

## **CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE**

This Class Action Settlement Agreement and Release is made and entered into between Plaintiffs Daniel Berbano, Michael Walsh, Michelle Garcia, Marla Knepper, Kristen Beckham, Tracy Foster, Damany Browne, and Amanda Rugg-Harrell (the “**Named Plaintiffs**” or “**Class Representatives**”), individually and as representatives of the Settlement Class as defined below, and Defendant TreeHouse Foods, Inc. (“**Defendant**” or “**TreeHouse**”). Named Plaintiffs and Defendant collectively are referred to herein as the “**Parties**,” or, individually, as a “**Party**.”

### **RECITALS**

WHEREAS, on October 18, 2024, and as expanded on October 22, 2024, TreeHouse initiated a voluntary recall of certain food products that it determined had the potential to be contaminated with *Listeria monocytogenes* (the “**Recall**”). In connection with the Recall, TreeHouse offered reimbursement to consumers who had purchased products covered by the Recall.(the “**Recall Reimbursement**”).

WHEREAS, on October 25, 2024, Plaintiff Rugg-Harrell filed a Recall-related putative nationwide class action lawsuit against TreeHouse, captioned *Rugg-Harrell v. TreeHouse Foods, Inc.*, 1:24-cv-10992 (N.D. Ill.) through her counsel Poulin Willey Anastopoulos, LLC which, in sum, asserts claims for strict liability, negligence, breach of warranty, fraudulent concealment, and unjust enrichment in connection with her alleged purchase of one or more recalled products (the “**Rugg-Harrell Action**”).

WHEREAS, on October 30, 2024, Plaintiff Browne filed a Recall-related putative nationwide class action lawsuit against TreeHouse, captioned *Browne v. TreeHouse Foods, Inc.*, 2:24-cv-07578 (E.D.N.Y.), through his counsel Sultzner & Lipari, PLLC, Leeds Brown, P.C., Reese LLP, and Milberg Coleman Bryson Phillips Grossman, PLLC, which, in sum, asserts claims for negligence and violations of N.Y. GBL §§ 349 and 350 in connection with her alleged purchase of one or more recalled products (the “**Browne Action**”).

WHEREAS, on November 14, 2024, Plaintiffs Berbano, Walsh, Garcia, Knepper, Beckham, and Foster filed a Recall-related putative nationwide class action lawsuit against TreeHouse, captioned *Berbano et al. v. TreeHouse Foods, Inc.*, 1:24-cv-11743 (N.D. Ill.), through their counsel Carney Bates & Pulliam, PLLC, Nick Larry Law, LLC, and Goldenberg Schneider, L.P.A. which, in sum, asserts claims for violation of various states’ consumer protection laws, fraudulent concealment, and unjust enrichment in connection with their alleged purchases of one or more recalled products (the “**Berbano Action**”).

WHEREAS, in order to make these litigations more efficient, Plaintiffs and their counsel agreed to work together and consolidate the actions into a single action, and on January 21, 2025, filed a consolidated amended complaint in the *Rugg-Harrell Action* (the “**Consolidated Complaint**”) which, in sum, asserts claims for breach of warranty, fraudulent concealment, unjust enrichment, and violations of California, Florida, Illinois, and New York consumer protection laws. (The *Rugg-Harrell Action*, *Browne Action*, and *Berbano Action*, as

consolidated by the Consolidated Complaint in the *Rugg-Harrell* Action, are collectively referred to herein as the “**Litigation**.”)

WHEREAS, Named Plaintiffs, through Class Counsel, and TreeHouse, along with its counsel, engaged in extensive arm’s-length settlement negotiations, including a full-day mediation before a respected and experienced mediator, the Honorable Judge Steven M. Gold (Ret.). Before and during these settlement discussions and mediation, the Parties had arm’s-length exchanges of sufficient information to permit Named Plaintiffs and Class Counsel to evaluate the claims and potential defenses and to meaningfully conduct informed settlement discussions. The Parties did not discuss any potential award of attorneys’ fees or expenses or service awards until they first agreed on the substantive terms of this Settlement.

WHEREAS, Named Plaintiffs, as class representatives, and Class Counsel believe that the claims they have asserted in the **Litigation** and/or the Consolidated Complaint have merit, but they and Class Counsel recognize and acknowledge the risks, uncertainty, and expense of continued proceedings necessary to prosecute the claims through trial and appeal.

WHEREAS, Class Counsel have conducted a thorough investigation into the facts of the **Litigation**, including formal and informal exchanges of information and review of data, documents, and records. Class Counsel are knowledgeable about and have done extensive research with respect to the applicable law and potential defenses to the claims in the **Litigation**. Class Counsel have diligently pursued an investigation of the Settlement Class Members’ claims against Defendant. Class Counsel have analyzed and evaluated the merits of all Parties’ contentions and this Settlement as it affects all Parties and the Settlement Class Members. Among the risks of continued litigation are the possibility that Named Plaintiffs will be unable to prove liability, damages, or entitlement to injunctive relief at trial on a class-wide or individual basis. In addition to taking into account the uncertain outcome and risk of the **Litigation**, Class Counsel have considered the difficulties and delay inherent in such litigation.

WHEREAS, based on the documents and information provided by Defendant, and their own independent investigation, Class Counsel are of the opinion that this Settlement with Defendant for the consideration and on the terms set forth in this Agreement is fair, reasonable, and adequate, and is in the best interests of the Settlement Class in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation, various defenses asserted by Defendant, and numerous potential appellate issues relating to legal issues that are currently unsettled.

WHEREAS, Defendant denies all of Named Plaintiffs’ allegations and all charges of wrongdoing or liability against it arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged against it, in the **Litigation** and/or the Consolidated Complaint, or that relates to or arises out of the Recall. Defendant does not waive and expressly reserves all rights to challenge such claims and allegations upon all legal, procedural, and factual grounds in the event the Settlement does not become effective. Defendant also denies that Named Plaintiffs, the Settlement Class, or any member of the Settlement Class have suffered damage or harm by reason of any alleged conduct, statement, act, or omission of Defendant. Defendant further denies that the **Litigation** and/or the

Consolidated Complaint meets the requisites for certification as a class action under Rule 23 of the Federal Rules of Civil Procedure, except for purposes of settlement, or that the evidence is sufficient to support a finding of liability on any of the Named Plaintiffs' claims in the Litigation and/or the Consolidated Complaint. Defendant has substantial legal and factual defenses against all of the Named Plaintiffs' claims. However, Defendant considers it desirable to resolve the Litigation and/or Consolidated Complaint pursuant to this Agreement in order to avoid any further burden, expense, business interruption, and inconvenience resulting from ongoing lawsuits and accordingly has determined that this Agreement is in Defendant's best interests.

WHEREAS, the Parties desire to settle the Litigation and/or the Consolidated Complaint in their entirety as to the Named Plaintiffs, the Settlement Class and Defendant with respect to all claims arising out of or relating to the Recall or that were asserted or could have been asserted in the Litigation and/or the Consolidated Complaint, and intend this Agreement to bind Named Plaintiffs (both as class representatives and individually), Defendant, and Settlement Class Members.

WHEREAS, the Parties desire and intend to seek Court review and approval of the Settlement Agreement, and, upon preliminary approval by the court, the Parties intend to seek a Final Order and Judgment from the Court dismissing with prejudice the Litigation and/or the Consolidated Complaint and ordering dismissal with prejudice of all claims alleged by the Named Plaintiffs, both individually and on behalf of the Settlement Class Members.

WHEREAS, this Settlement Agreement shall not be construed as evidence of, or as an admission by, Defendant of any liability or wrongdoing whatsoever. Any such liability or wrongdoing has been and is denied by Defendant.

NOW, THEREFORE, in consideration of the covenants and agreements set forth herein, and of the releases and dismissals of claims described below, the Parties agree as follows, subject to approval by the Court:

## I. DEFINITIONS

In addition to those terms defined above, capitalized terms used in this Agreement shall be defined as follows:

1.1 The terms "**Agreement**" and "**Settlement**" mean the final, operative version of this fully executed Class Action Settlement Agreement and Release, including all Exhibits thereto, which the Parties acknowledge sets forth all the material terms and conditions of the Settlement between them and which is subject to Court approval.

1.2 "**Attorneys' Fee and Expense Payment**" means any such funds as may be awarded by the Court consistent with the terms of this Agreement to Class Counsel for their past, present, and future work, efforts, and expenditures in connection with this Litigation and Settlement, and to reimburse them for their costs and expenses, as described more particularly in Section VII of this Agreement.

1.3     **“Available Settlement Funds”** means the Settlement Fund net of any Notice and Administration Costs, Service Awards and Attorneys’ Fee and Expense Payment.

1.4     **“Claim Administrator”** means, subject to Court approval, Angeion Group, unless another third-party administrator is later agreed to by the Parties in writing and approved by the Court.

1.5     **“Claim Filing Deadline”** means sixty (60) days after the Notice Date.

1.6     **“Claim Form(s)”** means the document to be submitted by a Settlement Class Member seeking direct monetary benefits pursuant to the Agreement, substantially in the form of Exhibit C.

1.7     **“Claim Period”** means the period beginning on the Notice Date and continuing until the Claim Filing Deadline.

1.8     **“Class Counsel”** means Sultzer & Lipari, PLLC; Reese LLP; Poulin Willey Anastopoulos LLC; Milberg, Coleman, Bryson, Phillips, Grossman, PLLC; Leeds Brown Law, P.C.; Levin Sedran & Berman, LLC; Carney Bates & Pulliam, PLLC; Nick Larry Law, LLC; and Goldenberg Schneider, L.P.A.

1.9     **“Class Period”** means the earliest date of manufacture of any Covered Product through the date of Preliminary Approval of the Settlement, inclusive.

1.10    **“Court”** means the United States District Court for the Northern District of Illinois.

1.11    **“Covered Product”** or **“Covered Products”** means any product subject to the Recall, as identified in Exhibit D.

1.12    **“Effective Date”** means the day after the later of: (i) the expiration of the time for consumers to appeal the Final Approval with no appeal having been filed (including any time period for consumers to file motions to extend the time to appeal under Fed. R. App. P. 4(a)(5) or any other applicable law or court rule); or (ii) if such appeal is filed, the termination of such appeal, on terms that affirm the Final Approval or dismiss the appeal with no material modification to the Final Approval. As used in this Paragraph, the phrase “termination of such appeal” means the date upon which the relevant appellate court enters its mandate so affirming Final Approval or dismissing the appeal.

1.13    **“Excluded Persons”** are (1) any judge presiding over the Litigation, their staff and their immediate family members; (2) Defendant; (3) any entity in which a Defendant has a controlling interest; (4) any of Defendant’s subsidiaries, parents, affiliates, and officers, directors, employees, legal representatives, heirs, successors, or assigns; and (5) any persons who timely exclude themselves from the Settlement Class in accordance with the procedures set forth in Section VI of this Agreement.

1.14    **“Exclusion Deadline”** means sixty (60) days after the Notice Date.

1.15 “**Final**” means that all of the events necessary for there to be an Effective Date have occurred, the Settlement has become completely final, and there is no further recourse by an appellant or objector who seeks to contest the Settlement.

1.16 “**Final Approval**” means issuance of an order granting final approval of this Agreement as binding upon the Parties; holding this Agreement to be final, fair, reasonable, adequate, and binding on all Settlement Class Members who have not excluded themselves as provided below; ordering that the Settlement relief be provided as set forth in this Agreement; ordering the releases as set forth in Section VIII of this Agreement; entering judgment in this case; and retaining continuing jurisdiction over the interpretation, implementation, and enforcement of the Settlement.

1.17 “**Household**” means a single dwelling unit, no matter the number of natural persons residing therein.

1.18 “**Litigation**” means and refers to the *Rugg-Harrell, Browne, and Berbano* Actions cited herein, as well as any other class action lawsuits relating to the Recall that were pending as of the date of the mediation.

1.19 “**Notice**” means the Court-approved form of notice to Settlement Class Members in substantially the same form as Exhibits B (“**Long Form Notice**”).

1.20 “**Notice and Administration Costs**” mean all costs actually incurred and paid by the Claim Administrator in connection with the execution of the Notice Plan, claims processing and other administration in accordance with the terms of this Agreement.

1.21 “**Notice Date**” means forty-five (45) days after the date of Preliminary Approval.

1.22 “**Notice Plan**” means the plan for disseminating notice of the Settlement to the Settlement Class, as described in Section V of this Agreement.

1.23 “**Objection Deadline**” means sixty (60) days after the Notice Date.

1.24 “**Person(s)**” means any natural person or business entity.

1.25 “**Preliminary Approval**” means issuance of an order substantially in the form attached hereto as Exhibit A, granting preliminary approval to this Agreement as within the range of possible Final Approval, approving the Notice Plan as described in Section V below and setting a hearing to consider Final Approval of the Settlement and any objections thereto.

1.26 “**Proof of Purchase**” means an itemized retail sales receipt or other document or photo (including, but not limited to, a retail store club or loyalty card record) showing, at a minimum, the purchase of a Covered Product by submitting the claim form, the purchase price, and the date and place of the purchase.

1.27 “**Released Claims**” means the claims released as set forth in Section VIII of this Agreement.

1.28 “**Released Parties**” means Defendant and each and all of its past, present and future direct and indirect affiliates, subsidiaries, divisions, parents, owners, predecessors, successors and assigns, and all other persons or entities under common control with Defendant, and each and all of their respective former, present and future officers, directors, shareholders, members, lenders, investors, partners, employees, agents, representatives, licensors, attorneys, accountants, insurers, and any suppliers, resellers, retailers, wholesalers, distributors, customers and all other persons or entities in the chain of distribution of the Covered Products, whether specifically named and whether or not participating in the Settlement by payment or otherwise.

1.29 “**Service Award(s)**” means any award approved by the Court that is payable to the Class Representatives to compensate them for their efforts in bringing this Litigation and achieving the benefits of this Settlement on behalf of the Settlement Class. The Service Award shall be in addition to any Settlement Benefit that the Named Plaintiffs may receive as participating Settlement Class Members.

1.30 “**Settlement Benefit(s)**” means the benefits provided to Settlement Class Members as set forth in this Agreement.

1.31 “**Settlement Class**” or “**Settlement Class Members**” means all natural persons who, during the Class Period, purchased in the United States any Covered Product for personal, family or household use, and not for resale, except for any Excluded Persons; *provided however*, that the term Settlement Class Members as used herein with respect to any right or obligation after the Final Approval Date shall not include any opt-outs or Exclusions as provided in Section VI of this Agreement.

1.32 “**Settlement Fund**” means a total payment by Defendant of Four Million Dollars (\$4,000,000), all-in, inclusive of all payments to Plaintiffs and members of the Settlement Class, Service Awards, Notice and Administration Costs, including the Initial Settlement Administration Payment, and any court-awarded Attorneys’ Fee and Expense Payment. Any notice and settlement administration costs over and above the Initial Settlement Administration Payment will be paid from the Settlement Fund. The Settlement Fund is non-reversionary. For sake of clarity, the Settlement Fund does not include, and is in addition to, the amount that Defendant has already paid in Recall Reimbursement.

1.33 “**Settlement Website**” means an internet website created and maintained by the Claim Administrator for the purpose of providing the Settlement Class with notice of and information about the Settlement, as described in Paragraph 5.2.1 of this Agreement.

1.34 “**Valid Claim(s)**” means a claim submitted in compliance with this Agreement and determined to be valid by the Claim Administrator, and as further described in Section IV of this Agreement.

## **II. CERTIFICATION OF THE SETTLEMENT CLASS**

**2.1 Certification of the Settlement Class.** For purposes of settlement and the proceedings contemplated by this Agreement only, subject to Court approval, the Parties stipulate and agree that a Settlement Class as defined in Paragraph 1.31 of this Agreement shall be provisionally certified pursuant to Federal Rule of Civil Procedure 23, that the Named Plaintiffs shall be the Class Representatives and shall represent the Settlement Class for Settlement Purposes, and that Class Counsel shall be appointed to represent the Settlement Class.

**2.2 Decertification of the Settlement Class if Settlement Not Approved.**

Defendant does not consent to certification of the Settlement Class for any purpose other than to effectuate the Settlement. If the Court does not enter an order granting final approval of the Settlement, or if for any other reason the Effective Date does not occur, this Agreement shall terminate and cancel without further action being required by any Party, any certification of any Settlement Class will be vacated, and the Parties will be returned to their positions with respect to the Litigation as if the Agreement had not been entered into. Specifically: (a) any Court orders preliminarily or finally approving the certification of any class contemplated by this Agreement shall be null, void, and vacated, and shall not be used or cited thereafter by any person or entity; and (b) the fact of the Settlement reflected in this Agreement, that Defendant did not oppose the certification of a Settlement Class under this Agreement, or that the Court preliminarily or finally approved the certification of a Settlement Class, shall not be used or cited thereafter by any person in any manner whatsoever, including without limitation any contested proceeding relating to the certification of any class. In the event the terms and conditions of this Agreement are substantially modified by the Court, Defendant reserves the right to declare this Agreement null and void, in its sole discretion, within fourteen (14) days after such modification. Notwithstanding, in the event the Settlement is not approved or is substantially modified as discussed above, the Parties will work in good faith, to the extent possible, to resolve the Court's concerns.

### **III. OBTAINING COURT APPROVAL**

**3.1 Preliminary Approval.** After executing this Agreement, Plaintiffs will submit the Agreement to the Court, and will request that the Court enter a Preliminary Approval Order in substantially similar form as the proposed order attached as Exhibit A. In the Motion for Preliminary Approval, Plaintiffs will request that the Court: (i) grant preliminary approval of the proposed Settlement as sufficiently fair and reasonable to warrant notice to the Settlement Class Members; (ii) provisionally certify the Settlement Class for settlement purposes and appoint Class Counsel; (iii) appoint the Angeion Group as the Claim Administrator; (iv) approve the forms of Notice and find that the Notice Plan is the best practicable notice under the circumstances, is reasonably calculated to apprise Settlement Class Members of the Litigation and of their right to object or opt out of the Settlement and satisfies the Due Process Clause, Rule 23 of the Federal Rules of Civil Procedure and the requirements of any other applicable rules or law; (v) preliminarily appoint the Named Plaintiffs as the Class Representatives and (vi) schedule a Final Approval Hearing, to be held no sooner than ninety (90) calendar days after issuance of the notice required by the terms of the Class Action Fairness Act ("CAFA") codified at 28

U.S.C. § 1715(d), to determine whether the Settlement should be granted Final Approval, whether an application for an Attorneys' Fee and Expense Payment should be granted, and whether an application for Service Awards should be granted.

**3.2 Final Approval.** A Final Approval Hearing to determine final approval of the Agreement shall be scheduled as soon as practicable, subject to the calendar of the Court, but no sooner than twenty-one (21) calendar days after the Claims Deadline, Objection Deadline, and Opt-Out Deadline, and no sooner than ninety (90) calendar days after issuance of the notice required by the terms of CAFA codified at 28 U.S.C. § 1715(d). If the Court issues the Preliminary Approval Order and all other conditions precedent of the Settlement have been satisfied, no later than fourteen (14) calendar days before the Final Approval Hearing, Plaintiffs will move, individually or collectively, for a Final Approval Order, with Class Counsel filing a memorandum of points and authorities in support of the motion. Defendant may, but is not required to, file a memorandum in support of the motion. The Final Approval Order, as requested by Plaintiffs, will, among other things: (i) approve the Settlement without material alteration and direct the Parties and counsel to comply with and consummate the terms of this Agreement; (ii) certify the Settlement Class for settlement purposes only; (iii) find Class Counsel and Named Plaintiffs have adequately represented the Settlement Class; (iv) find the terms of this Agreement are fair, reasonable, and adequate to the Settlement Class; (v) find that the Notice Program was the best practicable notice under the circumstances and satisfied the Due Process Clause, the Federal Rules of Civil Procedure and the requirements of any other applicable rules or law; (vi) dismiss all claims in the Consolidated Complaint with prejudice, and enter final judgment thereon, without fees or costs to any party except as provided in this Agreement; and (vii) without affecting the finality of the Final Approval Order for purposes of appeal, retain jurisdiction as to all matters relating to administration, consummation, enforcement and interpretation of the Settlement Agreement and the Final Approval Order, and for any other necessary purpose.

**3.3 Failure to Obtain Approval.** If this Agreement is not given Preliminary or Final Approval by the Court, or if an appellate court reverses Final Approval of the Agreement, the Parties will seek in good faith to revise the Agreement as needed to obtain Court approval. Failing this, the Parties will be restored to their respective places in the Litigation. In such event, the terms and provisions of this Agreement will have no further force or effect with respect to the Parties and will not be used in this or any other proceeding for any purposes, and any Judgment or Order entered by the Court in accordance with the terms of this Agreement, including any Order certifying any Settlement Class, will be treated as vacated. The Parties agree that, in the event of any such occurrence, the Parties shall stipulate or otherwise take all necessary action to resume the Litigation at the procedural posture they occupied immediately prior to the filing of the Parties' Notice of Settlement, as though this Agreement had never been reached.

#### **IV. SETTLEMENT BENEFIT AND CLAIM ADMINISTRATION**

**4.1 Settlement Consideration.** Defendant agrees to establish the Settlement Fund, a non-reversionary common fund of \$4,000,000 which shall be used to pay all Settlement

expenses, including Notice and Administration Costs; CAFA Notice; the Attorneys' Fee and Expense Payment; Service Awards; and Settlement Class Members' Claims. Under no circumstances shall TreeHouse be required to pay more than the amount of the Settlement Fund or to pay anything apart from the Settlement Fund.

**4.2 Creation & Administration of Qualified Settlement Fund.** The Claim Administrator is authorized to establish the Settlement Fund under 26 C.F.R. §§ 1.468B-1(c) and (e)(1), to act as the "administrator" of the Settlement Fund pursuant to 26 C.F.R. § 1.468B-2(k)(3), and to undertake all duties as administrator in accordance with the Treasury Regulations promulgated under § 1.468B of the Internal Revenue Code of 1986. All costs incurred by the Claim Administrator operating as administrator of the Settlement Fund shall be construed as Notice and Administration Costs and shall be borne solely by the Settlement Fund. All interest on the Settlement Fund shall inure to the benefit of the Settlement Class.

**4.1 Funding of the Settlement Fund Account.** Defendant shall fund the Settlement Fund Account pursuant to the following schedule:

- 4.1.1 Initial Settlement and Administration Payment. Amounts equal to the cost of publishing the Notice Plan, CAFA Notice, and other administrative costs (as incurred), to be paid within thirty (30) days of when such amounts are invoiced to Defendant along with wire instructions and other required documentation and become due and owing ("Initial Settlement and Administration Payment").
- 4.1.2 Notice and Administration Costs. Defendant is not required to advance costs for claims validation or other claims processing related costs until such time that such costs are actually incurred. These will be paid within thirty (30) days of when such amounts are invoiced to Defendant along with wire instructions and other required documentation and thereby become due and owing.
- 4.1.3 As promptly as reasonably practicable, and in no event later than fourteen (14) days after the later of (a) the entry of an order granting Final Approval of the Settlement, and (b) the entry of an order awarding any Attorneys' Fee and Expense Payment and/or Service Awards in accordance with Paragraphs 7.1 and 7.2, Defendant shall deposit into the Settlement Fund Account an amount sufficient to cover any Attorneys' Fee and Expense Payment and Service Awards awarded by the Court.
- 4.1.4 Within thirty (30) days after the Effective Date, Defendant shall deposit into the Settlement Fund Account the remainder of the Settlement Fund (i.e., \$4,000,000, less any amount of Initial Settlement and Administration Payment, Notice and Administration Costs, Attorneys' Fees and Expense Payment and Service Award that Defendant has already deposited into Settlement Fund Account pursuant to Paragraphs

4.1.1, 4.1.2 and 4.1.3).

**4.2 Defendant's Total Financial Commitment.** Defendant's total financial commitment and obligation under this Agreement, not including the Recall Reimbursement paid to date by Defendant to putative class members, shall not exceed \$4,000,000.

**4.3 Use of the Settlement Fund.** The Settlement Fund shall be applied as follows, in accordance with the terms and conditions set forth elsewhere in this Agreement:

- 4.3.1 To pay any portion of the Notice and Administration Costs that exceed the Initial Settlement and Administration Payment;
- 4.3.2 To pay any Attorneys' Fee and Expense Payment, as may be ordered by the Court and as described in Paragraph 7.1 below;
- 4.3.3 To pay any Service Awards to the Class Representatives, not to exceed \$1,000.00 per Class Representative, as may be ordered by the Court and as described in Paragraph 7.2 below; and
- 4.3.4 To pay Valid Claims for Settlement Benefits submitted by Settlement Class Members as described in Paragraph 4.6 below.

**4.4 Cash Benefit to Class Members.** Settlement Benefits shall be paid to each Settlement Class Member who submits a Valid Claim in accordance with the following terms:

- 4.4.1 Documented Claims. Settlement Class Members who timely submit a valid Claim Form with valid Proof of Purchase of a Covered Product shall receive the full purchase price for each unit of Covered Product listed on the Proof of Purchase, inclusive of all taxes, subject to Paragraph 4.6 below.
- 4.4.2 Undocumented Claims. Settlement Class Members who timely submit a valid Claim Form without Proof of Purchase of a Covered Product shall receive the average retail price for up to two (2) Covered Products claimed per Household, subject to Paragraph 4.6 below. The Claim Administrator shall determine the average retail price of each Covered Product based on publicly available information.
- 4.4.3 If a Settlement Class Member or any person in that Settlement Class Member's Household previously received Recall Reimbursement from Defendant, as reflected on the Settlement Class Member's Claim Form or in the records of Defendant, the amount of that Settlement Class Member's payment shall be reduced by the amount of Recall Reimbursement that Settlement Class Member or Persons in that

Settlement Class Member's Household have received (provided that the payment shall not be reduced below \$0.00).

4.4.4 Each Settlement Class Members' payment shall be increased or decreased on a *pro rata* basis such that the total amount paid to all Settlement Class Members equals the Available Settlement Funds or \$50, whichever is lower.

**4.5 Submission of Claims.** Subject to the rights and limitations set forth in this Agreement, every Settlement Class Member shall have the right to submit a claim for Settlement Benefits. A claim shall be a Valid Claim only if submitted on the Claim Form pursuant to, and in compliance with, the procedures set forth herein. Submission of a claim, regardless of whether it is determined to be a Valid Claim, shall confer no rights or obligations on any Party, any Settlement Class Member, or any other Person, except as expressly provided herein.

4.5.1 At the election of the Settlement Class Member, Claim Forms may be submitted in paper via first class mail or online via the Settlement Website. Claim Forms must be postmarked or submitted online no later than the Claim Filing Deadline. Claim Forms postmarked or submitted online after that date will not be Valid Claims.

4.5.2 Claim Forms submitted in paper via first class mail must include in a single mailing any Proof of Purchase submitted in connection with the claim. Proof of Purchase that is not submitted in the same mailing as the Claim Form will not be considered by the Claim Administrator. For Claim Forms that are submitted online, the Class Member shall have the opportunity to upload Proof of Purchase image files (e.g. .jpg, .tiff, .pdf) prior to submitting the claim, and to print a page immediately after the Claim Form has been submitted showing the information entered, the names of image files uploaded, and the date and time the Claim Form was submitted.

4.5.3 On the Claim Form, the Settlement Class Member must provide and certify the truth and accuracy of the following information under penalty of perjury, including by signing the Claim Form physically or by e-signature, or the claim will not be considered a Valid Claim by the Claim Administrator:

- (a) The Settlement Class Member's name and mailing address;
- (b) The Settlement Class Member's email address (unless the Settlement Class Member submits the Claim Form in paper via first class mail, in which case an email address is optional);
- (c) Which Covered Products were purchased during the Class Period and

where;

- (d) The number of Covered Products purchased during the Class Period and the actual or approximate date(s) of purchase;
- (e) Whether the Settlement Class Member is submitting Proof of Purchase for any of the claimed purchases and, if so, the number of Covered Products for which the Settlement Class Member is submitting Proof of Purchase;
- (f) That the claimed purchases were not made for purposes of resale;
- (g) That neither the Settlement Class Member nor any Person in his or her Household has previously received a refund for the claimed purchases, with the exception of any Recall Reimbursement provided by Defendant in connection with the Recall; and
- (h) Whether the Settlement Class Member or any Person in his or her Household received any Recall Reimbursement from Defendant for the claimed purchases and, if so, the total amount of Recall Reimbursement received by any person in that Settlement Class Member's Household.

**4.6 Determination and Processing of Claims.** The Claim Administrator shall be responsible for processing Claim Forms and reviewing and determining the validity of all submitted claims in accordance with this Agreement. The Claim Administrator shall reject any Claim that does not comply in any material respect with the instructions on the Claim Form or with the terms of Paragraph 4.5, that is submitted after the Claim Filing Deadline, or that the Claim Administrator identifies as duplicative or evidencing indicia of fraud. The Claim Administrator will use adequate and customary procedures and standards to prevent the payment of duplicative or fraudulent claims and to pay only Valid Claims. The Claim Administrator and Parties shall have the right to audit claims, and the Claim Administrator may request additional information from persons who submit Claim Forms to provide reasonable bases for the Claim Administrator to monitor for and detect fraud. Such additional information may include, for example, retailers and locations (city and state) at which the claimed purchases of Covered Products were made. If any fraud is detected or reasonably suspected, the Claim Administrator and Parties can require further information from the Settlement Class Member (including by cross-examination) or deny claims, subject to the supervision of the Parties and ultimate oversight by the Court. Claimants who do not adequately respond to any request by the Claim Administrator for more information shall have their claim denied. The Claim Administrator shall retain sole discretion in accepting or rejecting claims and shall have no obligation to notify Settlement Class Members of rejected claims unless otherwise ordered by the Court. The Claim Administrator's decision as to the validity of claims shall be final and binding, except that Class Counsel and Defendant shall retain the right to audit claims and to challenge the Claim Administrator's decision by their mutual agreement or by motion to the Court. Class Counsel's or Defendant's choice not to

audit the validity of any one or more Claim Forms shall not constitute or be construed as a waiver or relinquishment of any audit or other rights as to any other Claim Forms, individually or as a group, and similarly shall not be construed as a waiver or relinquishment by the Party as to any of its audit and other rights under this Agreement. No Person shall have any claim against Named Plaintiffs, Defendant, Class Counsel, Defendant's counsel, or the Claim Administrator based on any determination of a Valid Claim, distributions or awards made in accordance with this Agreement and the Exhibits hereto. Neither Named Plaintiffs, Class Counsel, Defendant, nor Defendant's counsel shall have any liability whatsoever for any act or omission of the Claim Administrator. Prior to the hearing on Final Approval and in accordance with the Court's regular notice requirements, the Claim Administrator shall provide, in addition to the certification to the Court required under this Agreement, a declaration to the Court regarding the number and dollar amount of claims received to date.

**4.7 Recall Reimbursement Data.** Defendant shall provide to the Claim Administrator, no more than twenty-one (21) days following Preliminary Approval, data sufficient to show all recall reimbursement provided to Settlement Class Members in connection with the Recall, including the names and addresses of any recipients of Recall Reimbursement, to the extent such data is reasonably accessible to Defendant (the “**Recall Reimbursement Data**”). The Claim Administrator shall keep the Recall Reimbursement Data and the identities and contact information of Recall Reimbursement recipients confidential and shall not provide such information to Class Counsel.

**4.8 Payment of Valid Claims.** Valid Claims shall be paid by an electronic deposit through Venmo, or Zelle (and shall be subject to the terms and conditions of those electronic payment methods) with checks available upon request to the Settlement Class Member within sixty (60) days after the Effective Date, subject to reasonable extension upon mutual agreement by the Parties if necessary for the Claim Administrator, the Parties and/or the Court to complete the claim determination and processing processes described in Paragraph 4.6. All settlement checks shall be void and no longer negotiable one hundred twenty (120) days after the date the check was issued. If a settlement check is not negotiated, the Settlement Class Member shall not be entitled to any further payment under this Agreement. If a settlement check is returned as undeliverable, the Claim Administrator shall send an email to the claimant, if an email address was provided with the claim, to attempt to obtain a better address, and if obtained, shall mail the check to the new address, but the re-mailing of any check will not extend the 120-day period after which the check will become void. The return or failure to cash checks shall have no effect on a Settlement Class Member’s release of claims, obligations, representations, or warranties as provided herein, which shall remain in full effect. Funds from uncashed checks or otherwise remaining in the Settlement Fund shall be paid to a *cy pres* charity to be agreed upon between the Parties and approved by the Court.

**4.9 Taxes on Settlement Benefit.** No deductions for taxes will be taken from any Settlement Benefit at the time of distribution. Settlement Class Members are responsible for paying all taxes due on such Settlement Benefits. All Settlement Benefit payments shall be deemed to be paid solely in the year in which such payments are actually issued. Counsel and the Parties do not purport to provide legal advice on tax matters to each other or Settlement Class Members. To the extent this Agreement, or any of its exhibits or related materials, is

interpreted to contain or constitute advice regarding any U.S. Federal or any state tax issue, such advice is not intended or written to be used, and cannot be used, by any Person for the purpose of avoiding penalties under the Internal Revenue Code or any state's tax laws.

**4.10 Retention of Payment Records.** The Claim Administrator shall retain all records relating to payment of claims under the Agreement for a period of five (5) years from the Effective Date. Those records shall be maintained in accordance with this Agreement as "Confidential – Attorneys' and Claim Administrator's Eyes Only."

**4.11 Limitation of Liability.** Defendant, the Released Parties, and Defendant's counsel shall have no responsibility for, interest in, or liability with respect to: (i) any act, omission, or determination by Class Counsel, the Claim Administrator, or their respective designees or agents in connection with the administration of the Settlement Fund; (ii) the management, investment, or distribution of the Settlement Fund; (iii) the allocation of payments from the Settlement Fund to Settlement Class Members or the implementation, administration, or interpretation thereof; (iv) the determination, administration, calculation, or payment of any claims asserted against the Settlement Fund; or (v) any losses suffered by, or fluctuations in value of, the Settlement Fund.

**4.12 Non-Monetary Relief.** The Parties agree that, in part, as a result of the Litigation, Defendant made modifications to its practices and procedures regarding bacterial contamination. In addition, Defendant is continuing to diligently implement its food safety programs to reduce the potential future risk of bacterial contamination. These modifications significantly benefit consumers, including Settlement Class Members who wish to purchase Defendant's products in the future.

## **V. NOTICE**

**5.1 Administration of Notice Plan.** The Claim Administrator will administer the Notice Plan in accordance with this Agreement, the Court's order granting Preliminary Approval and any other order of the Court. The Claim Administrator will keep the identities and contact information of Settlement Class Members confidential (subject to the Parties' audit rights set forth in Paragraph 4.6) and shall use such information solely for purposes of administering the Settlement.

**5.2 Notice Plan.** Notice of the Settlement will be provided to the Settlement Class Members as follows:

**5.2.1 Settlement Website.** Prior to the Notice Date, the Claim Administrator shall establish the Settlement Website, which shall contain: a complete list of Covered Products as set forth in Exhibit D to this Agreement; the Notice in both downloadable PDF format and HTML format with a clickable table of contents; answers to frequently asked questions (to be agreed upon in form and substance between Class Counsel and Defendant); a contact information page that includes the address for the Claim Administrator and addresses and telephone numbers for Class

Counsel; the Consolidated Complaint; the Agreement; the signed order of Preliminary Approval; a downloadable and online version of the Claim Form; a downloadable and online version of the form by which Settlement Class Members may exclude themselves from the Settlement Class; and (when it becomes available) Plaintiffs' application for Attorneys' Fees and Expenses and/or an application for Service awards. The Settlement Website will include a readily accessible means for members of the Settlement Class to electronically submit a Claim Form or request for exclusion, as well as an address to which Claim Forms or requests for exclusion may be mailed. The Settlement Website will be live on the Notice Date. The Settlement Website shall remain accessible until one hundred eighty (180) days after all Settlement Benefits are distributed, except that it will not allow online submission of Claim Forms after the Claim Filing Deadline or online submission of requests for exclusion after the Exclusion Deadline.

5.2.2 Toll-Free Number. The Claim Administrator will establish a toll-free telephone number where members of the Settlement Class can request a copy of the Long Form Notice, the Claim Form, and other materials referenced in Paragraph 5.2.1.

5.2.3 Internet/Social Digital Media Advertising Campaign. The Claim Administrator shall design and implement a digital media campaign using internet and social media advertising, the form and substance of which shall be mutually agreed upon by the Parties in advance of the Notice Date.

5.3 **Supervision of Claim Administrator.** The Parties shall supervise the Claim Administrator in the performance of the notice functions set forth in this Section V.

5.4 **CAFA Notice.** The Claim Administrator, at the direction of Defendant's counsel, shall comply with the notice requirements of 28 U.S.C. § 1715, within the timelines specified by 28 U.S.C. § 1715(b) ("CAFA Notice"). The costs of such notice shall be paid from the Initial Settlement and Administration Payment.

5.5 **Certification.** Prior to the hearing on Final Approval and in accordance with the Court's regular notice requirements, the Claim Administrator shall certify to the Court in a declaration that it has complied with the notice requirements set forth herein. The declaration shall also include information about the effectiveness of the Notice Plan, opt-outs, and claims data.

## **VI. OBJECTION AND EXCLUSION**

6.1. **Rights to Objection and Exclusion.** The Notice shall advise prospective Settlement Class Members of their rights to forego the benefits of this Settlement and pursue an individual claim, object to this Settlement individually or through counsel, and to appear at

the Final Approval hearing.

**6.2. Procedures for Objection.** If any Settlement Class Member wishes to object to the Settlement, the Settlement Class Member must electronically file via the Court's ECF system or deliver to the Clerk of the Court by mail, express mail, or personal delivery, a written notice of objection. To be timely, the objection must be *received* by the Clerk of the Court (not just postmarked or sent) prior to the Objection Deadline. Each objection must include: (i) a caption or title that clearly identifies the proceeding and that the document is an objection, (ii) information sufficient to identify and contact the objector or his or her attorney if represented, (iii) information sufficient to establish the objector's standing as a Settlement Class Member, (iv) a clear and concise statement of the objector's objection, as well as any facts and law supporting the objection, (v) the objector's signature, and (vi) the signature of the objector's counsel, if any (an attorney's signature without the objector's signature shall not be deemed sufficient to satisfy this requirement); (vii) a statement of all previous objections to class action settlements filed by the objector or objector's counsel. Failure to include documents or testimony sufficient to establish membership in the Settlement Class shall be grounds for overruling and/or striking the objection on grounds that the objector lacks standing to make the objection.

**6.3. Procedures for Exclusion.** If any Settlement Class Member wishes to be excluded from this Settlement, the Settlement Class Member may do so by completing the online exclusion form at the Settlement Website; downloading and submitting to the Claim Administrator a completed exclusion form; or submitting a valid request to exclude themselves, as described in the Notice, to the Claim Administrator. Requests to exclude must be postmarked or submitted online by the Exclusion Deadline or they shall not be valid. For exclusion requests that are submitted online, the Settlement Class Member shall have the opportunity to print a page immediately after submission showing the information entered and the date and time the request for exclusion was submitted. Settlement Class Members who elect to exclude themselves from this Settlement shall not be permitted to object to this Settlement or to intervene. Settlement Class Members shall be encouraged, but not required, to provide their email addresses in their requests for exclusion.

**6.4. Timeliness.** The proposed Preliminary Approval Order will provide, and the Notice will clearly state, that any Settlement Class Members wishing to object or exclude themselves who fail to properly or timely file or serve any of the requested information and/or documents will be precluded from doing so.

**6.5. Notice of Exclusions.** Not later than ten (10) days after the Exclusion Deadline, the Claim Administrator shall provide to Class Counsel and Counsel for Defendant a complete list of the names of the persons who have excluded themselves from the Settlement Class in a valid and timely manner with copies of the exclusion requests (the "Exclusions"). Class Counsel shall inform the Court of the number of persons who have timely and validly excluded themselves prior to the hearing on Final Approval and in accordance with the Court's regular notice requirements.

**6.6. Effect of Both Submitting a Claim and Requesting Exclusion.** If a

Settlement Class Member submits both a Claim Form and an exclusion request, the Claim Form shall take precedence and be considered valid and binding, and the exclusion request shall be deemed to have been sent by mistake and rejected. A Settlement Class Member who objects to the Settlement may also submit a Claim Form on or before the Claim Filing Deadline, which shall be processed in the same way as all other Claim Forms. A Settlement Class Member shall not be entitled to an extension to the Claim Filing Deadline merely because the Settlement Class Member has also submitted an objection.

**6.7. Effect of Both Requesting Exclusion and Objecting.** If a Settlement Class Member submits both a timely and valid request for exclusion and timely files an Objection, the Settlement Class Member will be deemed to have opted out of the Settlement, and thus to be ineligible to object.

## **VII. ATTORNEYS' FEES AND EXPENSE PAYMENT AND CLASS REPRESENTATIVE SERVICE AWARDS**

**7.1 Attorneys' Fees and Expense Payment.** Prior to the hearing on Final Approval and in accordance with the Court's regular notice requirements, Class Counsel may apply to the Court for an award of an Attorneys' Fees Awards in a total amount not to exceed one-third of the Settlement Fund, as well as expenses. In no event shall Defendant be liable for any attorneys' fees or expenses in excess of the amounts approved by the Court.

**7.2 Service Awards.** Prior to the hearing on Final Approval and in accordance with the Court's regular notice requirements, the Class Representatives may additionally apply to the Court for a Service Award not to exceed \$1,000.00 each as compensation for (a) the time and effort undertaken in and risks of pursuing this Litigation, including the risk of liability for the Parties' costs of suit, and (b) the additional release set forth in Paragraph 8.2.

**7.3 Payment.** Any Attorneys' Fee and Expense Payment and Service Awards awarded by the Court shall be paid from the Settlement Fund. The Claim Administrator shall pay any such Attorneys' Fee and Expense Payment and Service Awards out of the Settlement Fund Account into an escrow account maintained by lead Class Counsel, Sultzner & Lipari, PLLC, immediately following Defendant's deposit of the payment described in Paragraph 4.1.3. If Final Approval or the award of Attorneys' Fees and Expense Payment and/or Service Awards is later reversed on appeal or if for any reason the Judgment does not become final or the Effective Date fails to occur, then, within fourteen (14) business days, Class Counsel shall repay into the Settlement Fund Account the amount received pursuant to this Paragraph. Class Counsel will hold the Attorneys' Fee and Expense Payment and Service Awards in escrow until such time as Class Counsel is authorized to disseminate those funds pursuant to this Agreement, the Final Approval Order or other order of the Court, but in any case, no earlier than the Effective Date.

**7.4 No Modification of Agreement.** Class Counsel and the Class Representatives agree that the denial, downward modification, failure to grant the request for Attorneys' Fees and Expense Payment or Service Awards, or the reversal or modification on appeal of any such payment or awards, shall not constitute grounds for modification or termination of this Agreement.

**7.5 Defendant's Fees and Expenses.** Defendant shall be responsible for paying its own attorneys' fees and expenses.

### **VIII. RELEASES, WARRANTIES AND COVENANTS NOT TO SUE**

**8.1 Release.** As of the Effective Date, the Settlement Class Members, and any all of their respective heirs, executors, administrators, representatives, agents, partners, successors and assigns (the “**Releasing Parties**”) hereby fully and irrevocably release and forever discharge the Released Parties from, and shall be forever barred from instituting, maintaining, or prosecuting, any and all claims, liens, demands, actions, causes of action, rights, duties, obligations, damages, costs, attorneys’ fees or liabilities of any kind or nature whatsoever, whether legal or equitable or otherwise, known or unknown, accrued or to accrue, vested or contingent, liquidated or otherwise, whether based in contract, tort, warranty, fraud, negligence, violation of federal or state statute or any other theory, that arise out of or relate to: (i) the allegations, claims, or contentions that were, or could have been, asserted in the Consolidated Complaint, including but not limited to allegations, claims, or contentions related in any way to the manufacture, testing, labeling, marketing, sales, advertising, and use of the Covered Products with respect to the potential for contamination by *Listeria monocytogenes* or any other bacteria or contaminant; and (ii) any alleged acts, omissions, or misrepresentations related in any way to the potential for *Listeria monocytogenes*, or any other bacteria or contaminant, with respect to the Covered Products (the “**Released Claims**”). Except as set forth in Paragraph 8.2 below, the Released Claims exclude claims for bodily injury arising out of exposure to or consumption of any Released Parties’ Covered Products.

**8.2 Additional Release from Named Plaintiffs.** In addition to the release provided in Paragraph 8.1, Named Plaintiffs further represent that they do not have any claims as to any Released Parties’ products or services other than those asserted in the Litigation and/or the Consolidated Complaint, and hereby fully and irrevocably release and forever discharge the Released Parties from, and shall be forever barred from instituting, maintaining, or prosecuting, any and all claims, liens, demands, actions, causes of action, rights, duties, obligations, damages, costs, attorneys’ fees or liabilities of any kind or nature whatsoever, whether legal or equitable or otherwise, known or unknown, accrued or to accrue, vested or contingent, liquidated or otherwise, whether based in contract, tort, warranty, fraud, negligence, violation of federal or state statute or any other theory, that arise out of or relate to any of the Released Parties’ products or services and are based on any conduct, acts or omissions prior to the date of execution of this Agreement, including any claims for bodily injury or any other claims.

**8.3 Unknown Claims.** In consideration for this Agreement and the consideration and mutual covenants set forth herein, Named Plaintiffs and the Settlement Class Members acknowledge that the release herein includes potential claims and costs that may not be known or suspected to exist at the execution of this Agreement, and that Named Plaintiffs and the Settlement Class Members hereby agree that all rights under California Civil Code section 1542, and any similar law of any state or territory of the United States, are expressly and affirmatively waived. California Civil Code section 1542 states as follows:

**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.**

**8.4 Covenant Not to Sue.** Named Plaintiffs and the Settlement Class Members covenant and agree: (a) not to assert any of the Released Claims in any action or proceeding and not to file, commence, prosecute, intervene in, or participate in (as class members or otherwise) any action or proceeding based on any of the Released Claims against any of the Released Parties; (b) that they are not aware of, and agree not to organize or solicit, the participation of Settlement Class Members in a separate class for purposes of pursuing any action or proceeding (including by seeking to amend a pending complaint to include class allegations, or seeking class certification in a pending or future action or proceeding) based on or relating to any of the Released Claims or the facts and circumstances relating thereto against the Released Parties; and (c) that the foregoing covenants and this Agreement shall be a complete defense to any of the Released Claims against any of the Released Parties. Class Members are not precluded from addressing, contacting, dealing with, or complying with requests or inquiries from any governmental authorities relating to the issues raised in this class action settlement.

**8.5 Action to Enforce Settlement.** None of the foregoing releases or covenants included herein shall be read to prohibit a cause of action to enforce the terms of the Settlement.

**IX. DENIAL OF LIABILITY; PROHIBITION OF USE**

**9.1 Denial of Liability.** Defendant vigorously denies all of the material allegations in the Litigation and/or the Consolidated Complaint. Defendant enters into this Agreement without in any way admitting or acknowledging any fault, liability, or wrongdoing of any kind. Defendant further denies the truth of any of the claims asserted in the Litigation and/or the Consolidated Complaint, including any allegations that Named Plaintiffs or any member of the Settlement Class has been harmed by any conduct by Defendant, whether as alleged in the Litigation, the Consolidated Complaint or otherwise. Defendant is settling this matter solely to avoid the risk, burden, and expense of continued litigation.

**9.2 Admissibility of Agreement.** This Settlement Agreement and its exhibits, along with all related drafts, motions, pleadings, conversations, negotiations, correspondence, orders, or other documents shall be considered a compromise within the meaning of the Federal Rule of Evidence Rule 408. To the extent permitted by law, neither this Agreement, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, shall be discoverable, relevant or offered as evidence or received in evidence in any pending or future civil, criminal, or administrative action or proceeding to establish any liability or admission by Defendant, or to establish the truth of any of the claims or allegations alleged in the Litigation, including without limitation the provisions regarding class certification. This Agreement may be pleaded or invoked as a full and complete defense to and may be used as the basis for an injunction against, any action, suit, or other proceeding which may be instituted, prosecuted, or

attempted for the Released Claims.

## **X. REPRESENTATIONS AND WARRANTIES**

**10.1 Authority to Execute.** Class Counsel represent and warrant as of the date this Agreement is executed that they have authority to enter into this Settlement Agreement on behalf of the Class Representatives and the members of the Settlement Classes.

**10.2 Class Representative Warranties.** The Class Representatives represent and warrant as of the date this Agreement is executed that they: (i) have agreed to serve as representatives of the Settlement Class proposed to be certified herein; (ii) are willing, able, and ready to perform all of the duties and obligations as representatives of the Settlement Class; (iii) are familiar with the pleadings in the Litigation and Consolidated Complaint, or have had the contents of such pleadings described to them; (iv) are familiar with the terms of this Settlement Agreement, including the exhibits attached to this Settlement Agreement, or have received a description of the Settlement Agreement, including the exhibits attached to this Settlement Agreement, from Class Counsel, and have agreed to its terms; (v) have consulted with, and received legal advice from, Class Counsel about the Litigation, this Settlement Agreement (including the advisability of entering into this Settlement Agreement and its Releases and the legal effects of this Settlement Agreement and its Releases), and the obligations of a representative of the Settlement Class; (vi) have authorized Class Counsel to execute this Settlement Agreement on their behalf; and (vii) will remain in and not request exclusion from the Settlement Class and will serve as representatives of the Settlement Class until the terms of this Settlement Agreement are effectuated, this Settlement Agreement is terminated in accordance with its terms, or the Court at any time determines that such Class Representatives cannot represent the Settlement Class.

**10.3 Defendant Warranties.** Defendant represents and warrants as of the date this Agreement is executed that: (i) Defendant has all requisite corporate powers and authority to execute, deliver, and perform this Settlement Agreement; (ii) the execution, delivery, and performance of this Settlement Agreement by Defendant has been duly authorized by all necessary corporate action; (iii) this Settlement Agreement has been duly and validly executed and delivered by Defendant; and (iv) this Settlement Agreement constitutes a legal, valid, and binding obligation of Defendant.

## **XI. ADDITIONAL PROVISIONS**

**11.1 Cooperation of the Parties.** Subject to the limitations expressed herein, the Parties' counsel shall use their best efforts to cause the Court to give Preliminary Approval to this Agreement and Settlement as promptly as practicable, to take all steps contemplated by this Agreement to effectuate the Settlement on the stated terms and conditions, to cooperate in addressing any objections, and to obtain Final Approval of this Agreement. The Parties and their counsel shall not encourage anyone directly or indirectly to opt out or object. If the Court requires changes to the Agreement as a prerequisite to Preliminary Approval or Final Approval, the Parties shall negotiate in good faith to implement such changes.

**11.2 Press Releases.** To avoid contradictory, incomplete, or confusing information

about the Settlement during the Claim Period, the Parties agree that if they make any written press releases or affirmative statements to the media about the Settlement before the conclusion of the Claim Period, such releases or statements will be approved by all Parties in advance. Defendant may, however, in its sole discretion and at any time, make responsive statements in response to any media, customer or other public or private inquiries to: (a) make clear that Defendant denies any and all wrongdoing, liability or allegations asserted in the Litigation and is entering into the Settlement solely to avoid the uncertainty and expense of litigation; or (b) correct any inaccuracies about the terms or conditions of the Settlement. Similarly, Plaintiffs and Class Counsel may, in their sole discretion and at any time, make responsive statements in response to any media, consumer or other public or private inquiries to: (a) to provide information regarding how Settlement Class Members may submit a claim; (b) to provide the Long Form Notice, the URL of the Settlement Website, or the contact information of the Settlement Administrator; or (c) correct any inaccuracies about the terms or conditions of the Settlement. The Parties otherwise agree that before the entry of the Order granting Final Approval, if any print or electronic media outlet contacts any Party or its counsel seeking information or a statement regarding the Settlement, unless a response is agreed on by all Parties, no information will be provided in response to such inquiries. For the avoidance of any doubt, nothing in this Agreement prevents the Parties from making any disclosures required to effectuate this Agreement or from making any disclosures required by law or any securities exchange regulation. Additionally, nothing in this Agreement prevents Defendant from making affirmative or responsive public statements denying any allegations asserted in the Litigation or otherwise addressing the Recall.

**11.3 Non-Disparagement.** Named Plaintiffs, Settlement Class Members, and Class Counsel shall make no statements, including statements to the press or any other public statements, that disparage Defendant, any Released Party, or any of the Covered Products, or accuse Defendant or any Released Party of any wrongdoing regarding this Settlement or Litigation or the subject matter thereof.

**11.4 Modification of Time Periods.** The time periods and/or dates described in this Agreement with respect to the giving of notices and hearings are subject to approval and change by the Court or by the written agreement of Class Counsel and Defendant's Counsel, without notice to Settlement Class Members, except that the Claim Administrator shall ensure that such dates are posted on the Settlement Website.

**11.5 Right to Terminate.** Except for changes to the time periods as set forth in Paragraph 11.4 and any non-substantive changes to the Short or Long Form Notice, Claim Form or advertisements pursuant to the Notice Plan that may be ordered by the Court or agreed upon between counsel for the Parties in writing, all other terms and limitations set forth in this Agreement and in the documents referred to or incorporated herein (including but not limited to the Short or Long Form Notice, Claim Form and advertisements pursuant to the Notice Plan) shall be deemed material to the Parties' agreement, and in the event any such other term is altered or amended by the Court (including if the Court refuses to certify the Settlement Class and/or modifies the definition of the class), or any other court, or if any federal or state authority objects to or requires modifications to the Agreement, any Party whose rights or obligations are affected by the alteration or amendment may terminate this Agreement upon prompt written notice to the other Party (in no event later than fourteen (14) days after the

terminating Party learns of the event that gives right to terminate, unless agreed upon in writing between Class Counsel and Defendant). Prior to exercising this termination right, the Parties agree to work in good faith to address any concerns or objections raised which implicate this Paragraph.

**11.6 Return of Funds Upon Termination.** In the event of a termination under Paragraph 11.5 of this Agreement, or if for any reason the Judgment does not become final or the Effective Date fails to occur, the Claim Administrator shall return any remaining portion of the Initial Settlement Administration Payment, and any and all monies remaining in the Settlement Fund, to Defendant within fourteen (14) days of receiving notice of the termination.

**11.7 Computation of Time.** All time periods set forth herein shall be computed in calendar days unless otherwise specified. If the date for performance of any act required by or under this Agreement falls on a Saturday, Sunday or court holiday, that act may be performed on the next business day with the same effect as if it had been performed on the day or within the period of time specified by or under this Agreement.

**11.8 No Assignment of Claims.** The Settlement Class Members will be deemed by operation of the Final Approval Order to 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, cause of action, or rights herein released and discharged. Any Party that breaches the representations and warranties set forth in this Paragraph shall indemnify and hold harmless the other Party, its parents, subsidiaries, and affiliates, and their respective owners, agents, attorneys, successors, heirs, assigns, administrators, officers, directors, employees, and all other persons acting in concert with them from any and every claim or demand of every kind or character arising out of a breach of any such breaching Party of its representations and warranties in this Paragraph.

**11.9 Governing Law.** This Agreement is intended to and shall be governed by the laws of the State of Illinois, without regard to conflicts of law principles.

**11.10 Integration.** The terms and conditions set forth in this Agreement (including all exhibits) constitute the complete and exclusive statement of the agreement between the Parties hereto relating to the subject matter of this Agreement, superseding all previous negotiations and understandings, and may not be contradicted by evidence of any prior or contemporaneous agreement. The Parties further intend that this Agreement (including exhibits) constitutes the complete and exclusive statement of its terms as between the Parties hereto, and that no extrinsic evidence whatsoever may be introduced in any agency or judicial proceeding, if any, involving this Agreement.

**11.11 Modification.** Except as otherwise provided herein, any amendment or modification of the Agreement must be in writing signed by each of the Parties and their counsel.

**11.12 Construction.** The determination of the terms of, and the drafting of, this Agreement have been by mutual agreement after negotiation, with consideration by and participation of all Parties hereto and their counsel. The presumption found in California Civil

Code section 1654, and any comparable statutes, that uncertainties in a contract are interpreted against the party causing an uncertainty to exist is hereby waived by all Parties.

**11.13 Headings and Captions.** Headings, captions, and section numbers herein are inserted merely for the reader's convenience, and in no way define, limit, construe, or otherwise describe the scope or intent of the provisions of this Agreement. In the event of a dispute concerning the terms and conditions of this Agreement, the headings, captions, and section numbers shall be disregarded.

**11.14 Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the respective heirs, successors, and assigns of the Parties hereto.

**11.15 No Waiver.** The failure of a Party hereto to insist upon strict performance of any provision of this Agreement shall not be deemed a waiver of such Party's rights or remedies or a waiver by such Party of any default by another Party in the performance or compliance of any of the terms of this Agreement. In addition, the waiver by any Party of any provision or breach of this Agreement shall not be deemed a waiver of any other provision or breach of this Agreement.

**11.16 Legal Fees and Costs.** Except as otherwise provided herein, each Party shall bear its own legal and other costs incurred in connection with the Released Claims, including the preparation and performance of this Agreement.

**11.17 Warranty of Signatures.** Each person executing this Agreement in a representative capacity represents and warrants that they are empowered to do so.

**11.18 Counterparts.** The Parties may execute this Agreement in counterparts and/or by fax or electronic mail, and execution of counterparts shall have the same force and effect as if all Parties had signed the same instrument.

**11.19 Continuing Jurisdiction.** The Court shall retain jurisdiction to enforce, interpret, administer, and implement this Agreement. Any disputes or controversies arising out of, or related to, the interpretation, implementation, administration, and enforcement of this Settlement Agreement will be made by motion to the Court. All Parties hereto submit to the jurisdiction of the Court for these purposes.

**11.20 No Exclusion of Named Plaintiffs.** Named Plaintiffs hereby agree not to request to seek to exclude themselves from the Settlement Class. Any such request shall be void and of no force or effect.

**11.21 Voluntary Execution and Representation by Counsel.** This Agreement is executed voluntarily by each of the Parties without any duress or undue influence on the part, or on behalf, of any of them. The Parties represent and warrant to each other that they have read and fully understand the provisions of this Agreement and have relied on the advice and representation of legal counsel of their own choosing.

**11.22 Notices.** All notices to the Parties or counsel required by this Agreement shall be

made in writing and (i) delivered personally or by registered or certified mail, postage prepaid, to the appropriate address(es) set forth immediately below, or to other contact points as the Parties may identify by notice given in accordance with this Paragraph; and also (ii) transmitted by email to the appropriate email address(es) set forth below:

If to Named Plaintiffs or Class Counsel:

Jason P. Sultzer  
SULTZER & LIPARI, PLLC  
85 Civic Center Plaza, Suite 200  
Poughkeepsie, NY 12601  
Telephone: (845) 483-7100  
Email: [sultzerj@thesultzerlawgroup.com](mailto:sultzerj@thesultzerlawgroup.com)

Nick Suciu III  
MILBERG COLEMAN BRYSON  
PHILLIPS GROSSMAN, PLLC  
6905 Telegraph Road, Suite 115  
Bloomfield Hills, MI 48301  
Telephone: (313) 303-3472  
Email: [nsuciu@milberg.com](mailto:nsuciu@milberg.com)

Michael R. Reese  
REESE LLP  
100 West 93rd Street, 16th Floor  
New York, NY 10025  
Telephone: (212) 643-0500  
Email: [mreese@reesellp.com](mailto:mreese@reesellp.com)

Paul Doolittle  
POULIN WILLEY ANASTOPOULO, LLC  
32 Ann Street  
Charleston, SC 29403  
Telephone: (800) 313-2546  
Email: [pauld@akimlawfirm.com](mailto:pauld@akimlawfirm.com)

Jeffrey K. Brown  
LEEDS BROWN LAW, P.C.  
One Old Country Road, Suite 347  
Carle Place, NY 11514  
Telephone: (516) 873-9550  
Email: [jbrown@leedsbrownlaw.com](mailto:jbrown@leedsbrownlaw.com)

Charles E. Schaffer, Esq.  
LEVIN SEDRAN & BERMAN LLP  
510 Walnut Street, Suite 500

Philadelphia, PA 19106  
Tel: (215) 592-1500  
Email: [cschaffer@lfsblaw.com](mailto:cschaffer@lfsblaw.com)

J. Dominick Larry  
NICK LARRY LAW LLC  
1720 W. Division St.  
Chicago, IL 60622  
Telephone: (773) 694-4690  
Email: [nick@nicklarry.law](mailto:nick@nicklarry.law)

Randall K. Pulliam  
CARNEY BATES & PULLIAM, PLLC  
One Allied Drive, Suite 1400  
Little Rock, AR 72202  
Telephone: (501) 312-8500  
Email: [rpulliam@cbplaw.com](mailto:rpulliam@cbplaw.com)

Jeffrey S. Goldenberg  
GOLDENBERG SCHNEIDER, L.P.A.  
4445 Lake Forest Drive, Suite 490  
Cincinnati, OH 45242  
Telephone: (513) 345-8291  
Email: [jgoldenbergs@gs-legal.com](mailto:jgoldenbergs@gs-legal.com)

If to Defendant:

Dan Feldman  
TreeHouse Foods, Inc.  
2021 Spring Road, Suite 600  
Oak Brook, IL 60523  
Email: [dan.feldman@treehousefoods.com](mailto:dan.feldman@treehousefoods.com)

*[Signatures on next page]*

IN WITNESS HEREOF the undersigned, being duly authorized, have caused this Agreement to be executed on the dates shown below and agree that it shall take effect on the last date it is executed by all of the undersigned.

***The Named Plaintiffs:***

Dated: 06/09/2025



Daniel Berbano  
*Plaintiff and Class Representative*

Dated: 06/09/2025

Michael Walsh  
*Plaintiff and Class Representative*

Dated: 06/09/2025

Michelle Garcia  
*Plaintiff and Class Representative*

Dated: 06/09/2025

Marla Knepper  
*Plaintiff and Class Representative*

Dated: 06/09/2025

Kristen Beckham  
*Plaintiff and Class Representative*

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***The Named Plaintiffs:***

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

Daniel Berbano  
*Plaintiff and Class Representative*

Dated: Jun 9, 2025

michael walsh  
*Michael Walsh*  
*Plaintiff and Class Representative*

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

Michelle Garcia  
*Plaintiff and Class Representative*

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

Marla Knepper  
*Plaintiff and Class Representative*

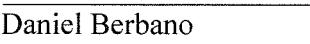
Dated: \_\_\_\_\_

Kristen Beckham  
*Plaintiff and Class Representative*

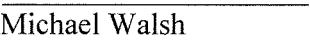
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Daniel Berbano  
*Plaintiff and Class Representative*

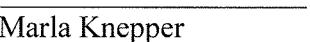
Dated: \_\_\_\_\_

  
Michael Walsh  
*Plaintiff and Class Representative*

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

  
Michelle Garcia  
*Plaintiff and Class Representative*

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

  
Marla Knepper  
*Plaintiff and Class Representative*

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

  
Kristen Beckham  
*Plaintiff and Class Representative*

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*The Named Plaintiffs:*

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

Daniel Berbano  
*Plaintiff and Class Representative*

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

Michael Walsh  
*Plaintiff and Class Representative*

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

Michelle Garcia  
*Plaintiff and Class Representative*

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

Marla Knepper  
*Marla Knepper*  
*Plaintiff and Class Representative*

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

Kristen Beckham  
*Kristen Beckham*  
*Plaintiff and Class Representative*

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*The Named Plaintiffs:*

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

\_\_\_\_\_  
Daniel Berbano  
*Plaintiff and Class Representative*

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

\_\_\_\_\_  
Michael Walsh  
*Plaintiff and Class Representative*

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

\_\_\_\_\_  
Michelle Garcia  
*Plaintiff and Class Representative*

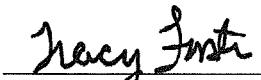
Dated: \_\_\_\_\_

\_\_\_\_\_  
Marla Knepper  
*Plaintiff and Class Representative*

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

\_\_\_\_\_  
Kristen Beckham  
*Plaintiff and Class Representative*

Dated: 06/09/2025



Tracy Foster  
*Plaintiff and Class Representative*

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

---

Damany Browne  
*Plaintiff and Class Representative*

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

---

Amanda Rugg-Harrell  
*Plaintiff and Class Representative*

*Approved as to Form:*

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

---

SULTZER & LIPARI, PLLC  
Jason P. Sultzer  
85 Civic Center Plaza, Suite 200  
Poughkeepsie, NY 12601  
Telephone: (845) 483-7100  
Email: sultzerj@thesultzerlawgroup.com  
*Attorneys for Plaintiff Damany Browne, and  
the Settlement Class*

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

---

REESE LLP  
Michael R. Reese  
100 West 93rd Street, 16th Floor  
New York, NY 10025  
Telephone: (212) 643-0500  
Email: mreese@reesellp.com  
*Attorneys for Plaintiff Damany Browne, and  
the Settlement Class*

Dated:

---

Tracy Foster  
*Plaintiff and Class Representative*



Dated: 6/16/2025

---

Damany Browne  
*Plaintiff and Class Representative*

Dated:

---

Amanda Rugg-Harrell  
*Plaintiff and Class Representative*

*Approved as to Form:*

Dated:

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SULTZER & LIPARI, PLLC  
Jason P. Sultzer  
85 Civic Center Plaza, Suite 200  
Poughkeepsie, NY 12601  
Telephone: (845) 483-7100  
Email: sultzerj@thesultzerlawgroup.com  
*Attorneys for Plaintiff Damany Browne, and  
the Settlement Class*

Dated:

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REESE LLP  
Michael R. Reese  
100 West 93rd Street, 16th Floor  
New York, NY 10025  
Telephone: (212) 643-0500  
Email: mreese@reesellp.com  
*Attorneys for Plaintiff Damany Browne, and  
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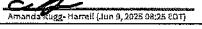
Dated: \_\_\_\_\_

Tracy Foster  
*Plaintiff and Class Representative*

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

Damany Browne  
*Plaintiff and Class Representative*

Dated: 06/09/2025

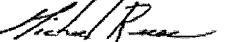
  
Amanda Rugg-Harrell  
*Plaintiff and Class Representative*

*Approved as to Form:*

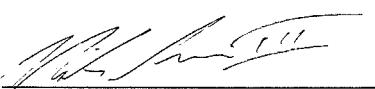
Dated: 6/9/2025

~~SULTZER & LIPARI, PLLC~~  
Jason P. Sultzer  
85 Civic Center Plaza, Suite 200  
Poughkeepsie, NY 12601  
Telephone: (845) 483-7100  
Email: sultzerj@thesultzerlawgroup.com  
*Attorneys for Plaintiff Damany Browne, and  
the Settlement Class*

Dated: 6-9-2025

  
REESE LLP  
Michael R. Reese  
100 West 93rd Street, 16th Floor  
New York, NY 10025  
Telephone: (212) 643-0500  
Email: mreese@reesellp.com  
*Attorneys for Plaintiff Damany Browne, and  
the Settlement Class*

Dated: 6/13/2025



MILBERG COLEMAN BRYSON  
PHILLIPS GROSSMAN, PLLC

Nick Suciu III  
6905 Telegraph Road, Suite 115  
Bloomfield Hills, MI 48301  
Telephone: (313) 303-3472  
Email: nsuciu@milberg.com  
*Attorneys for Plaintiff Damany Browne, and  
the Settlement Class*

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

Jeffrey K. Brown  
LEEDS BROWN LAW, P.C.  
One Old Country Road, Suite 347  
Carle Place, NY 11514  
Telephone: (516) 873-9550  
Email: jbrown@leedsbrownlaw.com  
*Attorneys for Plaintiff Damany Browne, and  
the Settlement Class*

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

Paul Doolittle  
POULIN WILLEY ANASTOPOULO, LLC  
32 Ann Street  
Charleston, SC 29403  
Telephone: (800) 313-2546  
Email: pauld@akimlawfirm.com  
*Attorneys for Plaintiff Amanda Rugg-Harrell,  
and the Settlement Class*

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

Charles E. Schaffer, Esq.  
LEVIN SEDRAN & BERMAN LLP  
510 Walnut Street, Suite 500  
Philadelphia, PA 19106  
Tel: (215) 592-1500  
Email: cschaffer@lfsblaw.com  
*Attorneys for Plaintiff Damany Browne, and  
the Settlement Class*

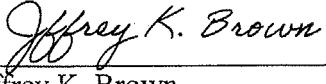
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PHILLIPS GROSSMAN, PLLC  
Nick Suciu III  
6905 Telegraph Road, Suite 115  
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Telephone: (313) 303-3472  
Email: nsuciu@milberg.com  
*Attorneys for Plaintiff Damany Browne, and  
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---

  
Jeffrey K. Brown  
LEEDS BROWN LAW, P.C.  
One Old Country Road, Suite 347  
Carle Place, NY 11514  
Telephone: (516) 873-9550  
Email: jbrown@leedsbrownlaw.com  
*Attorneys for Plaintiff Damany Browne, and  
the Settlement Class*

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---

Paul Doolittle  
POULIN WILLEY ANASTOPOULO, LLC  
32 Ann Street  
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Email: pauld@akimlawfirm.com  
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Charles E. Schaffer, Esq.  
LEVIN SEDRAN & BERMAN LLP  
510 Walnut Street, Suite 500  
Philadelphia, PA 19106  
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*Attorneys for Plaintiff Damany Browne, and  
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MILBERG COLEMAN BRYSON  
PHILLIPS GROSSMAN, PLLC  
Nick Suciu III  
6905 Telegraph Road, Suite 115  
Bloomfield Hills, MI 48301  
Telephone: (313) 303-3472  
Email: nsuciu@milberg.com  
*Attorneys for Plaintiff Damany Browne, and  
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Jeffrey K. Brown  
LEEDS BROWN LAW, P.C.  
One Old Country Road, Suite 347  
Carle Place, NY 11514  
Telephone: (516) 873-9550  
Email: jbrown@leedsbrownlaw.com  
*Attorneys for Plaintiff Damany Browne, and  
the Settlement Class*



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---

Paul Doolittle  
POULIN WILLEY ANASTOPOULO, LLC  
32 Ann Street  
Charleston, SC 29403  
Telephone: (800) 313-2546  
Email: pauld@akimlawfirm.com  
*Attorneys for Plaintiff Amanda Rugg-Harrell,  
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Charles E. Schaffer, Esq.  
LEVIN SEDRAN & BERMAN LLP  
510 Walnut Street, Suite 500  
Philadelphia, PA 19106  
Tel: (215) 592-1500  
Email: cschaffer@lfsblaw.com  
*Attorneys for Plaintiff Damany Browne, and  
the Settlement Class*

Date: 6/9/25

  
J. Dominick Larry  
NICK LARRY LAW LLC  
1720 W. Division St.  
Chicago, IL 60622  
Telephone: (773) 694-4690  
Email: nick@nicklarry.law  
*Attorneys for Plaintiffs Daniel Berbano,  
Michael Walsh, Michelle Garcia, Marla  
Knepper, Kristen Beckham, Tracy Foster,  
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Dated: \_\_\_\_\_

Randall K. Pulliam  
CARNEY BATES & PULLIAM, PLLC  
One Allied Drive, Suite 1400  
Little Rock, AR 72202  
Telephone: (501) 312-8500  
Email: rpulliam@cbplaw.com  
*Attorneys for Plaintiffs Daniel Berbano,  
Michael Walsh, Michelle Garcia, Marla  
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GOLDENBERG SCHNEIDER, L.P.A.  
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Date: \_\_\_\_\_

---

J. Dominick Larry  
NICK LARRY LAW LLC  
1720 W. Division St.  
Chicago, IL 60622  
Telephone: (773) 694-4690  
Email: nick@nicklarry.law  
*Attorneys for Plaintiffs Daniel Berbano, Michael Walsh, Michelle Garcia, Marla Knepper, Kristen Beckham, Tracy Foster, and the Settlement Class*



Dated: June 9, 2025

---

Randall K. Pulliam  
CARNEY BATES & PULLIAM, PLLC  
One Allied Drive, Suite 1400  
Little Rock, AR 72202  
Telephone: (501) 312-8500  
Email: rpulliam@cbplaw.com  
*Attorneys for Plaintiffs Daniel Berbano, Michael Walsh, Michelle Garcia, Marla Knepper, Kristen Beckham, Tracy Foster, and the Settlement Class*

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Jeffrey S. Goldenberg  
GOLDENBERG SCHNEIDER, L.P.A.  
4445 Lake Forest Drive, Suite 490  
Cincinnati, OH 45242  
Telephone: (513) 345-8291  
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Date: \_\_\_\_\_

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J. Dominick Larry  
NICK LARRY LAW LLC  
1720 W. Division St.  
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Telephone: (773) 694-4690  
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Dated: \_\_\_\_\_

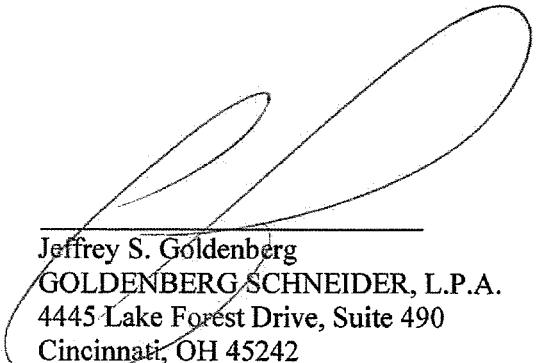
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Email: rpulliam@cbplaw.com

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June 9, 2025



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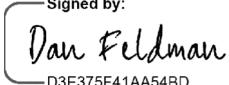
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Michael Walsh, Michelle Garcia, Marla  
Knepper, Kristen Beckham, Tracy Foster,  
and the Settlement Class*

*Defendant:*

**TreeHouse Foods, Inc.**

Dated: 6/16/2025

Signed by:  
  
D3E375F41AA54BD...  
By: Dan Feldman

*Approved as to Form:*

Dated: 6/17/2025

  
Amy P. Lally  
SIDLEY AUSTIN LLP  
1999 Avenue of the Stars  
Los Angeles, CA 90067  
Telephone: (310) 595-9662  
Email: alally@sidley.com  
*Counsel for Defendant*