, Costs, and Expenses does not become Final, and if the Court-awarded Attorneys' Fees, Costs, and Expenses have been paid to Class Counsel to any extent pursuant to ¶¶8.1-8.2, then Class Counsel shall make the appropriate refund or repayment to the Class Settlement Fund (plus interest at the same rate as earned during that time by the Class Settlement Fund on the amount Class Counsel must refund to the Class Settlement Fund, if any) no later than thirty (30) Days after receiving notice of the termination of the Settlement pursuant to this Agreement, or the entry of a Final order from a court of appropriate jurisdiction disapproving the Settlement, or the entry of a Final order from a court of appropriate jurisdiction reducing or reversing the award of Attorneys' Fees, Costs, and Expenses.

8.5. The approval of the Settlement, and it becoming Final, shall not be contingent on any fee or expense award to Class Counsel or any appeals, or the outcome of such appeals, from such awards. Any order or proceeding relating to the motion for award of Attorneys' Fees, Costs, and Expenses, or any appeal from any order relating thereto or reversal or modification thereof shall not operate to terminate or cancel the Settlement Agreement or affect or delay the finality of the Judgment and Order of Dismissal and effectuation of the terms of the Settlement set forth therein.

9. OPT-OUT PROCEDURE

9.1. A Settlement Class Member who wishes to exclude himself or herself from the Settlement Class, this Settlement, and from the Releases, shall submit an Opt-Out Request. For an Opt-Out Request to be accepted it must be timely and valid. To be timely it must be submitted to the Claims Administrator by the Opt-Out Deadline. To be valid, the Opt-Out Request must (i) be signed; (ii)

state the full name, current address, email address, and telephone number of the Person requesting exclusion; and (iii) contain a statement that the Person requests to be excluded from the Settlement Class. The Opt-Out Request shall not be effective unless it provides the required information and is made within the time stated above, or the exclusion is otherwise accepted by the Court.

9.2. The Claims Administrator may invalidate mass-generated Opt-Out Requests. “Mass” or “class” requests for exclusion will not be allowed unless signed by each Settlement Class Member who seeks to opt out.

9.3. Settlement Class Members may not submit both an Opt-Out Request and a Claim Form. If a Settlement Class Member submits both an Opt-Out Request and a Claim Form, the Claim Form will govern and the Opt-Out Request will be considered invalid.

9.4. A Settlement Class Member who has submitted an Opt-Out Request has excluded themselves from the Settlement Class and therefore cannot also submit an objection to the Settlement. Only Persons who are Settlement Class Members can object to the Settlement.

9.5. The Claims Administrator shall maintain a list of persons who have submitted Opt-Out Requests and shall provide such list to the Parties on a weekly basis. Seven (7) Days after the Opt-Out Deadline, the Claims Administrator shall provide to counsel for Defendant and Class Counsel a complete list of the names and addresses of the members of the Settlement Class who have opted out.

10. COMMENTING ON OR OBJECTING TO THE SETTLEMENT

10.1. A Settlement Class Member who does not submit a timely and valid Opt-Out Request may comment on or object to the Settlement before or on the Objection Deadline by filing a written objection with the Court and serving by first-class mail copies of the objection upon:

Kimberly M. Donaldson-Smith
Chimicles Schwartz Kriner & Donaldson-Smith, LLP
One Haverford Centre
361 West Lancaster Avenue
Haverford, PA 19041

and

Naomi G. Beer
Greenberg Traurig, LLP
1144 15th Street, Ste. 3300
Denver, Colorado 80202

10.2. The objection must (a) be personally signed by the Settlement Class Member; and, (b) include the following information: (i) the full name, current address, and current telephone number of the Settlement Class Member; (ii) documentation sufficient to establish membership in the Settlement Class; (iii) a statement of the position the objector wishes to assert, including the factual and legal grounds for the position and objection; and (iv) copies of any other documents that the

objector wishes to submit in support of his/her/its position. In addition, the objecting Settlement Class Member must identify any previously filed objections filed by the Settlement Class Member and/or his/her/its counsel in any state or federal court. This listing must contain (i) the name of the case; (ii) the case number; (iii) the court in which the objection was filed; and (iv) the outcome of the objection.

10.3. Subject to approval of the Court, any objecting Settlement Class Member may appear in person or by counsel at the Final Approval Hearing held by the Court to show cause why the proposed Settlement should not be approved as fair, reasonable, and adequate, or to object to any petition for Attorneys' Fees, Costs, and Expenses. The Parties will request that the Court enter an order requiring any Settlement Class Member who wishes to be heard orally at the Final Approval Hearing must, by the Objection Deadline, file with the Court a written notice of objection and a notice of intention to appear at the Final Approval Hearing. The notice of intention to appear must include copies of any papers, exhibits, or other evidence that the objecting Settlement Class Member (or his/her/its counsel) will present to the Court at the Final Approval Hearing.

10.4. Any Settlement Class Member who does not provide a notice of intention to appear in complete accordance with the deadlines and other specifications set out in the Notice, and who has not filed an objection in complete accordance with the deadlines and other specifications set forth in this Settlement and the Notice, subject to the approval of the Court, will be deemed to have waived any objections to the Settlement and can be barred from speaking or otherwise presenting any views at the Final Approval Hearing.

10.5. Settlement Class Members who do not file and serve timely written objections in accordance with the procedures set forth in this Agreement will be deemed to have waived any objections to the Settlement and are forever foreclosed from making any objection (whether by appeal or otherwise) to the Settlement, or any aspect of the Settlement, or any aspect of the settlement, including, without limitation, the fairness, reasonableness, or adequacy of the proposed settlement, or any award of Attorneys' Fees, Costs or Expenses.

11. ESCROW ACCOUNT/QUALIFIED SETTLEMENT FUND

11.1 As required in ¶¶5.1-5.2, Walmart shall transfer the required Class Settlement Amount to the Escrow Account, which will be a qualified settlement fund ("QSF"), to be held as a separate trust as described in Treasury Regulation §1.468B-1, 26 C.F.R. §1.468B-1. Class Counsel and, as required by law, Walmart, shall jointly and timely make such elections as necessary or advisable to fulfill the requirements of such Treasury Regulation, including the "relation-back election" under Treas. Reg. § 1.468B-1(j)(2) if necessary to the earliest permitted date. Walmart shall be considered the "transferor" within the meaning of Treasury Regulation §1.468B- 1(d)(1). For purposes of §468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the "administrator" of the Class Settlement Fund shall be Class Counsel. Class Counsel shall timely and properly prepare, deliver to all necessary parties for signature, and file all necessary documentation for any elections required under Treas. Reg. §1.468B-1. Class Counsel, through the Claims Administrator, shall timely and properly prepare and file any informational and other tax returns necessary or advisable with respect to the Settlement Funds and the distributions and payments therefrom including without limitation the returns described in Treas. Reg. §1.468B-2(k), and to the extent applicable Treas. Reg. §1.468B-2(1).

11.2 The Parties shall cooperate in securing an order of the Court to establish the Escrow Account in accordance with the terms hereof in conjunction with its preliminary approval of the Settlement as described in this Settlement Agreement.

11.3 The Class Settlement Fund shall remain subject to the jurisdiction of the Court until such time as the Class Settlement Fund shall be fully distributed, pursuant to this Settlement Agreement.

11.4 Walmart shall supply to the Claims Administrator and to the Internal Revenue Service the statement described in Treasury Regulation §1.468B-3(e)(2) no later than February 15th of the year following each calendar year in which Walmart makes a transfer to the Escrow Account. It is intended that the transfers to the Escrow Account will satisfy the “all events test” and the “economic performance” requirement of §461(h)(1) of the Internal Revenue Code and Treasury Regulation §1.461-1(a)(2). Accordingly, Walmart shall not include the income of the Class Settlement Fund in its income. Rather, the Class Settlement Fund shall be taxed on its modified gross income, excluding the sums transferred to it, and shall make payment of resulting taxes from its own funds. In computing the Class Settlement Fund’s modified gross income, deductions shall be allowed for its administrative costs and other deductible expenses incurred in connection with the operation of the Class Settlement Fund, including, without limitation, state and local taxes and legal, accounting, and other fees relating to the operation of the Class Settlement Fund.

11.5 Upon establishment of the Escrow Account, the Claims Administrator shall apply for an employer identification number utilizing Internal Revenue Service Form SS-4 and in accordance with Treasury Regulation §1.468B-2(k)(4).

11.6 Following its deposit of the Class Settlement Amount into the Escrow Account, as described in this Settlement Agreement, Walmart shall have no financial obligation or liability whatsoever with respect to the notifications to the Class required hereunder, the processing of Claims and Opt-Out Requests, the allowance or disallowance of claims by Claimants, payments to Settlement Class Counsel, investment of funds in the Escrow Account, payment of federal, state, and local income, employment, unemployment, excise, and other taxes imposed on the Class Settlement Fund or its disbursements, or payment of the administrative, legal, accounting, or other costs occasioned by the use or administration of the Class Settlement Fund, since it is agreed that such deposits shall fully discharge Walmart’s obligations to Claimants and Class Counsel and for expenses of administration with respect to the disposition of the Class Settlement Amount hereunder. Rather, the Claims Administrator shall have sole authority and responsibility for the administration of such funds and income thereon, disbursement to Claimants and Settlement Class Counsel, and payment of taxes and administrative costs in accordance with the provisions hereof, subject only to the rights of Walmart or Class Counsel to seek redress for any breach of the terms hereof.

11.7 The Claims Administrator shall cause to be filed, on behalf of the Class Settlement Fund, all required federal, state, and local tax returns, information returns and tax withholdings statements in accordance with the provisions of Treasury Regulation §1.468B-2(k)(1) and Treasury Regulation §1.468B- 2(l)(2)(ii). All Taxes with respect to the Settlement Fund shall be treated as and considered to be a cost of administration of the Class Settlement Fund and the Escrow Agent

shall timely pay such Taxes out of the Class Settlement Fund without prior order of the Court, as directed by Class Counsel. Class Counsel shall be responsible for the timely and proper preparation and delivery of any necessary documentation for signature by all necessary parties, and the timely filing of all tax returns and other tax reports required by law. The Claims Administrator may, at the expense of the Class Settlement Fund, retain legal counsel and an independent, certified public accountant to consult with and advise the Claims Administrator or the Trustee with respect to the preparation and filing of such materials and the federal, state and local tax compliance of the Class Settlement Fund.

11.8 Either Walmart or the Claims Administrator, independently or jointly, may, but are not required to, apply to the Internal Revenue Service and/or any applicable state taxing authority for an advance ruling as to any issue pertinent to the qualification of the QSF under Internal Revenue Code §468B and Treasury Regulations promulgated thereunder, its tax status under applicable state law, and/or its tax payment, reporting and withholding duties, so long as Walmart and the remaining Parties are reasonably satisfied that such application and ruling will not compromise the confidentiality of settlement evidenced herein as required by this Agreement. Subject to any contrary holdings in any such ruling, Settlement Class Members shall be responsible for payment of appropriate federal, state, and local income taxes on any claim paid out pursuant to this Agreement. The Parties agree that no portion of any distributions from the Class Settlement Fund to the Settlement Class Members is made in satisfaction of any excluded liability as described in Treasury Regulation § 1.468B-1(g), related to QSFs.

11.9 The taxable year of the QSF shall be the calendar year in accordance with Treasury Regulation §1.468B-2(j). The QSF shall utilize the accrual method of accounting within the meaning of § 446(c) of the Internal Revenue Code.

11.10 At the written direction of Class Counsel, Custodian/Escrow Agent shall invest the Class Settlement Fund exclusively in instruments or accounts backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof, including a U.S. Treasury Fund or a bank account that is either (a) fully insured by the Federal Deposit Insurance Corporation (“FDIC”) or (b) secured by instruments backed by the full faith and credit of the United States Government. Walmart shall not bear any responsibility for or liability related to the investment of the Class Settlement Fund by the Custodian/Escrow Agent.

11.11 If the Settlement Fund is returned to Walmart pursuant to the terms of this Settlement Agreement, Walmart shall provide Escrow Agent with a properly completed Form W-9.

11.12 Any administrative provision of this Section 11 or the trust instrument through which the QSF is established may be amended in whole or part to maintain the qualification of the QSF pursuant to the above-described authorities, provided that the rights and liabilities of the Parties hereto and the Settlement Class are not altered thereby in any material respect.

12. COMPREHENSIVE WAIVER, RELEASE, AND DISMISSAL

12.1. Upon the Effective Date, and by operation of the Judgment, Settlement Class Member Releasing Parties shall have fully and forever released, compromised, settled, resolved,

relinquished, waived and discharged each and every Settlement Class Member Released Claim against Walmart Released Parties.

12.2. Upon the Effective Date, and by operation of the Judgment, Walmart Releasing Parties shall have fully and forever released, compromised, settled, resolved, relinquished, waived and discharged each and every Walmart Released Claim against Settlement Class Member Released Parties.

12.3. Notwithstanding any provision in this Agreement, Plaintiff and Settlement Class Members are not releasing any claims for personal injury or wrongful death. Further, this agreement does not affect claims by any governmental authority.

12.4. Releasing Parties agree that the provisions of this Agreement and any claim thereunder constitute a good faith settlement under California Code of Civil Procedure §§ 877 and 877.6, Hawaii Revised Statutes 663-15.5, and comparable laws in other states, that Releasing Parties shall cooperate fully in any effort of Released Parties to establish such good faith settlement before any court (including without limitation, by joining in any motion or other procedure and providing declarations and other evidence to establish such good faith settlement where requested by any Released Party) and that all payments made under this Agreement relate to claims arising out of or related to any or all of the alleged acts, omissions, facts, matters, transactions, circumstances, and occurrences that were directly or indirectly alleged, asserted, described, set forth, or referred to in the Litigation, whether such allegations were or could have been based on common law or equity, or on any statute, rule, regulation, order, or law, whether federal, state, or local.

12.5. In the event that any Releasing Party seeks to invoke California Civil Code § 1542, which provides that:

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

(or any other like provision or principle of law of any jurisdiction) in connection with the alleged acts, omissions, facts, matters, transactions, circumstances, and occurrences that were directly or indirectly alleged, asserted, described, set forth, or referred to in the Litigation, whether such allegations were or could have been based on common law or equity, or on any statute, rule, regulation, order, or law, whether federal, state, or local, the Releasing Parties and each of them now expressly waive the provision of California Civil Code § 1542 (or any other like provision or principle of law of any jurisdiction) to the full extent that these provisions may be applicable to this release. Each of the Releasing Parties hereby does consider, and shall be deemed to have considered, the possibility that the number or magnitude of all claims may not currently be known; nevertheless, each of the Releasing Parties assumes the risk that claims and facts additional, different, or contrary to the claims and facts that each believes or understands to exist, may now exist, or may be discovered after this Agreement becomes effective. Each of the Releasing Parties agrees that any such additional, different, or contrary claims and facts shall in no way limit, waive, or reduce the foregoing release, which shall remain in full force and effect.

12.6. In exchange for the good and valuable consideration set forth herein, all Releasing Settlement Class Members further waive any and all rights or benefits that they as individuals or the classes may now have as a result of the alleged facts, circumstances, and occurrences underlying the claims set forth in the Litigation.

12.7. The Settlement Class Member Released Claims also includes a release of all claims for Attorneys' Fees, Costs, and Expenses incurred by Releasing Settlement Class Members or by Class Counsel or any other attorney in connection with the Litigation, and this Settlement, and all claims related to conduct in discovery in the Litigation.

12.8. The Parties acknowledge that this Settlement, including the releases provided in this Section, reflects a compromise of disputed claims.

12.9. Plaintiff's Individual Release:

- i. Subject to the Court's final approval of the Settlement, and for good and valuable consideration set forth herein, the receipt and sufficiency of which is hereby acknowledged, and in addition to the Settlement Class Member Released Claims, the Plaintiff on behalf of himself and any and all spouses, representatives, heirs, successors, assigns, devisees, and executors (excluding the Releasing Settlement Class Members he seeks to represent), releases, acquits, and forever discharges the Walmart Released Parties from any and all allegations, claims, causes of action, demands, obligations, or liability, of whatever kind or nature, whether for injunctive relief, damages, penalties, or any other form of recovery, in this Court or in any other court or forum, whether known or unknown, suspected or unsuspected, that he may now have, has ever had, or hereafter may have, and whether such allegations were or could have been based on common law or equity, or on any statute, rule, regulation, order, or law, whether federal, state, or local, relating to items of any kind he purchased or attempts to purchase at Walmart or at or from any Walmart affiliated entity, up through the date on which the Judgment becomes Final;
- ii. Plaintiff covenants that he will not in the future, directly or indirectly, initiate, assign, maintain or prosecute, or in any way aid or assist in the initiation, maintenance, or prosecution of individual or class claims related to overcharges related to the purchase of items of any kind at Walmart or at or from any Walmart affiliated entity; and,
- iii. Plaintiff represents and warrants that he has knowledge and an understanding of the price and weight discrepancies alleged in the Complaint and Amended Complaint;

provided, however, that (a) nothing in this ¶12.9 and Plaintiff's Individual Release shall preclude Plaintiff from being an Approved Claimant in this Litigation or being an absent class member in a class action and submitting a claim as an absent class member in other class action settlements involving Walmart that are not covered by the Release in this Litigation; and (b) Plaintiff is not releasing any claims for personal injury or wrongful death.

iv. Plaintiff's execution of this Agreement signifies that he has read and understood this ¶12.9.

12.10. The Judgment and Order of Dismissal shall dismiss the Litigation with prejudice and shall incorporate the terms of the Releases.

13. DUTIES OF THE PARTIES REGARDING PRELIMINARY COURT APPROVAL

13.1. Class Counsel shall apply to the Court for the entry of an order granting preliminary approval of the Settlement substantially in the following form (and substantially similar to the form of the Preliminary Approval Order attached hereto as Exhibit 1):

- (a) Preliminarily approving the Settlement pursuant to Rule 23;
- (b) Conditionally certifying the Settlement Class for settlement purposes in accordance with applicable legal standards and this Agreement;
- (c) Appointing Nicholas E. Chemicles, Esq., Kimberly M. Donaldson-Smith, Esq., and Zachary P. Beatty, Esq. as Settlement Class Counsel;
- (d) Approving Vassilios Kukorinis as Settlement Class Representative;
- (e) Approving Angeion Group, as Claims Administrator;
- (f) Approving the establishment of the Escrow Account;
- (g) Approving as to content and form the proposed Notice Plan, including the proposed Notice and Summary Notice (Exhibits 1A-1C, hereto);
- (h) Staying all proceedings in the Litigation other than proceedings necessary to carry out or enforce the terms and conditions of the Settlement and Settlement Agreement; and
- (i) Scheduling the Final Approval Hearing to determine whether the proposed Settlement should be finally approved as fair, reasonable, and adequate as to the Settlement Class.

13.2. Walmart shall cooperate in good faith with Class Counsel to obtain preliminary approval of the Settlement.

13.3. The Parties shall continue to take any steps necessary to stay any pending proceedings so as to preserve the status quo until either the Effective Date occurs, or the Settlement Agreement is finally voided.

14. DUTIES OF THE PARTIES FOLLOWING PRELIMINARY COURT APPROVAL

14.1. Plaintiff will request that the Court hold a Final Approval Hearing.

14.2. With the motion for final approval of the Settlement, Plaintiff will submit a proposed Judgment and Order of Dismissal, substantially in the form attached hereto as Exhibit 2, which shall:

- (a) Approve the Settlement, adjudging the terms thereof to be fair, reasonable, and adequate;
- (b) Direct the consummation of the Settlement in accordance with the terms and provisions of this Settlement Agreement;
- (c) Certify the Settlement Class for settlement purposes in accordance with applicable legal standards and this Agreement; and,
- (d) Dismiss the Litigation as between the Settlement Class Representative and the Settlement Class Members, on the one hand, and Walmart on the other hand, on the merits and with prejudice, and permanently bar the Released Parties from further prosecuting any of the Released Claims as set forth in ¶12.

14.3. Walmart shall cooperate with Class Counsel to obtain final approval and entry of the Judgment and Order of Dismissal.

15. MUTUAL FULL COOPERATION

15.1. The Parties agree to cooperate fully with each other to accomplish the terms of this Settlement, including but not limited to execution of all necessary documents and to take such other action as may reasonably be necessary to implement the terms of this Settlement. The Parties shall use their best efforts, including all efforts contemplated by this Settlement and any other efforts that may become necessary by order of the Court or otherwise, to effectuate the terms of this Settlement. As soon as practicable after execution of this Settlement, Class Counsel shall, with the assistance and cooperation of Walmart and its counsel, take all necessary steps to secure entry by the Court of the Preliminary Approval Order and then the Judgment and Order of Dismissal.

16. STATEMENT OF NO ADMISSION

16.1. Nothing contained in this Agreement shall be construed against Walmart or deemed an admission of liability, culpability, or wrongdoing on the part of Walmart, and Walmart denies liability for any alleged wrongdoing. Walmart expressly denies liability for the claims asserted and specifically denies and does not admit any of the pleaded facts not admitted in its pleadings in the Litigation. Nor shall this Agreement constitute an admission by Walmart as to any interpretation of laws or as to the merits, validity, or accuracy of any claims made against it in the Litigation. Likewise, nothing in this agreement shall be construed or deemed an admission by Plaintiff or the Settlement Class with regards to the validity of any of Walmart's defenses or affirmative defenses. Each of the Parties has entered into this Settlement with the intention to avoid further disputes and litigation with the attendant inconvenience and expenses.

16.2. This Agreement, and all related documents, including the Settlement Agreement, the certification for settlement purposes entered pursuant to this Agreement, and any Claims, Requests to Opt-Out, Objections, or other materials submitted by Settlement Class Members and all other actions taken in implementation of the Settlement, including any statements, discussions, or communications, and any materials prepared, exchanged, issued, or used during the course of the negotiations leading to this Agreement are settlement documents and shall be inadmissible in evidence and shall not be used for any purpose in this Litigation or in any other judicial, arbitral,

administrative, investigative, or other court, tribunal, forum, or proceeding, or any other litigation against Walmart, for any purpose, except in an action or proceeding to approve, interpret, or enforce the terms of this Agreement.

16.3. The Claims Forms, Requests to Opt-Out, Objections, and any other evidence produced or created by any Settlement Class Member in connection with the claims resolutions procedures pursuant to this Settlement, and any actions taken by Walmart in response to such materials do not constitute, are not intended to constitute, and will not be deemed to constitute an admission by Walmart of any violation of any federal, state, or local law, statute, ordinance, regulation, rule, or executive order, or any obligation or duty at law or in equity.

16.4. Any certification of the Settlement Class in accordance with the terms of this Agreement is for settlement purposes only. Nothing in this Agreement will be construed as an admission or acknowledgement of any kind that any class should be certified in this Litigation or in any other action or proceeding. Further, neither this Agreement, nor the Court's actions with regard to this Agreement, will be deemed admissible in this Litigation and are not intended to be admissible (and Plaintiff and Class Counsel shall not seek their admission), in any other judicial, arbitral, administrative, investigative, or other court, tribunal, forum, or proceeding, or in any other litigation, regarding the propriety of class certification or collective treatment. In the event that this Agreement is not approved by the Court or any appellate court, or otherwise fails to become effective and enforceable, or is terminated, or the Settlement Effective Date does not occur for any reason, Walmart will not be deemed to have waived, limited, or affected in any way any of its objections or defenses in the Litigation. Such objections and defenses include, but are not limited to, Walmart's objections and defenses to any class-wide treatment and nothing in this Agreement or any document related to this Agreement shall be construed as a waiver by Walmart of its contention that class certification is not appropriate and is contrary to law in this Litigation or any other case or proceeding.

17. VOIDING THE AGREEMENT

17.1. If this Settlement is not approved, or if for any reason the Settlement Effective Date does not occur, the Settlement Agreement shall be deemed null, void, and unenforceable and shall not be used nor shall it be admissible in any subsequent proceedings either in this Court or in any other judicial, arbitral, administrative, investigative, or other court, tribunal, forum, or other proceeding, or other litigation against Walmart, and the Parties shall return to their respective positions prior to the Court's consideration of this Settlement.

17.2. If the payment called for by ¶5.1 is not timely received into the Escrow Account, Walmart shall have fourteen (14) Days after Class Counsel has notified Walmart's Counsel of such occurrence to transfer into the Escrow Account the payment called for by ¶5.1, otherwise Class Counsel may void the Settlement and Agreement pursuant to this Section.

17.3. If the Court does not approve the Attorneys' Fees, Costs, and Expenses in the amount requested by Class Counsel, or in the event that the Attorneys' Fees, Costs, and Expenses requested by Class Counsel is reduced, that finding shall not be a basis for rendering the entire Settlement

Agreement null, void, or unenforceable. Settlement Class Counsel retains their right to appeal any decision by the Court regarding the Attorneys' Fees, Costs, and Expenses.

17.4. If the Settlement and Agreement are voided pursuant to this Section, within twenty-one (21) business days after such event, the Class Settlement Fund *less* expenses and costs that have been disbursed or are chargeable to the Class Settlement Fund pursuant to ¶¶5.3(a)-(b) hereof, shall be refunded from the Escrow Account pursuant to written instructions from Walmart's Counsel. The Escrow Agent or its designee shall apply for any tax refund owed on the Class Settlement Fund and pay the proceeds, after deduction of any fees or expenses incurred in connection with such application(s) for refund, pursuant to written instructions from Walmart's Counsel.

17.5. If the Effective Date does not occur, or if the Settlement is terminated pursuant to its terms, neither Plaintiff nor Class Counsel shall have any obligation to repay any amounts disbursed pursuant to ¶¶5.3(a)-(b) hereof. In addition, any expenses already incurred pursuant to ¶¶5.3(a)-(b) hereof, hereof at the time of such termination or cancellation but which have not been paid, shall be paid by the Escrow Agent in accordance with the terms of the Settlement Agreement prior to the balance being refunded in accordance with ¶17.4 hereof.

18. SIGNATORIES AUTHORITY

18.1. The respective signatories to this Agreement each represent that they are fully authorized to enter into this Settlement on behalf of the respective Parties for submission to the Court for preliminary and final approval.

19. NO PRIOR ASSIGNMENTS

19.1. The Parties represent, covenant, and warrant that they have not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or right released and discharged in this Settlement.

20. NOTICES

20.1. Unless otherwise specifically provided herein, all notices, demands, or other communications given hereunder shall be in writing and shall be deemed to have been duly given: (i) on the date given, if given by hand delivery; (ii) within one (1) business day, if sent by overnight delivery services such as Federal Express or similar courier; (iii) on the third business day after mailing by United States registered or certified mail, return receipt requested, or (iv) on the day received for delivery by email. All notices given under this Agreement shall be addressed as follows:

(a) To the Settlement Class:

Kimberly M. Donaldson-Smith
Chimicles Schwartz Kriner & Donaldson-Smith, LLP
One Haverford Centre
361 West Lancaster Avenue

Haverford, PA 19041
Telephone: (610) 642-8500
Fax: (610) 649-3633
Email: Kds@chimicles.com

(b) To Walmart:

Naomi G. Beer
Greenberg Traurig, LLP
1144 15th Street, Ste. 3300
Denver, Colorado 80202
Telephone: (303) 572-6500
Facsimile: (303) 572-6540
Email: BeerN@gtlaw.com

21. CONFIDENTIALITY

21.1. The negotiations related to the Settlement, this Agreement (including the drafting of this Agreement), and any negotiations prior to preliminary approval or between the time of preliminary and final approval will remain strictly confidential and shall not be discussed with anyone other than the Parties, their retained attorneys, their accountants and financial or tax advisers, their retained consultants, the Court, and the mediator Mr. Robert Meyer and his staff, unless otherwise agreed to by Class Counsel and Walmart or unless otherwise ordered by the Court.

22. PRESS RELEASE AND NEWS INQUIRIES

22.1. The Parties shall agree to language to be used in the event of inquiries from the media regarding this Settlement. Neither the Parties nor their counsel shall contact the media regarding this Settlement. In the event that the Parties or their counsel receive inquiries from the media regarding this Settlement, they shall refer such inquiries to the agreed statement and shall not make any other statements to the media regarding this Settlement. This provision shall not prohibit notice in accordance with the Notice Plan, including through an agreed release of the Summary Notice through PR Newswire.

23. DOCUMENTS AND DISCOVERY

23.1. Class Counsel will maintain confidentiality of documents and data produced by Walmart in the Litigation pursuant to the protective order entered in the Litigation, and within ninety (90) Days following the Settlement Effective Date, Class Counsel shall either return such documents and data or certify that such documents and data have been destroyed.

24. MISCELLANEOUS PROVISIONS

24.1. Construction. The Parties agree that the terms and conditions of this Agreement are the result of lengthy, intensive arms-length negotiations between the Parties and that this Agreement shall not be construed in favor of or against any party by reason of the extent to which any party or her or his counsel participated in the drafting of this Agreement.

24.2. Captions and Interpretations. Paragraph titles or captions contained in this Agreement are a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any provision of this Agreement. Each term of this Agreement is contractual and not merely a recital.

24.3. Modification. This Agreement may not be changed, altered, or modified, except in a writing signed by the Parties and approved by the Court. Notwithstanding the foregoing, the Parties agree that any dates contained in this Agreement may be modified by agreement of the Parties without Court approval if the Parties agree and cause exists for such modification. This Settlement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties.

24.4. Integration Clause. This Agreement, the Exhibits hereto, and any other documents delivered pursuant hereto contain the entire agreement between the Parties relating to the resolution of the Litigation. No rights under this Settlement may be waived except in writing and signed by the Party against whom such waiver is to be enforced.

24.5. Binding on Assigns. This Agreement shall be binding upon, and inure to the benefit of, the Parties and their respective heirs, trustees, executors, administrators, successors, and assigns.

24.6. Counterparts. This Agreement may be executed by signature sent via facsimile or email, and in any number of counterparts, and when each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one and the same Agreement, which shall be binding upon and effective as to all Parties.

24.7. Mediation. The Parties agree to mediation with Mr. Robert A. Meyer to resolve any disagreements over the implementation of the terms of this Agreement or any other documents necessary to effectuate the Settlement. Unless otherwise ordered by Mr. Meyer, the Parties will split the costs of any such mediation and all Parties will bear their own attorneys' fees. If any such mediation is unsuccessful, the dispute shall be decided by the Court, which shall retain jurisdiction with respect to implementing and enforcing the terms of the Agreement, and the Parties agree to submit to the Court's jurisdiction for purposes of implementing and enforcing the Settlement embodied in the Settlement Agreement and matters related to it.

24.8. Applicable Law. This Agreement shall be governed by Florida law without regard to its choice of law or conflicts of law principles or provisions.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, Plaintiff and Walmart have executed this Settlement Agreement as of the date(s) indicated on the lines below.

Dated: November 15, 2023

Dated: November 16, 2023



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**Specially Admitted*

Attorney for Defendant Walmart Inc.

EXECUTION VERSION

IN WITNESS WHEREOF, Defendant Walmart, Inc., by and through its authorized representative, has executed this Settlement Agreement as of the date(s) indicated on the line(s) below.

DATED: November 15, 2023 | 16:34 CST



Name: Rachel Brand
Title: EVP for Global Governance

EXECUTION VERSION

IN WITNESS WHEREOF, Plaintiff and Class Representative, Vassilios Kukorinis, has executed this Settlement Agreement as of the date indicated on the line below:

DATED: Nov 15th 2023



Vassilios Kukorinis