

EXECUTION COPY

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

IN RE KRAFT HEINZ SECURITIES  
LITIGATION

Case No. 1:19-cv-01339

Honorable Jorge L. Alonso

**STIPULATION AND AGREEMENT OF SETTLEMENT**

This Stipulation and Agreement of Settlement dated as of May 2, 2023 (“Stipulation”) is entered into between (i) Court-appointed Lead Plaintiffs Sjunde AP-Fonden and Union Asset Management Holding AG, and additional named Plaintiff Booker Enterprises Pty Ltd. (collectively, “Plaintiffs”), and (ii) defendants The Kraft Heinz Company (“Kraft Heinz” or the “Company”); Bernardo Hees, Paulo Basilio, David Knopf, Alexandre Behring, George Zoghbi, and Rafael Oliveira (collectively, the “Individual Defendants” and together with Kraft Heinz, the “Kraft Heinz Defendants”); and 3G Capital Partners and its affiliates, including the following affiliated funds and business entities: 3G Capital, Inc. (a Delaware corporation) and the Cayman Islands entities 3G Global Food Holdings, L.P.; 3G Global Food Holdings GP LP; 3G Capital Partners LP; 3G Capital Partners II LP; and 3G Capital Partners Ltd (collectively, “3G Capital”). The Kraft Heinz Defendants and 3G Capital together are “Defendants,” and with Plaintiffs, the “Parties.” This Stipulation embodies the terms and conditions of the settlement of the above-captioned action (“Action”).<sup>1</sup> Subject to the approval of the Court and the terms and conditions expressly provided herein, this Stipulation is intended to fully, finally, and forever compromise, settle, release, resolve, relinquish, waive, discharge, and dismiss with prejudice the Action and

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<sup>1</sup> All terms with initial capitalization not otherwise defined herein shall have the meanings ascribed to them in ¶ 1 below.

all claims asserted against the Defendants therein, and all Released Plaintiffs' Claims (defined below) against all Defendants' Releasees.

WHEREAS:

A. On February 24, 2019, a class action complaint, styled *Hedick v. The Kraft Heinz Company, et al.*, Case No. 1:19-cv-01339, was filed in the United States District Court for the Northern District of Illinois (the "Court"), asserting violations of federal securities laws against the Kraft Heinz Company and certain of its executives. ECF No. 1. In accordance with the PSLRA, notice to the public was issued stating the deadline by which putative class members could move the Court for appointment as lead plaintiff. On April 16, 2019, the case was reassigned from the Honorable Gary Feinerman to the Honorable Robert M. Dow, Jr. ECF No. 32. The Honorable Maria Valdez was designated as the Magistrate Judge for the Action.

B. Union Asset Management Holding AG ("Union") and Sjunde AP-Fonden ("AP7") moved for appointment as lead plaintiffs on April 25, 2019. ECF No. 57. At the Court's request, ECF No. 40, Union and AP7 submitted supplemental briefing on September 13, 2019. ECF No. 146. On October 8, 2019, the Court entered an Order that appointed Union and AP7 as Lead Plaintiffs for the Action, and approved Lead Plaintiffs' selection of Bernstein Litowitz Berger & Grossmann LLP and Kessler Topaz Meltzer & Check, LLP as Lead Counsel for the class. ECF No. 149.

C. On May 1, 2019, the Court reassigned the following related cases to the Court: *Timber Hill LLC v. The Kraft Heinz Company, et al.*, Case No. 19-cv-2807; and *Iron Workers District Council v. Kraft Heinz Company, et al.*, Case No. 19-cv-01845. ECF No. 80. On October 8, 2019, the Court consolidated the following additional related actions: Case Nos. 19-cv-1845, and 19-cv-2807. ECF No. 149. On April 26, 2020, the Court further reassigned the following

five cases as related to this Action: Case Nos. 20-cv-2071, 20-cv-2072, 20-cv-2256, 20-cv-2259, and 20-cv-2280. ECF No. 244.

D. On January 6, 2020, Plaintiffs filed and served the Consolidated Class Action Complaint. ECF No. 179. On March 6, 2020, the Kraft Heinz Defendants and 3G Capital filed motions to dismiss the Consolidated Class Action Complaint. ECF Nos. 215-218.

E. On April 3, 2020, Plaintiffs filed a motion to consolidate the related action *City of Hollywood Police Officers' Retirement System v. The Kraft Heinz Co.*, No. 1:20-cv-1970, and vacate the PSLRA notice issued by the plaintiff in that action. ECF No. 223. On April 22, 2020, Plaintiffs filed a notice of non-opposition to the motion after the *Hollywood Police* plaintiff agreed that the actions should be consolidated and its PSLRA notice should be vacated. ECF No. 243. On May 11, 2020, the Court granted the motion and reassigned and consolidated the *Hollywood Police* action with this Action. ECF No. 257.

F. On June 15, 2020, Plaintiffs moved for leave to file an amended complaint based on information from the newly unsealed complaint in a related shareholder derivative action in the Delaware Court of Chancery, *In re The Kraft Heinz Co. Derivative Litigation*, No. 2019-0587-AGB, which described documents that Kraft Heinz produced in response to a shareholder demand for inspection pursuant to 8 Del. C. § 220. ECF No. 261. On June 30, 2020, the Court granted Plaintiffs' motion to amend the complaint. ECF No. 267.

G. On June 19, 2020, Plaintiffs moved for limited relief from the PSLRA discovery stay and requested that Defendants produce copies of the books and records produced by Kraft Heinz pursuant to 8 Del. C. § 220 as well as unredacted copies of documents filed under seal in this Action and in the Delaware Court of Chancery that reference such documents. ECF Nos. 264-266. The Kraft Heinz Defendants filed their opposition on July 7, 2020. ECF No. 268.

Plaintiffs filed their reply on July 14, 2020. ECF No. 271. The Court denied Plaintiffs' motion to lift the discovery stay without prejudice on July 30, 2020. ECF No. 273.

H. On August 14, 2020, Plaintiffs timely filed and served the Consolidated Amended Class Action Complaint (ECF No. 274) (the "Complaint"), which asserted claims against the Kraft Heinz Defendants under Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") and Rule 10b-5 promulgated thereunder, against 3G Capital and the Individual Defendants under Section 20(a) of the Exchange Act, and against 3G Capital under Section 20A of the Exchange Act, on behalf of a class of persons or entities who purchased Kraft Heinz common stock, or purchased or sold options on Kraft Heinz common stock, from November 6, 2015 through August 7, 2019, inclusive, and allegedly suffered damages as a result. .

I. On September 28, 2020, both the Kraft Heinz Defendants and 3G Capital filed motions to dismiss the Complaint. ECF Nos. 279-83. On November 12, 2020, Plaintiffs filed their opposition to Defendants' motions to dismiss. ECF No. 295. On December 3, 2020, Defendants filed their replies. ECF Nos. 296, 297.

J. On August 11, 2021, the Court denied Defendants' motions to dismiss. ECF No. 310.

K. On October 25, 2021, Defendants filed their Answers to the Complaint, denying the claims and asserting a number of affirmative defenses. ECF Nos. 325, 326.

L. Discovery in the Action commenced in September 2021. Beginning promptly thereafter, the Parties prepared and served initial disclosures; prepared and served multiple sets of requests for production of documents; prepared and served several interrogatories; and exchanged considerable correspondence and participated in numerous meet-and-confers regarding those requests. Plaintiffs also prepared and served document subpoenas on 23 third

parties; and exchanged correspondence and participated in meet-and-confers and other discussions with those third-parties. Defendants and third parties produced a total of over 14.7 million pages of documents to Plaintiffs.

M. In addition, Plaintiffs produced over 53,000 pages of documents to Defendants in response to their discovery requests. In addition, two corporate representatives from Union, one corporate representative from AP7, and Luke Booker from Booker Enterprises Pty Ltd. prepared and sat for depositions in connection with the motion for class certification.

N. On March 14, 2022, the Kraft Heinz Defendants filed a motion for issuance of letters of request to the Senior Master for the Attention of the Foreign Process Section, Royal Courts of Justice, United Kingdom, seeking discovery from non-parties BlackRock Investment Management Limited, Northern Trust Global Investments Limited, and State Street Global Investors Limited. ECF No. 336. On March 22, 2022, the Court granted the motion without objection. ECF No. 345.

O. On March 28, 2022, Plaintiffs filed their motion for class certification, which was accompanied by a report from Plaintiffs' expert, Dr. David Tabak, on market efficiency and common damages methodologies. ECF No. 346. Defendants deposed Dr. Tabak on May 5, 2022.

P. On May 20, 2022, Defendants filed their opposition to Plaintiffs' motion for class certification, which was accompanied by reports by Defendants' experts Lawrence Smith, CPA and Dr. Allen Ferrell. ECF No. 359. Plaintiffs deposed Dr. Ferrell on June 23, 2022 and Mr. Smith on June 29, 2022. Thereafter, Plaintiffs filed a reply in further support of class certification on July 19, 2022. ECF No. 371.

Q. On July 18, 2022, the Kraft Heinz Defendants moved to compel discovery from Union and requested that the Court hold open the class certification record. ECF No. 367. On

August 24, 2022, Plaintiffs filed their response in opposition to the motion. ECF No. 389. On September 14, 2022, the Kraft Heinz Defendants filed their reply in further support of their motion. ECF No. 396.

R. On October 4, 2022, Lead Plaintiffs moved to compel third party PricewaterhouseCoopers LLP (“PwC”), Kraft Heinz’s independent auditor during the Class Period, to comply with Lead Plaintiffs’ subpoena. ECF No. 406. On October 21, 2022, PwC filed its opposition to the motion to compel and its cross-motion to quash the subpoena. ECF No. 415. On November 4, 2022, Lead Plaintiffs filed their reply in further support of the motion to compel and their opposition to PwC’s cross-motion. ECF No. 424. On November 11, 2022, PwC filed its reply in further support of its cross-motion. ECF No. 429.

S. On October 11, 2022, the Action was reassigned from the Honorable Robert M. Dow, Jr. to the Honorable Elaine E. Bucklo. ECF No. 414. On November 7, 2022, the Action was reassigned to the Honorable Jorge L. Alonso. ECF No. 427.

T. On November 23, 2022, Plaintiffs filed a motion for issuance of letters of request to the Ontario Superior Court of Justice in Canada, seeking discovery from non-parties Loblaw Companies Ltd., Empire Company Ltd., and Metro Inc. ECF No. 437. The Kraft Heinz Defendants took no position on this motion. ECF No. 446. On December 13, 2022, the Honorable Maria Valdez granted the motion. ECF No. 453.

U. On December 5, 2022, the Honorable Maria Valdez granted in part and denied in part Lead Plaintiffs’ motion to compel PwC to comply with the subpoena, and granted in part and denied in part PwC’s cross-motion to quash the subpoena. ECF No. 443.

V. On December 6, 2022, the Honorable Maria Valdez denied the Kraft Heinz Defendants’ motion to compel discovery from Union. ECF No. 445.

W. While discovery was ongoing and Plaintiffs' class certification motion was pending before the Court, the Parties and relevant insurers engaged in private mediation before former United States District Court Judge Layn Phillips. On January 10, 2023, the Parties exchanged and also submitted to Judge Phillips detailed mediation statements with numerous exhibits. On January 20, 2023, the Parties exchanged and also submitted to Judge Phillips detailed reply mediation statements with further exhibits. Mediation sessions with Judge Phillips were held on January 31, 2023, and February 3, 2023, during which the Parties engaged in vigorous discussions about the merits of the claims and defenses and explored the possibility of resolution with the guidance and assistance of Judge Phillips. On February 7, 2023, Judge Phillips issued a mediator's recommendation, which the Parties accepted on February 13, 2023.

X. On March 14, 2023, the Parties executed a Term Sheet setting forth their agreement in principle to settle and release all claims asserted in the Action in return for a cash payment by Defendants and their insurers of \$450,000,000.00 in cash for the benefit of the Settlement Class, subject to certain terms and conditions and the execution of a customary "long form" stipulation and agreement of settlement and related papers.

Y. This Stipulation (together with the exhibits hereto) reflects the final and binding agreement between the Parties and supersedes the Term Sheet.

Z. Based upon their investigation, prosecution, and mediation of the case, Plaintiffs and Lead Counsel have concluded that the terms and conditions of this Stipulation are fair, reasonable, and adequate to Plaintiffs and the other members of the Settlement Class, and in their best interests. Based on Plaintiffs' direct oversight of the prosecution of this matter and with the advice of their counsel, Plaintiffs have agreed to settle and release the Released Plaintiffs' Claims pursuant to the terms and provisions of this Stipulation, after considering, among other

things: (a) the financial benefit that Plaintiffs and the other members of the Settlement Class will receive from the proposed Settlement; and (b) the significant risks and costs of continued litigation and trial.

AA. Defendants have denied and continue to deny any wrongdoing or that they have committed any act or omission giving rise to any liability or violation of law, including the U.S. securities laws. Defendants are entering into this Stipulation solely to eliminate the uncertainty, burden, and expense of further protracted litigation. Each of the Defendants denies any wrongdoing, and this Stipulation shall in no event be construed or deemed to be evidence of or an admission or concession on the part of any of the Defendants with respect to any claim or allegation of any fault or liability or wrongdoing or damages whatsoever, or any infirmity in the defenses that Defendants have, or could have, asserted. Defendants expressly deny that Plaintiffs have asserted any valid claims as to any of them, and expressly deny any and all allegations of fault, liability, wrongdoing, or damages whatsoever. Defendants expressly deny that Plaintiffs or Settlement Class Members have suffered damages or were otherwise harmed by the conduct alleged in the Action, and that the claims alleged by Plaintiffs may be certified as a class under Rule 23 of the Federal Rules of Civil Procedure, other than for purposes of Settlement. Similarly, this Stipulation shall in no event be construed or deemed to be evidence of or an admission or concession on the part of Plaintiffs of any infirmity in any of the claims asserted in the Action, or an admission or concession that any of the Defendants' defenses to liability had any merit.

BB. The Stipulation, whether or not consummated, any proceedings relating to any settlement, or any of the terms of any settlement, whether or not consummated, shall in no event be construed as, or deemed to be evidence of, an admission or concession on the part of the Defendants, or any of them, with respect to any fact or matter alleged in the Action, or any claim



of fault or liability or wrongdoing or damage whatsoever, or any infirmity in any claim or defense that has been or could have been asserted. Each Defendant reserves all defenses to any claims that may be filed by anyone, including any individual or entity that has sought, or seeks, exclusion from the Settlement Class.

NOW THEREFORE, it is hereby STIPULATED AND AGREED, by and among Plaintiffs (individually and on behalf of all other members of the Settlement Class) and Defendants, by and through their respective undersigned attorneys and subject to the approval of the Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, that, in consideration of the benefits flowing to the Parties from the Settlement, all Released Plaintiffs' Claims as against the Defendants' Releasees and all Released Defendants' Claims as against the Plaintiffs' Releasees shall be settled and released, upon and subject to the terms and conditions set forth below.

### **DEFINITIONS**

1. As used in this Stipulation and any exhibits attached hereto and made a part hereof, the following capitalized terms shall have the following meanings:

(a) "3G Capital" means 3G Capital Partners and its affiliates, including the following affiliated funds and business entities: 3G Capital, Inc. (a Delaware corporation) and the Cayman Islands entities 3G Global Food Holdings, L.P.; 3G Global Food Holdings GP LP; 3G Capital Partners LP; 3G Capital Partners II LP; and 3G Capital Partners Ltd.

(b) "Action" means the consolidated securities class action styled *In re Kraft Heinz Securities Litigation*, Case No. 1:19-cv-01339 (N.D. Ill.), and includes all actions consolidated therein.

(c) “Alternate Judgment” means a form of final judgment that may be entered by the Court herein but in a form other than the form of Judgment provided for in this Stipulation.

(d) “Authorized Claimant” means a Settlement Class Member who submits a Claim to the Claims Administrator that is approved by the Court for payment from the Net Settlement Fund.

(e) “Claim” means a paper claim submitted on a Proof of Claim Form or an electronic claim that is submitted to the Claims Administrator.

(f) “Claim Form” or “Proof of Claim Form” means the form, substantially in the form attached hereto as Exhibit 4 to Exhibit A, that a Claimant must complete and submit should that Claimant seek to share in a distribution of the Net Settlement Fund.

(g) “Claimant” means a person or entity who or which submits a Claim to the Claims Administrator seeking to be eligible to share in the proceeds of the Net Settlement Fund.

(h) “Claims Administrator” means the firm retained by Lead Counsel, subject to approval of the Court, to provide all notices approved by the Court to potential Settlement Class Members and to administer the Settlement.

(i) “Class Distribution Order” means an order entered by the Court authorizing and directing that the Net Settlement Fund be distributed, in whole or in part, to Authorized Claimants.

(j) “Class Period” means the period from November 6, 2015 through August 7, 2019, inclusive.

(k) “Complaint” means the Consolidated Amended Class Action Complaint filed by Plaintiffs in the Action on August 4, 2020.

(l) “Court” means the United States District Court for the Northern District of Illinois.

(m) “Defendants” means the Kraft Heinz Defendants and 3G Capital.

(n) “Defendants’ Counsel” means Paul, Weiss, Rifkind, Wharton & Garrison LLP; Jenner & Block LLP; and Kirkland & Ellis LLP.

(o) “Defendants’ Releasees” means Defendants and any and all of their current and former parents, affiliates, subsidiaries, officers, directors, agents, successors, predecessors, assigns, assignees, divisions, investment funds, joint ventures, and general or limited partnerships, and each of their respective current or former officers, directors, partners, trustees, trusts, members, contractors, auditors, principals, agents, managing agents, employees, insurers, reinsurers, and attorneys, in their capacities as such, as well as each of the Individual Defendants’ Immediate Family members, heirs, executors, personal or legal representatives, estates, beneficiaries, predecessors, successors, and assigns.

(p) “Effective Date” with respect to the Settlement means the first date by which all of the events and conditions specified in ¶ 33 of this Stipulation have been met and have occurred or have been waived.

(q) “Escrow Account” means an account maintained at The Huntington National Bank wherein the Settlement Amount shall be deposited and held in escrow under the control of Lead Counsel.

(r) “Escrow Agent” means The Huntington National Bank.

(s) “Escrow Agreement” means the agreement between Lead Counsel and the Escrow Agent setting forth the terms under which the Escrow Agent shall maintain the Escrow Account.

(t) “Final,” with respect to the Judgment or, if applicable, the Alternate Judgment, or any other court order, means: (i) if no appeal is filed, the expiration date of the time provided for filing or noticing any appeal under the Federal Rules of Appellate Procedure, i.e., thirty (30) days after entry of the judgment or order; or (ii) if there is an appeal from the judgment or order, (a) the date of final dismissal of all such appeals, or the final dismissal of any proceeding on certiorari or otherwise, or (b) the date the judgment or order is finally affirmed on an appeal, the expiration of the time to file a petition for a writ of certiorari or other form of review, or the denial of a writ of certiorari or other form of review, and, if certiorari or other form of review is granted, the date of final affirmance following review pursuant to that grant. However, any appeal or proceeding seeking subsequent judicial review pertaining solely to an order issued with respect to (i) attorneys’ fees, costs, or expenses, or (ii) the plan of allocation of Settlement proceeds (as submitted or subsequently modified), shall not in any way delay or preclude a judgment from becoming Final.

(u) “Immediate Family” means, as defined in 17 C.F.R § 229.404, Instructions 1(a)(iii) and 1(b)(ii), children, stepchildren, parents, stepparents, spouses, siblings, mothers-in-law, fathers-in-law, sons-in-law, daughters-in-law, brothers-in-law, sisters-in-law and any persons (other than a tenant or employee) sharing the household.

(v) “Individual Defendants” means Bernardo Hees, Paulo Basilio, David Knopf, Alexandre Behring, George Zoghbi, and Rafael Oliveira.

(w) “Judgment” means the final judgment, substantially in the form attached hereto as Exhibit B, to be entered by the Court approving the Settlement.

(x) “Kraft Heinz” or the “Company” means The Kraft Heinz Company.

(y) “Kraft Heinz Defendants” means Kraft Heinz and the Individual Defendants.

(z) “Lead Counsel” means Bernstein Litowitz Berger & Grossmann LLP and Kessler Topaz Meltzer & Check, LLP.

(aa) “Lead Plaintiffs” means Sjunde AP-Fonden and Union Asset Management Holding AG.

(bb) “Litigation Expenses” means the costs and expenses incurred in connection with commencing, prosecuting, and settling the Action (which may include the costs and expenses of Plaintiffs directly related to their representation of the Settlement Class), for which Lead Counsel intend to apply to the Court for payment or reimbursement from the Settlement Fund.

(cc) “Net Settlement Fund” means the Settlement Fund less: (i) any Taxes; (ii) any Notice and Administration Costs; (iii) any Litigation Expenses awarded by the Court; (iv) any attorneys’ fees awarded by the Court; and (v) any other costs or fees approved by the Court.

(dd) “Notice” means the Notice of (I) Pendency of Class Action and Proposed Settlement; (II) Settlement Hearing; and (III) Motion for Attorneys’ Fees and Litigation Expenses, substantially in the form attached hereto as Exhibit 2 to Exhibit A, which is to be posted on the Settlement Website and mailed and/or emailed to Settlement Class Members upon request.

(ee) “Notice and Administration Costs” means the costs, fees, and expenses that are incurred by the Claims Administrator and/or Lead Counsel in connection with: (i) providing notices to the Settlement Class; and (ii) administering the Settlement, including but not limited to

the Claims process, as well as the costs, fees, and expenses incurred in connection with the Escrow Account.

(ff) “Officer” means an officer as that term is defined in Securities and Exchange Act Rule 16a-1(f), 17 C.F.R § 229.16a-1(f).

(gg) “Parties” means Defendants and Plaintiffs, on behalf of themselves and the Settlement Class.

(hh) “Plaintiffs” means Lead Plaintiffs and additional named plaintiff Booker Enterprises Pty Ltd.

(ii) “Plaintiffs’ Counsel” means Lead Counsel and additional counsel Wolf Popper LLP.

(jj) “Plaintiffs’ Releasees” means Plaintiffs, all other plaintiffs in the Action, and all other Settlement Class Members, and any and all of their respective current and former parents, affiliates, subsidiaries, officers, directors, agents, successors, predecessors, assigns, assignees, divisions, investment funds, joint ventures, and general or limited partnerships, and each of their respective current or former officers, directors, partners, trustees, trusts, members, contractors, auditors, principals, agents, managing agents, employees, insurers, reinsurers, and attorneys, in their capacities as such, as well as each of the Settlement Class Members’ Immediate Family members, heirs, executors, personal or legal representatives, estates, beneficiaries, predecessors, successors, and assigns.

(kk) “Plan of Allocation” means the proposed plan of allocation of the Net Settlement Fund set forth in the Notice.

(ll) “Postcard Notice” means the postcard notice, substantially in the form attached hereto as Exhibit 1 to Exhibit A, which is to be mailed and/or emailed to Settlement Class Members.

(mm) “Preliminary Approval Order” means the order, substantially in the form attached hereto as Exhibit A, to be entered by the Court preliminarily approving the Settlement and directing that notice of the Settlement be provided to the Settlement Class.

(nn) “PSLRA” means the Private Securities Litigation Reform Act of 1995, 15 U.S.C. §§ 77z-1, 78u-4, as amended.

(oo) “Released Claims” means all Released Defendants’ Claims and all Released Plaintiffs’ Claims

(pp) “Released Defendants’ Claims” means all claims, demands, losses, rights, and causes of action of every nature and description whatsoever, whether known claims or Unknown Claims, whether arising under federal, state, common, or foreign law, that arise out of or are based upon the institution, prosecution, or settlement of the claims against Defendants. This release does not cover, include, or release (i) any claims relating to the enforcement of the Settlement; or (ii) any claims against any person or entity who or which submits a request for exclusion from the Settlement Class that is accepted by the Court.

(qq) “Released Plaintiffs’ Claims” means all claims, demands, losses, rights, and causes of action of every nature and description whatsoever, whether known claims or Unknown Claims, whether arising under federal, state, common, or foreign law, that have been or could have been asserted in this Action or could in the future be asserted in any forum, whether foreign or domestic, by Plaintiffs or any other member of the Settlement Class, or their successors, assigns, executors, administrators, representatives, attorneys, and agents, in their

capacities as such, whether brought directly or indirectly against any Defendant or other Defendants' Releasees, which (a) arise out of, are based upon, or relate to in any way any of the allegations, acts, transactions, facts, events, matters, occurrences, representations or omissions involved, set forth, alleged or referred to, in the Action, and (b) arise out of, are based upon, or relate to the purchase or acquisition of Kraft Heinz common stock or call options on Kraft Heinz common stock, or the sale of put options on Kraft Heinz common stock during the Class Period. For avoidance of doubt, this release does not cover, include, or release (a) any claims asserted in any related shareholder derivative action, including *In re Kraft Heinz Company Derivative Litigation*, Consolidated C.A. No. 2019-0587 (Del. Ch.); *Police & Fire Ret. Sys. v. Hees*, No. 2020-0069 (Del. Ch.); *Datnoff v. Behring, et al.*, No. 2022-0398 (Del. Ch.); *Felicetti v. Behring et al.*, No. 2023-0278 (Del. Ch.); *In re: Kraft Heinz Shareholder Derivative Litigation*, Case No. 1:20-cv-02259 (N.D. Ill.); *Merritts v. 3G Capital, Inc. et al.*, Case No. 1:20-cv-02071 (N.D. Ill.); *Waters v. Behring et al.*, Case No. 1:20-cv-02072 (N.D. Ill.); *Silverman et al v. Behring et al.*, Case No. 1:20-cv-02257 (N.D. Ill.); *Green v. Behring et al.*, Case No. 1:20-cv-02258 (N.D. Ill.); and *Hill v. Abel et al.*, Case No. 1:20-cv-02280 (N.D. Ill.); (b) any claims related to the enforcement of the Settlement; and (c) any claims of any person or entity who or which submits a request for exclusion from the Settlement Class that is accepted by the Court.

(rr) "Releasee(s)" means each and any of the Defendants' Releasees and each and any of the Plaintiffs' Releasees.

(ss) "Releases" means the releases set forth in ¶¶ 5-7 of this Stipulation.

(tt) "Settlement" means the settlement between Plaintiffs and Defendants on the terms and conditions set forth in this Stipulation.



(uu) “Settlement Amount” means \$450,000,000 in cash. Neither Defendants nor their D&O Insurers shall have any obligation to pay any amount over and above this Settlement Amount. Such amount is to be paid as consideration for full and complete settlement of all the Released Claims.

(vv) “Settlement Class” means all persons or entities who purchased or otherwise acquired Kraft Heinz common stock or call options on Kraft Heinz common stock, or sold put options on Kraft Heinz common stock, during the Class Period and were damaged thereby. Excluded from the Settlement Class are (i) Defendants; (ii) any directors and Officers of Kraft Heinz or 3G Capital during the Class Period and members of their immediate families; (iii) the subsidiaries, parents, and affiliates of Kraft Heinz and 3G Capital; (iv) any firm, trust, corporation, or other entity in which Kraft Heinz or 3G Capital has or had a controlling interest; and (v) the legal representatives, heirs, successors, and assigns of any such excluded party. Also excluded from the Settlement Class are any persons and entities who or which submit a request for exclusion from the Settlement Class that is accepted by the Court.

(ww) “Settlement Class Member” means each person and entity who or which is a member of the Settlement Class.

(xx) “Settlement Fund” means the Settlement Amount plus any and all interest earned thereon.

(yy) “Settlement Hearing” means the hearing set by the Court under Rule 23(e)(2) of the Federal Rules of Civil Procedure to consider final approval of the Settlement.

(zz) “Summary Notice” means the Summary Notice of (I) Pendency of Class Action and Proposed Settlement; (II) Settlement Hearing; and (III) Motion for Attorneys’ Fees

and Litigation Expenses, substantially in the form attached hereto as Exhibit 3 to Exhibit A, to be published as set forth in the Preliminary Approval Order.

(aaa) “Taxes” means: (i) all federal, state and/or local taxes of any kind (including any interest or penalties thereon) on any income earned by the Settlement Fund; and (ii) the expenses and costs incurred by Lead Counsel in connection with determining the amount of, and paying, any taxes owed by the Settlement Fund (including, without limitation, expenses of tax attorneys and accountants).

(bbb) “Unknown Claims” means any Released Plaintiffs’ Claims which any Plaintiff or any other Settlement Class Member does not know or suspect to exist in his, her, or its favor at the time of the release of such claims, and any Released Defendants’ Claims which any Defendant does not know or suspect to exist in his, her, or its favor at the time of the release of such claims, which, if known by him, her, or it, might have materially affected his, her, or its decision(s) with respect to this Settlement. With respect to any and all Released Claims, the Parties stipulate and agree that, upon the Effective Date of the Settlement, Plaintiffs and Defendants shall expressly waive, and each of the other Settlement Class Members shall be deemed to have waived, and by operation of the Judgment or the Alternate Judgment, if applicable, shall have expressly waived, any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law or foreign law, which is similar, comparable, or equivalent to California Civil Code §1542, which provides:

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.

Plaintiffs or other Settlement Class Members may hereafter discover facts, legal theories, or authorities in addition to or different from those which any of them now knows or believes to be

true with respect to the subject matter of the Released Plaintiffs' Claims, but Plaintiffs and each Settlement Class Member shall be deemed to have settled and released, and upon the Effective Date and by operation of the Judgment have settled and released, fully, finally, and forever, any and all Released Plaintiffs' Claims as applicable, without regard to the subsequent discovery or existence of such different or additional facts, legal theories, or authorities. Plaintiffs and Defendants acknowledge, and each of the other Settlement Class Members shall be deemed by operation of law to have acknowledged, that the foregoing waiver was separately bargained for and a key element of the Settlement.

### **CLASS CERTIFICATION**

2. Solely for purposes of the Settlement and for no other purpose, Defendants stipulate and agree to: (a) certification of the Action as a class action pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure on behalf of the Settlement Class; (b) appointment of Plaintiffs as Class Representatives for the Settlement Class; and (c) appointment of Lead Counsel as Class Counsel for the Settlement Class pursuant to Rule 23(g) of the Federal Rules of Civil Procedure.

### **PRELIMINARY APPROVAL OF SETTLEMENT**

3. Within five (5) business days of execution of this Stipulation, Plaintiffs will provide a draft of the motion for preliminary approval of the Settlement to Defendants' Counsel. The Parties shall use their best efforts to finalize the motion for preliminary approval within five (5) business days, and Plaintiffs will file the motion for preliminary approval promptly thereafter. Plaintiffs' motion for preliminary approval of the Settlement will include a request for authorization to provide notice of the Settlement to the Settlement Class and to schedule a hearing for consideration of final approval of the Settlement. The motion for preliminary

approval, class notice, and all public filings and disseminations shall recite the total Settlement Amount only, without disclosing information related to the contribution made by specific Defendants and/or their insurance carriers, unless otherwise ordered by the Court. Concurrently with the motion for preliminary approval, Plaintiffs shall apply to the Court for, and Defendants shall agree to, entry of the Preliminary Approval Order, substantially in the form attached hereto as Exhibit A.

### **RELEASE OF CLAIMS**

4. The obligations incurred pursuant to this Stipulation are in consideration of: (a) the full and final disposition of the Action as against Defendants; and (b) the Releases provided for herein. The Releases contained in this section were separately bargained for and are essential elements of the Settlement as embodied in this Stipulation.

5. In consideration of the payment of the Settlement Amount, upon final judicial approval of the Settlement, Plaintiffs shall dismiss the Action with prejudice. Pursuant to the Judgment, or the Alternate Judgment, if applicable, without further action by anyone, upon the Effective Date of the Settlement, Plaintiffs and each of the other Settlement Class Members, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, assigns, representatives, attorneys, and agents, in their capacities as such, shall be deemed to have, and by operation of law and of the Judgment shall have, fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and discharged each and every Released Plaintiffs' Claim against Defendants and the other Defendants' Releasees, and shall forever be barred and enjoined from prosecuting any or all of the Released Plaintiffs' Claims directly or indirectly against any of the Defendants' Releasees. This release shall not apply to any person or entity who or which submits a request for exclusion from the Settlement

Class that is accepted by the Court.

6. Pursuant to the Judgment, or the Alternate Judgment, if applicable, without further action by anyone, upon the Effective Date of the Settlement, Defendants, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, assigns, representatives, attorneys, and agents, in their capacities as such, shall be deemed to have, and by operation of law and of the Judgment shall have, fully, finally, and forever compromised, settled, released, resolved, relinquished, waived, and discharged each and every Released Defendants' Claim against Plaintiffs and the other Plaintiffs' Releasees, and shall forever be barred and enjoined from prosecuting any or all of the Released Defendants' Claims directly or indirectly against any of the Plaintiffs' Releasees. This release shall not apply to any person or entity who or which submits a request for exclusion from the Settlement Class that is accepted by the Court.

7. Notwithstanding ¶¶ 5-6 above, nothing in the Judgment, or the Alternate Judgment, if applicable, shall bar any action by any of the Parties to enforce or effectuate the terms of this Stipulation or the Judgment, or Alternate Judgment, if applicable.

#### **THE SETTLEMENT CONSIDERATION**

8. In consideration of the full and complete settlement of the Released Plaintiffs' Claims against Defendants and the other Defendants' Releasees, Defendants shall pay or cause to be paid the Settlement Amount into the Escrow Account. The Settlement Amount will be allocated amongst the Kraft Heinz Defendants, 3G Capital, and Defendants' insurers, pursuant to a confidential agreement entered into by the Defendants which shall not be filed with the Court and its terms shall not be disclosed in any other manner unless the Court directs otherwise. That portion of the Settlement Amount that will be funded by Defendants' insurers shall be deposited

into the Escrow Account no later than thirty (30) calendar days of the latter of (i) the Court's entry of the Preliminary Approval Order; or (ii) Defendants' Counsel receipt of complete escrow payment information and supporting documentation (a signed Form W-9 for the Escrow Account; a completed wire transfer, ACH transfer, or similar anti-fraud payment request form signed by an authorized representative of the Escrow Account; and wire and check funding instructions and information including payee name, telephone, and e-mail contact information and a physical address for the Escrow Agent). Payment of the balance of the Settlement Amount into the Escrow Account shall be made no later than the earlier of (a) one hundred (100) calendar days after the Court's entry of the Preliminary Approval Order and Defendants' Counsel's receipt of the complete escrow payment information as described above; or (b) seven (7) business days before the date set by the Court for the Settlement Hearing. Defendants and their insurers shall have no obligation to pay any additional amounts beyond the Settlement Amount other than, as set forth herein, (a) their obligation to provide the list of purchasers of record of Kraft Heinz common stock during the Class Period, as provided in ¶ 20 below and (b) to pay for the costs of the CAFA notice and administering the CAFA notice, as provided in ¶ 21 below.

9. With the sole exception of Defendants' obligation to secure payment of the Settlement Amount into the Escrow Account as provided for in ¶ 8 above, Defendants and Defendants' counsel shall have no responsibility for, interest in, or liability whatsoever with respect to: (i) any act, omission, or determination by Lead Counsel or the Claims Administrator, or any of their respective designees or agents, in connection with the administration of the Settlement or otherwise; (ii) the management, investment, or distribution of the Settlement Fund; (iii) the Plan of Allocation; (iv) the determination, administration, calculation, or payment of any claims asserted against the Settlement Fund; (v) any loss suffered by, or fluctuation in value of,

the Settlement Fund; or (vi) the payment or withholding of any Taxes, expenses, and/or costs incurred in connection with the taxation of the Settlement Fund, distributions, or other payments from the Escrow Account, or the filing of any federal, state, or local returns.

**USE OF SETTLEMENT FUND**

10. The Settlement Fund shall be used to pay: (a) any Taxes; (b) any Notice and Administration Costs; (c) any Litigation Expenses awarded by the Court; (d) any attorneys' fees awarded by the Court; and (e) any other costs and fees approved by the Court. The balance remaining in the Settlement Fund, that is, the Net Settlement Fund, shall be distributed to Authorized Claimants as provided in ¶¶ 21-27 below. Defendants and any other Defendants' Releasees shall bear no responsibility for the costs, fees, or expenses described in this paragraph, beyond the obligations described in ¶ 8 above.

11. Except as provided herein or pursuant to orders of the Court, the Net Settlement Fund shall remain in the Escrow Account prior to the Effective Date. All funds held by the Escrow Agent shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time as the funds shall be distributed or returned pursuant to the terms of this Stipulation and/or further order of the Court. At the written direction of Lead Counsel, the Escrow Account shall invest any funds in the Escrow Account 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 United States Treasury Fund or 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. The Escrow Agent shall reinvest the proceeds of these instruments or accounts as they mature in similar instruments or accounts at their then-current market rates.

Defendants and any other Defendants' Releasees shall have no responsibility for, interest in, or liability whatsoever with respect to investment decisions executed by the Escrow Agent. All risks related to the investment of the Settlement Fund shall be borne solely by the Settlement Fund.

12. The Parties agree that the Settlement Fund is intended to be a Qualified Settlement Fund within the meaning of Treasury Regulation § 1.468B-1 and that Lead Counsel, as administrators of the Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall be solely responsible for filing or causing to be filed all informational and other tax returns as may be necessary or appropriate (including, without limitation, the returns described in Treasury Regulation § 1.468B-2(k)) for the Settlement Fund. Lead Counsel shall also be responsible for causing payment to be made from the Settlement Fund of any Taxes owed with respect to the Settlement Fund. Defendants' Releasees shall not have any liability or responsibility for any such Taxes. Upon written request, Defendants will provide to Lead Counsel the statement described in Treasury Regulation § 1.468B-3(e). Lead Counsel, as administrators of the Settlement Fund within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall timely make such elections as are necessary or advisable to carry out this paragraph, including, as necessary, making a "relation back election," as described in Treasury Regulation § 1.468B-1(j), to cause the Qualified Settlement Fund to come into existence at the earliest allowable date, and shall take or cause to be taken all actions as may be necessary or appropriate in connection therewith.

13. All Taxes shall be paid out of the Settlement Fund, and shall be timely paid, or caused to be paid, by Lead Counsel and without further order of the Court. Any tax returns prepared for the Settlement Fund (as well as the election set forth therein) shall be consistent



with the previous paragraph and in all events shall reflect that all Taxes on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided herein. Defendants' Releasees shall have no responsibility or liability for the acts or omissions of Lead Counsel or their agents with respect to the payment of Taxes, as described herein.

14. The Settlement is not a claims-made settlement. Upon the occurrence of the Effective Date, no Defendant, Defendants' Releasee, or any other person or entity (including Defendants' insurance carriers) who or which paid any portion of the Settlement Amount shall have any right to the return of the Settlement Fund or any portion thereof for any reason whatsoever, including without limitation, the number of Claims submitted, the collective amount of Recognized Claims of Authorized Claimants, the percentage of recovery of losses, or the amounts to be paid to Authorized Claimants from the Net Settlement Fund.

15. Prior to the Effective Date of the Settlement, Lead Counsel may pay from the Escrow Account, without further approval from Defendants or further order of the Court, all Notice and Administration Costs actually incurred and paid or payable, up to one million dollars (\$1,000,000). After the Effective Date of the Settlement, Lead Counsel may pay from the Escrow Account, without further approval from Defendants or further order of the Court, all Notice and Administration Costs actually incurred and paid or payable. Notice and Administration Costs shall include, without limitation, the actual costs of printing and mailing the Postcard Notice, developing the Settlement Website and posting the Notice and Claim Form, publishing the Summary Notice, reimbursements to nominee owners for searching and providing the names/addresses of prospective Settlement Class Members for noticing or forwarding the Postcard Notice directly to their beneficial owners, the administrative expenses incurred and fees charged by the Claims Administrator in connection with providing notice and administering the

Settlement (including processing the submitted Claims), and the fees, if any, of the Escrow Agent. In the event that the Settlement is terminated pursuant to the terms of this Stipulation, all Notice and Administration Costs paid or incurred, including any related fees up to one million dollars (\$1,00,000) shall not be returned or repaid to Defendants, any of the other Defendants' Releasees, or any other person or entity (including Defendants' insurance carriers) who or which paid any portion of the Settlement Amount.

**ATTORNEYS' FEES AND LITIGATION EXPENSES**

16. Lead Counsel will apply to the Court for a collective award of attorneys' fees to Plaintiffs' Counsel to be paid solely from (and out of) the Settlement Fund. Lead Counsel also will apply to the Court for payment of Litigation Expenses, which may include a request for reimbursement of Plaintiffs' costs and expenses directly related to their representation of the Settlement Class, to be paid solely from (and out of) the Settlement Fund. Lead Counsel's application for attorneys' fees and/or Litigation Expenses is not the subject of any agreement between Defendants and Plaintiffs other than what is set forth in this Stipulation.

17. Any attorneys' fees and Litigation Expenses that are awarded by the Court shall be paid to Lead Counsel immediately upon award, notwithstanding the existence of any timely filed objections thereto, or potential for appeal therefrom, or collateral attack on the Settlement or any part thereof, subject to Plaintiffs' Counsel's obligation to make appropriate refunds or repayments to the Settlement Fund, plus accrued interest at the same net rate as is earned by the Settlement Fund, if the Settlement is terminated pursuant to the terms of this Stipulation or if, as a result of any appeal or further proceedings on remand, or successful collateral attack, the award of attorneys' fees and/or Litigation Expenses is reduced or reversed and such order reducing or reversing the award has become Final. Plaintiffs' Counsel shall make the appropriate refund or

repayment in full no later than thirty (30) days after: (a) receiving from Defendants' Counsel notice of the termination of the Settlement; or (b) any order reducing or reversing the award of attorneys' fees and/or Litigation Expenses has become Final. An award of attorneys' fees and/or Litigation Expenses is not a necessary term of this Stipulation and is not a condition of the Settlement embodied herein. Neither Plaintiffs nor Lead Counsel may cancel or terminate the Settlement based on this Court's or any appellate court's ruling with respect to attorneys' fees and/or Litigation Expenses. Plaintiffs' Counsels' fee and expense application shall be treated by the Court separately from the fairness, reasonableness, and adequacy of this Stipulation and the associated Settlement. An award of attorneys' fees and or Litigation Expenses is not a necessary term of this Stipulation and is not a condition of the Settlement embodied herein. Lead Counsel, as a condition of receiving any such award of attorneys' fees and Litigation Expenses, agree that they are subject to the jurisdiction of the Court for purposes of enforcing the provisions of this paragraph.

18. Lead Counsel shall allocate the attorneys' fees among Plaintiffs' Counsel in a manner which they, in good faith, believe reflects the contributions of such counsel to the institution, prosecution, and settlement of the Action. Defendants' Releasees shall have no responsibility for or liability whatsoever with respect to any payment to Plaintiffs' Counsel from the Settlement Fund and/or the allocation of an award of attorneys' fees or Litigation Expenses among Plaintiffs' Counsel. The attorneys' fees and Litigation Expenses that are awarded to Plaintiffs' Counsel shall be payable solely from the Escrow Account. No Defendant or Defendants' Releasees shall have responsibility for payment of such fees or expenses beyond the obligation of Defendants to cause the Settlement Amount to be funded. Defendants and Defendants' Releasees shall have no responsibility for, and no liability whatsoever with respect

to, any allocation of any attorneys' fees or expenses in the Action, or to any other person or entity who may assert some claim thereto, or any fee or expense awards the Court may make in the Action.

**NOTICE AND SETTLEMENT ADMINISTRATION**

19. As part of the Preliminary Approval Order, Lead Counsel shall seek appointment of a Claims Administrator. The Claims Administrator shall administer the Settlement, including but not limited to the process of receiving, reviewing, and approving or denying Claims, under Lead Counsel's supervision and subject to the jurisdiction of the Court. None of the Defendants, nor any other Defendants' Releasees, shall have any involvement in or any responsibility, authority, or liability whatsoever for the selection of the Claims Administrator, the Plan of Allocation, the administration of the Settlement, the Claims process, or disbursement of the Net Settlement Fund, and shall have no liability whatsoever to any person or entity, including, but not limited to, Plaintiffs, any other Settlement Class Members, or Lead Counsel in connection with the foregoing. Defendants and Defendants' Counsel shall cooperate in the administration of the Settlement to the extent reasonably necessary to effectuate its terms.

20. In accordance with the terms of the Preliminary Approval Order to be entered by the Court, Lead Counsel shall cause the Claims Administrator to mail and/or email the Postcard Notice to those members of the Settlement Class as may be identified through reasonable effort. Lead Counsel shall also cause the Claims Administrator to post the Notice and Claim Form on the Settlement Website as well as cause the Claims Administrator to have the Summary Notice published in accordance with the terms of the Preliminary Approval Order to be entered by the Court. For the purposes of identifying and providing notice to the Settlement Class, within ten (10) business days after the Court's entry of the Preliminary Approval Order, Kraft Heinz shall

provide or cause to be provided to the Claims Administrator in electronic format (such as Excel) (at no cost to the Settlement Fund, Plaintiffs, the Settlement Class, Lead Counsel or the Claims Administrator) a list, consisting of names, addresses, and e-mail addresses (if available), of purchasers of record of Kraft Heinz common stock during the Class Period.

21. No later than ten (10) calendar days following the filing of this Stipulation with the Court, Defendants shall serve the notice required under the Class Action Fairness Act, 28 U.S.C. § 1715 et seq. (“CAFA”). Defendants are solely responsible for the costs of the CAFA notice and administering the CAFA notice. At least seven (7) calendar days before the Settlement Hearing, Defendants shall cause to be served on Lead Counsel and filed with the Court proof, by affidavit or declaration, regarding compliance with CAFA § 1715(b).

22. The Claims Administrator shall receive Claims and determine first, whether the Claim is a valid Claim, in whole or part, and second, each Authorized Claimant’s *pro rata* share of the Net Settlement Fund based upon each Authorized Claimant’s Recognized Claim compared to the total Recognized Claims of all Authorized Claimants (as set forth in the Plan of Allocation set forth in the Notice attached hereto as Exhibit 2 to Exhibit A, or in such other plan of allocation as the Court approves).

23. The Plan of Allocation proposed in the Notice is not a necessary term of the Settlement or of this Stipulation and it is not a condition of the Settlement or of this Stipulation that any particular plan of allocation be approved by the Court. Plaintiffs and Lead Counsel may not cancel or terminate the Settlement (or this Stipulation) based on this Court’s or any appellate court’s ruling with respect to the Plan of Allocation or any other plan of allocation in this Action. No Defendant, nor any other Defendants’ Releasees, shall have any involvement with or liability,

obligation, or responsibility whatsoever for the application of the Court-approved plan of allocation.

24. Any Settlement Class Member who does not submit a valid Claim will not be entitled to receive any distribution from the Net Settlement Fund, but will otherwise be bound by all of the terms of this Stipulation and the Settlement, including the terms of the Judgment or, the Alternate Judgment, if applicable, to be entered in the Action and the Releases provided for herein and therein, and will be permanently barred and enjoined from bringing any action, claim, or other proceeding of any kind against the Defendants' Releasees with respect to the Released Plaintiffs' Claims in the event that the Effective Date occurs with respect to the Settlement.

25. Lead Counsel shall be responsible for supervising the administration of the Settlement and the disbursement of the Net Settlement Fund subject to Court approval. No Defendant, nor any other Defendants' Releasees, shall be permitted to review, contest, or object to any Claim, or any decision of the Claims Administrator or Lead Counsel with respect to accepting or rejecting any Claim for payment. Lead Counsel shall have the right, but not the obligation, to waive what they deem to be formal or technical defects in any Claims submitted in the interests of achieving substantial justice.

26. For purposes of determining the extent, if any, to which a Settlement Class Member shall be entitled to be treated as an Authorized Claimant, the following conditions shall apply:

(a) Each Claimant shall be required to submit a Claim in paper form, substantially in the form attached hereto as Exhibit 4 to Exhibit A, or in electronic form, in accordance with the instructions for the submission of such Claims, and supported by such documents as are designated therein, including proof of the Claimant's loss, or such

other documents or proof as the Claims Administrator or Lead Counsel, in their discretion, may deem acceptable;

(b) All Claims must be submitted by the date set by the Court in the Preliminary Approval Order and specified in the notices. Any Settlement Class Member who fails to submit a Claim by such date shall be forever barred from receiving any distribution from the Net Settlement Fund or payment pursuant to this Stipulation (unless by Order of the Court such Settlement Class Member's Claim is accepted), but shall in all other respects be bound by all of the terms of this Stipulation and the Settlement, including the terms of the Judgment or Alternate Judgment, if applicable, and the Releases provided for herein and therein, and will be permanently barred and enjoined from bringing any action, claim, or other proceeding of any kind against any Defendants' Releasees with respect to any Released Plaintiffs' Claim. Provided that it is mailed by the claim-submission deadline, a Claim Form shall be deemed to be submitted when postmarked, if received with a postmark indicated on the envelope and if mailed by first-class mail and addressed in accordance with the instructions thereon. In all other cases, the Claim Form shall be deemed to have been submitted on the date when actually received by the Claims Administrator;

(c) Each Claim shall be submitted to and reviewed by the Claims Administrator who shall determine in accordance with this Stipulation and the plan of allocation the extent, if any, to which each Claim shall be allowed, subject to review by the Court pursuant to subparagraph (e) below as necessary;

(d) Claims that do not meet the submission requirements may be rejected. Prior to rejecting a Claim in whole or in part, the Claims Administrator shall

communicate with the Claimant in writing, to give the Claimant the chance to remedy any curable deficiencies in the Claim submitted. The Claims Administrator shall notify, in a timely fashion and in writing, all Claimants whose Claim the Claims Administrator proposes to reject in whole or in part, setting forth the reasons therefor, and shall indicate in such notice that the Claimant whose Claim is to be rejected has the right to a review by the Court if the Claimant so desires and complies with the requirements of subparagraph (e) below; and

(e) If any Claimant whose Claim has been rejected in whole or in part desires to contest such rejection, the Claimant must, within twenty (20) days after the date of mailing of the notice required in subparagraph (d) above, or a lesser time period if the Claim was untimely, serve upon the Claims Administrator a notice and statement of reasons indicating the Claimant's grounds for contesting the rejection along with any supporting documentation, and requesting a review thereof by the Court. If a dispute concerning a Claim cannot be otherwise resolved, Lead Counsel shall thereafter present the request for review to the Court.

27. Each Claimant shall be deemed to have submitted to the jurisdiction of the Court with respect to the Claimant's Claim, and the Claim will be subject to investigation and discovery under the Federal Rules of Civil Procedure, provided, however, that such investigation and discovery shall be limited to that Claimant's status as a Settlement Class Member and the validity and amount of the Claimant's Claim. No discovery shall be allowed on the merits of this Action or of the Settlement in connection with the processing of Claims.

28. Lead Counsel will apply to the Court, on notice to Defendants' Counsel, for a Class Distribution Order: (a) approving the Claims Administrator's administrative



determinations concerning the acceptance and rejection of the Claims submitted; (b) approving payment of any unpaid administration fees and expenses associated with the administration of the Settlement from the Escrow Account; and (c) if the Effective Date has occurred, directing payment of the Net Settlement Fund to Authorized Claimants from the Escrow Account.

29. Payment pursuant to the Class Distribution Order shall be final and conclusive against all Claimants. All Settlement Class Members whose Claims are not approved by the Court for payment shall be barred from participating in distributions from the Net Settlement Fund, but otherwise shall be bound by all of the terms of this Stipulation and the Settlement, including the terms of the Judgment or Alternate Judgment, if applicable, to be entered in this Action and the Releases provided for herein and therein, and will be permanently barred and enjoined from bringing any action against any and all Defendants' Releasees with respect to any and all of the Released Plaintiffs' Claims.

30. No person or entity shall have any claim against Plaintiffs, Plaintiffs' Counsel, the Claims Administrator, or any other agent designated by Lead Counsel, or Defendants' Releasees and/or their respective counsel, arising from distributions made substantially in accordance with this Stipulation, the plan of allocation approved by the Court, or any order of the Court. Plaintiffs and Defendants, and their respective counsel, and Plaintiffs' damages expert and all other Releasees shall have no liability whatsoever for the investment or distribution of the Settlement Fund or the Net Settlement Fund, the plan of allocation, or the determination, administration, calculation, or payment of any claim or nonperformance of the Claims Administrator, the payment or withholding of taxes (including interest and penalties) owed by the Settlement Fund, or any losses incurred in connection therewith.

31. All proceedings with respect to the administration, processing and determination of Claims and the determination of all controversies relating thereto, including disputed questions of law and fact with respect to the validity of Claims, shall be subject to the jurisdiction of the Court. All Settlement Class Members, other Claimants, and Parties to this Stipulation expressly waive trial by jury (to the extent any such right may exist) and any right of appeal or review with respect to such determinations.

**TERMS OF THE JUDGMENT**

32. If the Settlement contemplated by this Stipulation is approved by the Court, Lead Counsel and Defendants' Counsel shall request that the Court enter a Judgment, substantially in the form attached hereto as Exhibit B. The terms of 15 U.S.C. 78u-4(f)(7) shall apply to this Settlement, including that each Defendant shall be discharged from all claims for contribution brought by other persons, and the Judgment shall so provide. The Judgment shall include a bar order constituting the final discharge of all obligations to any Settlement Class Member of each of the Defendants arising out of the Action and shall bar all future claims for contribution arising out of the Action by any person against any Defendant.

**CONDITIONS OF SETTLEMENT AND EFFECT OF  
DISAPPROVAL, CANCELLATION OR TERMINATION**

33. The Effective Date of the Settlement shall be deemed to occur on the first business day on which all of the following have occurred or been waived:

- (a) the Court has entered the Preliminary Approval Order, substantially in the form set forth in Exhibit A attached hereto, as required by ¶ 3 above;
- (b) the Settlement Amount has been deposited into the Escrow Account in accordance with the provisions of ¶ 8 above;

(c) Defendants have not exercised their option to terminate the Settlement pursuant to the provisions of this Stipulation;

(d) Plaintiffs have not exercised their option to terminate the Settlement pursuant to the provisions of this Stipulation; and

(e) the Court has approved the Settlement as described herein, following notice to the Settlement Class and a hearing, as prescribed by Rule 23 of the Federal Rules of Civil Procedure, and entered the Judgment and the Judgment has become Final, or the Court has entered an Alternate Judgment and none of the Parties seek to terminate the Settlement and the Alternate Judgment has become Final.

34. Upon the occurrence of all of the events referenced in ¶ 33 above, any and all remaining interest or right of Defendants in or to the Settlement Fund, if any, shall be absolutely and forever extinguished and the Releases herein shall be effective.

35. If (i) Defendants exercise their right to terminate the Settlement as provided in this Stipulation; (ii) Plaintiffs exercise their right to terminate the Settlement as provided in this Stipulation; (iii) the Court disapproves the Settlement; or (iv) the Effective Date as to the Settlement otherwise fails to occur, then:

(a) The Settlement and the relevant portions of this Stipulation shall be canceled and terminated;

(b) Plaintiffs and Defendants shall revert to their respective litigation positions in the Action immediately prior to the execution of the Term Sheet on March 14, 2023;

(c) Neither Plaintiffs nor Defendants will use or rely on any statement, document, admission, or agreement concerning the Settlement and/or settlement discussions in the Action;

(d) The terms and provisions of this Stipulation, with the exception of this ¶ 35 and ¶¶ 15, 17, 39, and 60, shall have no further force and effect with respect to the Parties and shall not be used in the Action or in any other proceeding for any purpose, and any Judgment, or Alternate Judgment, if applicable, or order entered by the Court in accordance with the terms of this Stipulation shall be treated as vacated, nunc pro tunc; and

(e) Within three (3) business days after joint written notification of termination is sent by Defendants' Counsel and Lead Counsel to the Escrow Agent, the Settlement Fund (including accrued interest thereon, and change in value as a result of the investment of the Settlement Fund, and any funds received by Lead Counsel consistent with ¶ 17 above), less any Notice and Administration Costs actually incurred, paid or payable, up to one million dollars (\$1,000,000), and less any Taxes paid, due or owing shall be refunded by the Escrow Agent to Defendants (or such other persons or entities as Defendants may direct). In the event that the funds received by Lead Counsel consistent with ¶ 17 above have not been refunded to the Settlement Fund within the three (3) business days specified in this paragraph, those funds shall be refunded by the Escrow Agent to Defendants (or such other persons or entities as Defendants may direct) immediately upon their deposit into the Escrow Account consistent with ¶ 17 above.

36. It is further stipulated and agreed that the Kraft Heinz Defendants, 3G Capital, and Plaintiffs shall each have the right to terminate the Settlement and this Stipulation, by

providing written notice of their election to do so (“Termination Notice”) to the other Parties to this Stipulation within thirty (30) days of: (a) the Court’s final refusal to enter the Preliminary Approval Order in any material respect; (b) the Court’s final refusal to approve the Settlement or any material part thereof; (c) the Court’s final refusal to enter the Judgment in any material respect as to the Settlement; (d) the date upon which the Judgment is modified or reversed in any material respect by the United States Court of Appeals for the Seventh Circuit or the United States Supreme Court; or (e) the date upon which an Alternate Judgment is modified or reversed in any material respect by the United States Court of Appeals for the Seventh Circuit or the United States Supreme Court, and the provisions of ¶ 35 above shall apply. However, any decision or proceeding, whether in this Court or any appellate court, with respect to an application for attorneys’ fees or Litigation Expenses or with respect to any plan of allocation shall not be considered material to the Settlement, shall not affect the finality of any Judgment or Alternate Judgment, if applicable, and shall not be grounds for termination of the Settlement. For the avoidance of doubt, Defendants shall deem any decision, ruling, or order that purports to materially limit the scope of the Released Plaintiffs’ Claims or the Defendants’ Releasees to constitute a material change for purposes of the foregoing.

37. In addition to the grounds set forth in ¶ 36 above, the Kraft Heinz Defendants (provided they agree) and 3G Capital (provided they agree) shall each have the unilateral right to terminate the Settlement in the event that Settlement Class Members timely and validly requesting exclusion from the Settlement Class meet the conditions set forth in the Parties’ confidential supplemental agreement (“Supplemental Agreement”), in accordance with the terms of that agreement. For the avoidance of doubt, either 3G Capital or the Kraft Heinz Defendants may separately exercise the right set forth in the Supplemental Agreement. The Supplemental

Agreement, which is being executed concurrently herewith, shall not be filed with the Court and its terms shall not be disclosed in any other manner (other than the statements herein and in the Notice, to the extent necessary, or as otherwise provided in the Supplemental Agreement) unless the Court otherwise directs or a dispute arises between Plaintiffs and Defendants concerning its interpretation or application, in which event the Parties shall submit the Supplemental Agreement to the Court in camera and request that the Court afford it confidential treatment.

38. Plaintiffs shall also have the option to terminate the Settlement in the event that the Settlement Amount has not been paid as provided for in ¶ 8 above, by providing written notice of the election to terminate to Defendants' Counsel.

**NO ADMISSION OF WRONGDOING**

39. Neither the Term Sheet, this Stipulation (whether or not consummated), including the exhibits hereto and the Plan of Allocation contained therein (or any other plan of allocation that may be approved by the Court), the Parties' mediation and subsequent Settlement, the communications and/or discussions leading to the execution of the Term Sheet and this Stipulation, nor any proceedings taken pursuant to or in connection with the Term Sheet, this Stipulation, and/or approval of the Settlement (including any arguments proffered in connection therewith):

(a) shall be offered against any of the Defendants' Releasees as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission by any of the Defendants' Releasees with respect to the truth of any fact alleged by Plaintiffs or the validity or infirmity of any claim that was or could have been asserted or the deficiency of any defense that has been or could have been asserted in this Action or in any other litigation, or of any liability, negligence, fault, or other wrongdoing of any

kind of any of the Defendants' Releasees or in any way referred to for any other reason as against any of the Defendants' Releasees, in any arbitration proceeding or other civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Stipulation;

(b) shall be offered against any of the Plaintiffs' Releasees, as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission by any of the Plaintiffs' Releasees that any of their claims are without merit, that any of the Defendants' Releasees had meritorious defenses, or that damages recoverable under the Complaint would not have exceeded the Settlement Amount or with respect to any liability, negligence, fault, or wrongdoing of any kind, or in any way referred to for any other reason as against any of the Plaintiffs' Releasees, in any arbitration proceeding or other civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Stipulation; or

(c) shall be construed against any of the Releasees as an admission, concession, or presumption that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial;

*provided, however,* that if this Stipulation is approved by the Court, the Parties and the Releasees and their respective counsel may refer to it to effectuate the protections from liability granted hereunder or otherwise to enforce the terms of the Settlement.

#### **MISCELLANEOUS PROVISIONS**

40. All of the exhibits attached hereto are hereby incorporated by reference as though fully set forth herein. Notwithstanding the foregoing, in the event that there exists a conflict or

inconsistency between the terms of this Stipulation and the terms of any exhibit attached hereto, the terms of the Stipulation shall prevail.

41. Each Defendant warrants, as to the payments made or to be made on behalf of himself, herself or itself only, that at the time of entering into this Stipulation and at the time of such payment they, or to the best of their knowledge any persons or entities contributing to the payment of the Settlement Amount, were not insolvent, nor will the payment required to be made by or on behalf of them render them insolvent, within the meaning of and/or for the purposes of the United States Bankruptcy Code, including §§ 101 and 547 thereof. This representation is made by each of the Defendants and not by their counsel.

42. In the event of the entry of a final order of a court of competent jurisdiction determining the transfer of money to the Settlement Fund or any portion thereof by or on behalf of Defendants to be a preference, voidable transfer, fraudulent transfer or similar transaction and any portion thereof is required to be returned, and such amount is not promptly deposited into the Settlement Fund by others, then, at the election of Plaintiffs, Plaintiffs and Defendants shall jointly move the Court to vacate and set aside the Releases given and the Judgment or Alternate Judgment, if applicable, entered in favor of Defendants and the other Releasees pursuant to this Stipulation, in which event the Releases and Judgment, or Alternate Judgment, if applicable, shall be null and void, and the Parties shall be restored to their respective positions in the Action as provided in ¶ 35(b) above and any cash amounts in the Settlement Fund (less any Taxes paid, due or owing with respect to the Settlement Fund and less any Notice and Administration Costs actually incurred, paid or payable) shall be returned as provided in ¶ 35(e) above.

43. The Parties intend this Stipulation and the Settlement to be a final and complete resolution of all disputes asserted or which could be asserted by Plaintiffs and any other



Settlement Class Members against the Defendants' Releasees with respect to the Released Plaintiffs' Claims. Plaintiffs and Defendants agree that each has complied fully with the strictures of Rule 11 of the Federal Rules of Civil Procedure, and the proposed Judgment will contain a statement to reflect this compliance. The Parties agree that the amounts paid and the other terms of the Settlement were negotiated at arm's length and in good faith by the Parties, including through a mediation process supervised and conducted by former United States District Court Judge Layn R. Phillips, and reflect that the Settlement was reached voluntarily after extensive negotiations and consultation with experienced legal counsel, who were fully competent to assess the strengths and weaknesses of their respective clients' claims or defenses.

44. It is agreed that none of the Parties shall disparage any other Party in any form or through any medium, and that, except in connection with Kraft Heinz's public reporting obligations, neither side shall issue any press releases or make public comments in any form or through any medium regarding the Settlement and/or the claims asserted in this litigation. The Kraft Heinz Defendants shall comment, if asked about the Settlement, in substance that while they vigorously disputed the allegations in the Complaint, they are pleased to have resolved the matter. Except as required by law or court order or in connection with related legal proceedings, or as provided in the preceding sentences, no Party shall comment publicly on any details of the Settlement that is not included in the materials publicly filed with the Court. Plaintiffs and Lead Counsel and Defendants and Defendants' Counsel shall not make any accusations of wrongful or actionable conduct by any Party concerning the prosecution, defense, and resolution of the Action, and shall not otherwise suggest that the Settlement constitutes an admission of any claim or defense alleged.

45. The terms of the Settlement, as reflected in this Stipulation, may not be modified or amended, nor may any of its provisions be waived except by a writing signed on behalf of both Plaintiffs and Defendants (or their successors-in-interest).

46. The headings herein are used for the purpose of convenience only and are not meant to have legal effect.

47. The administration and consummation of the Settlement as embodied in this Stipulation shall be under the authority of the Court, and the Court shall retain jurisdiction for the purpose of entering orders providing for awards of attorneys' fees and Litigation Expenses to Plaintiffs' Counsel and enforcing the terms of this Stipulation, including the Plan of Allocation (or such other plan of allocation as may be approved by the Court) and the distribution of the Net Settlement Fund to Settlement Class Members.

48. The waiver by one Party of any breach of this Stipulation by any other Party shall not be deemed a waiver of any other prior or subsequent breach of this Stipulation.

49. This Stipulation and its exhibits and the Supplemental Agreement constitute the entire agreement among Plaintiffs and Defendants concerning the Settlement. All Parties acknowledge that no other agreements, representations, warranties, or inducements have been made by any Party hereto concerning this Stipulation, its exhibits or the Supplemental Agreement other than those contained and memorialized in such documents.

50. This Stipulation and the Supplemental Agreement may be executed in one or more counterparts, including by signature transmitted via facsimile, or by a .pdf/.tif image of the signature transmitted via email. All executed counterparts and each of them shall be deemed to be one and the same instrument.

51. This Stipulation shall be binding upon and inure to the benefit of the successors and assigns of the Parties, including any and all Releasees and any corporation, partnership, or other entity into or with which any Party hereto may merge, consolidate, or reorganize.

52. The construction, interpretation, operation, effect, and validity of this Stipulation, the Supplemental Agreement and all documents necessary to effectuate the Settlement shall be governed by the internal laws of Illinois without regard to conflicts of laws, except to the extent that federal law requires that federal law govern.

53. Any action arising under or to enforce this Stipulation or any portion thereof, shall be commenced and maintained only in the Court.

54. This Stipulation shall not be construed more strictly against one Party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the Parties, it being recognized that it is the result of arm's-length negotiations between the Parties and all Parties have contributed substantially and materially to the preparation of this Stipulation.

55. All counsel and any other person executing this Stipulation and any of the exhibits hereto, or any related Settlement documents, warrant and represent that they have the full authority to do so and that they have the authority to take appropriate action required or permitted to be taken pursuant to the Stipulation to effectuate its terms.

56. Lead Counsel and Defendants' Counsel agree to cooperate fully with one another in seeking Court approval of the Preliminary Approval Order and the Settlement, as embodied in this Stipulation, and to use best efforts to promptly agree upon and execute all such other documentation as may be reasonably required to obtain final approval by the Court of the Settlement.

57. Without further order of the Court, the Parties may agree to reasonable extensions of time to carry out any provisions of this Stipulation.

58. If any Party is required to give notice to another Party under this Stipulation, such notice shall be in writing and shall be deemed to have been duly given upon receipt of hand delivery or facsimile or email transmission, with confirmation of receipt. Notice shall be provided as follows:

If to Plaintiffs or Lead Counsel:                   Bernstein Litowitz Berger & Grossmann LLP  
Attn: Salvatore J. Graziano  
          Katherine M. Sinderson  
          Jesse L. Jensen  
1251 Avenue of the Americas  
New York, NY 10020  
Telephone: (212) 554-1400  
Facsimile: (212) 554-1444  
Email: salvatore@blbglaw.com  
          katiem@blbglaw.com  
          jesse.jensen@blbglaw.com

-and-

Kessler Topaz Meltzer & Check, LLP  
Attn: Sharan Nirmul  
          Richard A. Russo, Jr.  
          Joshua A. Materese  
280 King of Prussia Road  
Radnor, PA 19087  
Telephone: (610) 667-7706  
Facsimile: (610) 667-7056  
Email: snirmul@ktmc.com  
          rrusso@ktmc.com  
          jmaterese@ktmc.com

If to Kraft Heinz or the Kraft Heinz  
Defendants:

Paul, Weiss, Rifkind, Wharton &  
Garrison LLP  
Attn: Daniel J. Kramer  
Andrew J. Ehrlich  
William A. Clareman  
1285 Avenue of the Americas  
New York, NY 10019  
Telephone: (212) 373-3000  
Facsimile: (212) 757-3990  
Email: dkramer@paulweiss.com  
aehrich@paulweiss.com  
wclareman@paulweiss.com

-and-

Jenner & Block LLP  
Attn: Howard S. Suskin  
Dean N. Panos  
Gabriel K. Gillett  
353 N. Clark Street  
Chicago, IL 60654  
Telephone: (312) 222-9350  
Email: hsuskin@jenner.com  
dpanos@jenner.com  
ggillett@jenner.com

If to 3G Capital:

Kirkland & Ellis LLP  
Attn: Sandra C. Goldstein, P.C.  
Stefan Atkinson, P.C.  
Kevin M. Neylan, Jr.  
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Telephone: (212) 446-4800  
Facsimile: (212) 446-4900  
Email: sandra.goldstein@kirkland.com  
stefan.atkinson@kirkland.com  
kevin.neylan@kirkland.com

59. Except as otherwise provided herein, each Party shall bear its own costs.

60. Whether or not the Stipulation is approved by the Court and whether or not the Stipulation is consummated, or the Effective Date occurs, the Parties and their counsel shall use

their best efforts to keep all negotiations, discussions, acts performed, agreements, drafts, documents signed, and proceedings in connection with the Stipulation confidential.

61. All agreements made and orders entered during the course of this Action relating to the confidentiality of information shall survive this Settlement. For the avoidance of doubt, this provision includes the obligation of each Party to return or destroy all documents or electronic data in its or its representatives' possession that the opposing Party produced to it in this litigation in accordance with the Confidentiality Order entered in the Action. ECF No. 333. The Parties reserve all rights, and release none in this Stipulation, regarding any subsequent disclosure of their protected information by the opposing Party or its representatives.

62. No opinion or advice concerning the tax consequences of the proposed Settlement to individual Settlement Class Members is being given or will be given by the Parties or their counsel; nor is any representation or warranty in this regard made by virtue of this Stipulation. Each Settlement Class Member's tax obligations, and the determination thereof, are the sole responsibility of the Settlement Class Member, and it is understood that the tax consequences may vary depending on the particular circumstances of each individual Settlement Class Member.

**IN WITNESS WHEREOF**, the Parties hereto have caused this Stipulation to be executed, by their duly authorized attorneys, as of May 2, 2023.

**BERNSTEIN LITOWITZ BERGER  
& GROSSMANN LLP**



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*Counsel for Lead Plaintiff Union Asset  
Management Holding AG and co-Lead  
Counsel for the Settlement Class*

**KESSLER TOPAZ MELTZER &  
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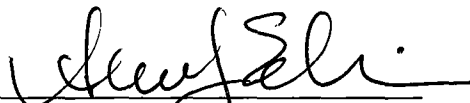
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