

**UNITED STATES DISTRICT COURT
DISTRICT COURT OF MINNESOTA**

IN RE PORK ANTITRUST
LITIGATION

This Document Relates To:

THE DIRECT PURCHASER
PLAINTIFF CLASS ACTION

Case No. 18-cv-01776 (JRT-JFD)

**DECLARATION OF BRIAN D.
CLARK IN SUPPORT OF
MOTION FOR PRELIMINARY
APPROVAL OF THE DIRECT
PURCHASER CLASS ACTION
SETTLEMENT WITH HORMEL
FOODS CORPORATION**

I, Brian D. Clark, declare and state:

1. I am a Partner of the law firm of Lockridge Grindal Nauen P.L.L.P. This Court has appointed my firm, together with Pearson Warshaw, LLP, as Co-Lead Class Counsel for the Direct Purchaser Plaintiff Class (“DPPs”) in this litigation.

2. I submit this Declaration in support of the Motion for Preliminary Approval of the Direct Purchaser Class Action Settlement with Hormel Foods Corporation filed simultaneously herewith.

3. Since the initial complaint was filed, DPPs have continued their factual investigation into the conspiracy alleged in their complaint, and once the Court largely denied Defendants’ motions to dismiss Plaintiffs’ complaints, DPPs commenced extensive discovery.

4. During discovery, DPPs obtained responses to multiple sets of interrogatories, and received millions of documents in response to their requests for production and third-party subpoenas. DPPs, along with other plaintiffs, have taken dozens depositions of the Defendants and third parties. DPPs have also provided responses to written discovery, produced documents, and DPP’s named representatives have appeared for depositions noticed by the Defendants.

5. On November 17, 2020, DPPs and the JBS Defendants entered into a settlement that provided for a payment of \$24,500,000 and meaningful cooperation. The Court granted final approval of that settlement on July 26, 2021. (*See* ECF No. 838.) On June 29, 2021, DPPs and the Smithfield Defendants entered into a settlement that provided for a payment of \$83 million and meaningful cooperation. The Smithfield settlement was

subject to a \$5,635,700 reduction based on the opt-outs received during the settlement administration process. The total net amount paid by Smithfield equaled \$77,364,300. The Court granted final approval of that settlement on January 31, 2022. (*See* ECF No. 1154.) On June 12, 2023, DPPs and Seaboard Foods LLC entered into a settlement that provided for a payment of \$9,750,000 and meaningful cooperation. The Court granted final approval of that settlement on March 5, 2024. (*See* ECF No. 2137.) Pursuant to the Settlement Agreement, Hormel Foods will pay \$4,856,000.00 for the benefit of the DPP Class. Combined with DPPs' earlier settlements with the JBS, Smithfield, and Seaboard Defendants, this brings the total settlements to date to \$116,470,300.

6. On behalf of DPPs, I, my firm, and my Co-Lead Class Counsel personally conducted settlement negotiations with counsel for Hormel Foods beginning in February 2024. Pursuant to the Settlement Agreement, Hormel Foods will pay \$4,856,000 in monetary relief and will provide other non-monetary relief for the benefit of the DPP Class, as defined in the Agreement.

7. The Settlement Agreement does not contain any reduction or termination provisions.

8. The proposed settlement comes after extensive confidential, protracted arm's-length negotiations between the parties. These discussions commenced after the Court mostly denied all Defendants' second motion to dismiss in October 2020. ECF No. 520. During the subsequent three and one-half years the parties completed fact discovery, litigated class certification, and engaged in highly confidential arm's-length negotiations. The hard-fought negotiations were kept confidential as the parties vigorously litigated the

case. Throughout all of these settlement discussions, counsel for DPPs focused on obtaining the best possible result for the DPP class.

9. The negotiations included many conferences and written exchanges between counsel.

10. The DPPs and Hormel Foods ultimately signed the Settlement Agreement on March 29, 2024, which is attached hereto as **Exhibit “A.”**

11. There was no collusion or preferential treatment at any time during the negotiations. To the contrary, the negotiations were contentious, hard fought, and fully informed. DPPs sought to obtain the greatest monetary benefit possible from Hormel Foods. Furthermore, there was no discussion or agreement at any time regarding the amount of attorneys’ fees Co-Lead Class Counsel would ask the Court to award in this case.

12. DPPs will move the Court to approve the replenishment of the DPPs’ future litigation expense fund in an amount up to \$1,460,600.00, which is 10 percent of the total amount of undistributed proceeds from the settlements with Seaboard (\$9,750,000.00) and Hormel Foods (\$4,856,000.00, and with the Seaboard settlement proceeds \$14,606,000.00 total). Co-Lead Class Counsel previously sought the payment of up to \$5 million in incurred and future litigation expenses, which was approved by this Court. (*See* ECF No. 1424.) The details of the litigation expenses sought will be fully set forth in the forthcoming motion for interim payment of litigation expenses, but as of the filing of this Motion the previously approved future litigation expense fund is nearly exhausted. So that Class members have ample notice of this expense reimbursement request, Co-Lead Class

Counsel will file this motion 30 days before the deadline for Class members to object to the Settlement, and the notice to the Class also will inform Class members of their right to object to this expense reimbursement request even if they do not object to the Hormel Foods settlement. This forthcoming second petition for interim payment of litigation expenses will be limited and deducted *pro rata* based on the settlement proceeds from the Seaboard and Hormel Foods settlements. At this time, Plaintiffs and their counsel are not seeking attorneys' fees or class representative service awards from the Settlement proceeds. However, they will do so in the future, and will notify the Class and file a motion with the Court at an appropriate time. At this time, DPPs also are not seeking to distribute the net Settlement proceeds from the Seaboard Settlement to qualified class members.

13. I have practiced law since 2009, I specialize in antitrust class action law, and I have prosecuted numerous antitrust class actions as lead counsel or other leadership positions. I have negotiated many settlements during those years. In my opinion, and in that of my Co-Lead Class Counsel, the proposed settlement agreement is fair, reasonable, and adequate. The settlement provides substantial benefits to the Certified Class, and avoids the delay and uncertainty of continuing protracted litigation with Hormel Foods.

14. The Settlement Agreement requires Co-Lead Class Counsel to send notice to members of the Certified Class of, among other things, the fact and material terms of the proposed settlement; instructions on how to object to the Settlement; and other information. The type of notice plan proposed here, which relies on direct notice to the extent practicable to identified Class members who can be identified through reasonable effort, supplemented by publication notice, has been successfully implemented in direct purchaser class actions,

including in the instant case following preliminary approval of the JBS, Smithfield, and Seaboard settlements. Hormel Foods has reviewed the notice documents and does not object to their contents.

15. DPPs have enlisted the services of an experienced class action administrator, A.B. Data Ltd., to administer notice to the Certified Class members. The details of the proposed class notice program are discussed in our Motion and supporting declaration of Eric Schachter, and essentially mirror the notice programs approved by this Court regarding the earlier settlements.

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

Executed on this 5th day of April, 2024, at Minneapolis, Minnesota.

/s/ Brian D. Clark

Brian D. Clark

EXHIBIT A

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE PORK ANTITRUST LITIGATION

Case No. 0:18-cv-01776-JRT-JFD

This Document Relates To:

ALL DIRECT PURCHASER PLAINTIFF
CLASS ACTIONS

LONG-FORM SETTLEMENT AGREEMENT
BETWEEN DIRECT PURCHASER CLASS PLAINTIFFS AND HORMEL FOODS
CORPORATION AND HORMEL FOODS, LLC

THIS SETTLEMENT AGREEMENT (“Settlement Agreement”) is made and entered into as of the 29th day of March, 2024 (“Execution Date”) by and between the Direct Purchaser Plaintiffs (“DPPs”),¹ through Co-Lead Class Counsel (as hereinafter defined) for the Certified Class (as hereinafter defined), and Hormel Foods Corporation and Hormel Foods, LLC,² and all of its predecessors; successors; assigns; and any and all past, present, and future parents, owners, divisions, departments, subsidiaries, affiliates, directors, officers, agents, and employees (collectively referred to as “Settling Defendant” or “Hormel Foods”) in the above-captioned action (the “Action”). DPPs, on behalf of the Certified Class, and Hormel Foods are referred to herein collectively as the “Parties” or individually as a “Party.”

WHEREAS, DPPs on behalf of themselves and as representatives of the Certified Class of similarly situated persons or entities allege in the Action, among other things, that Hormel Foods participated in a conspiracy – with other Defendants in this litigation and

¹ As used herein, “DPPs” means Maplevale Farms, Inc., Ferraro Foods, Inc., Ferraro Foods of North Carolina, LLC, and Olean Wholesale Grocery Cooperative, Inc.

² The DPPs previously stipulated to—and the Court then ordered—the dismissal of Hormel Foods, LLC without prejudice. (Stipulation for Dismissal, Dkt. No. 622; Order Granting Stipulation for Dismissal, Dkt. No. 640.)

unnamed co-conspirators – “from at least 2009 to the present to fix, raise, maintain, and stabilize the price of pork.” (DPPs’ Third Amended Consolidated Complaint, Dkt. No. 431, ¶ 2);

WHEREAS, Co-Lead Class Counsel have been appointed by the Court to represent the Certified Class of direct purchasers of Pork (as hereinafter defined);

WHEREAS, the Parties wish to resolve all claims asserted and all claims that could have been asserted against Hormel Foods in any way arising out of or relating in any way to the direct purchase of Pork produced, processed or sold by Hormel Foods or any of the Defendants or their co-conspirators;

WHEREAS, counsel for the Parties have engaged in arm’s-length negotiations on the terms of this Settlement Agreement, and this Settlement Agreement embodies all of the terms and conditions of the Settlement;

WHEREAS, DPPs have concluded, after investigation of the facts and after considering the circumstances and the applicable law, that it is in the best interests of DPPs to enter into this Settlement Agreement with Hormel Foods to avoid the uncertainties of further complex litigation, and to obtain the benefits described herein for the Certified Class, and, further, that this Settlement Agreement is fair, reasonable, adequate, and in the best interests of DPPs and the Certified Class;

WHEREAS, Hormel Foods denies all allegations of wrongdoing in the Action. However, despite its belief that it is not liable for, and has good defenses to, the claims alleged in the Action, Hormel Foods desires to settle the Action, and thus avoid the expense, risk, exposure, inconvenience, and distraction of continued litigation of the Action or of any action or proceeding relating to the matters being fully settled and finally put to rest in this Settlement Agreement;

NOW THEREFORE, in consideration of the foregoing, the terms and conditions set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed by and among the Parties that the claims of the DPPs and the Certified Class be settled and compromised and dismissed on the merits with prejudice as to Hormel Foods, subject to Court approval:

1. General Definitions. The terms below and elsewhere in this Agreement with initial capital letters shall have the meanings ascribed to them for purposes of this Settlement Agreement.

- a. “Hormel Foods Released Parties” means Hormel Foods Corporation and Hormel Foods, LLC and their former, current and future parents, subsidiaries and affiliates (except as excluded below) and any of their respective former, current and future, direct or indirect trustees, directors, officers, shareholders, managers, members, attorneys, equity holders, agents, insurers and employees. Furthermore, notwithstanding the foregoing, “Hormel Foods Released Parties” does not include any Defendant other than Hormel Foods named by DPPs in the Action, either explicitly or as a third-party beneficiary.
- b. “Action” means the putative class action filed by DPPs in the above captioned proceeding.
- c. “Certified Class” means the class defined in Paragraph 5 below.
- d. “Class Period” means June 29, 2014 through June 30, 2018.
- e. “Co-Lead Class Counsel” means Lockridge Grindal Nauen P.L.L.P. and Pearson Warshaw, LLP as appointed by the Court to represent the Certified Class of direct purchasers of Pork.

- f. “Complaint” means the DPPs’ Third Amended Consolidated Complaint in the Action, Dkt. No. 431.
- g. “Court” means the United States District Court for the District of Minnesota.
- h. “Defendants” means Smithfield Foods, Inc., JBS USA Food Company, Clemens Food Group, LLC, The Clemens Family Corporation, Hormel Foods Corporation, Hormel Foods, LLC, Seaboard Foods LLC, Seaboard Corporation, Triumph Foods, LLC, Tyson Foods, Inc., Tyson Prepared Foods, Inc., Tyson Fresh Meats, Inc., and Agri Stats, Inc.
- i. “Escrow Account” means the escrow account established with the escrow agent to receive and maintain funds contributed by Hormel Foods for the benefit of the Certified Class.
- j. “Escrow Agreement” means that certain agreement between the escrow agent that holds the Settlement Fund and DPPs (by and through Co-Lead Class Counsel) pursuant to which the Escrow Account is established and funded for the benefit of the Certified Class, as set forth in Paragraphs 9 and 10 below.
- k. “Final Approval” means an order and judgment by the Court that finally approves this Settlement Agreement and the settlement pursuant to Federal Rule of Civil Procedure 23 and dismisses Hormel Foods with prejudice from the Action.
- l. “Final Judgment” means the first date upon which both of the following conditions shall have been satisfied: (a) final approval of the Settlement Agreement by the Court (“Final Approval”); and (b) either

(1) thirty (30) days have passed from the date of Final Approval with no notice of appeal having been filed with the Court; or (2) Final Approval has been affirmed by a mandate issued by any reviewing court to which any appeal has been taken, and any further petition for review (including certiorari) has been denied, and the time for any further appeal or review of Final Approval has expired.

- m. “Person” means without limitation, any individual, corporation, partnership or any variation thereof (*e.g.*, limited partnership, limited liability partnership), limited liability company, proprietorship, joint venture, association, group or other form of legal entity or business.
- n. “Pork,” for purposes of this Settlement Agreement only, means porcine or swine products processed, produced or sold by Hormel Foods, or by any of the Defendants or their co-conspirators, including but not limited to: primals (including but not limited to loins, shoulders, picnics, butts, ribs, bellies, hams, or legs), trim or sub-primal products (including but not limited to backloins, tenderloins, backribs, boneless loins, boneless sirloins, riblets, chefs prime, prime ribs, brisket, skirt, cushion, ground meats, sirloin tip roast, or hocks), further processed and value added porcine products (including but not limited to bacon, sausage, lunch meats, further processed ham, or jerky products), offal or variety products (including but not limited to hearts, tongues, livers, head products, spleens, kidneys, feet, stomach, bladder, uterus, snoot, ears, tail, brisket bone, intestines, jowls, neck bones or other bones, skin, lungs, glands, hair, or pet food ingredients), rendered product and byproducts (including but not limited to lard,

grease, meat meal, bone meal, blood meal, or blood plasma), casings (including but not limited to mucosa), and carcasses.

- o. “Preliminary Approval” means an order by the Court to preliminarily approve this Settlement Agreement pursuant to Federal Rule of Civil Procedure 23.
- p. “Released Claims” shall have the meaning set forth in Paragraph 14 of this Settlement Agreement.
- q. “Releasing Party” or “Releasing Parties” shall refer individually and collectively to the Certified Class and all members of the Certified Class, including the DPPs, each on behalf of themselves and their respective predecessors and successors; their current and former, direct and indirect parents, subsidiaries and affiliates; their present and former shareholders, partners, directors, officers, owners of any kind, principals, members, agents, employees, contractors, attorneys, insurers, heirs, executors, administrators, devisees, and representatives; the assigns of all such persons or entities, as well as any person or entity acting on behalf of or through any of them in any capacity whatsoever, jointly and severally; and any of their past, present and future agents, officials acting in their official capacities, legal representatives, agencies, departments, commissions and divisions; and also means, to the full extent of the power of the signatories hereto to release past, present and future claims, persons or entities acting in a private attorney general, qui tam, taxpayer or any other capacity, whether or not any of them participate in this Settlement Agreement. As used in this Paragraph, “subsidiaries”

means entities controlling, controlled by or under common ownership or control with, in whole or in part, any of the Releasing Parties.

r. “Settlement Administrator” means the firm retained to disseminate the Class Notice and to administer the payment of Settlement Funds to the Certified Class, subject to approval of the Court.

s. “Settlement Fund” means \$4,856,000.00 (Four million, eight-hundred fifty-six thousand U.S. dollars), the amount Hormel Foods shall pay or cause to be paid into an interest-bearing Escrow Account maintained by an escrow agent on behalf of the Certified Class, pursuant to Paragraphs 9 and 10 below.

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

3. Mutual Litigation Standstill. Hormel Foods and its counsel shall cease all litigation activities against the DPPs except to the extent expressly authorized in the Settlement Agreement. The DPPs and their counsel shall cease all litigation activities against Hormel Foods except to the extent expressly authorized in the Settlement Agreement. Hormel Foods acknowledges that the DPPs have the right to continue litigating their claims in the Action against non-settling Defendants and alleged co-conspirators. The DPPs acknowledge that Hormel Foods has the right to continue fully defending itself against claims asserted by parties other than the DPPs in the litigation (“Non-DPP Claims”) and that Hormel Foods may coordinate with non-settling Defendants in the joint defense of such claims. Once no claims are operative against Hormel Foods in this litigation, Hormel Foods shall cease all litigation activities, including any cooperation with the non-settling Defendants. To minimize disputes

regarding the Mutual Litigation Standstill, Hormel Foods and the DPPs agree to the following specific requirements and authorizations:

- a. Proof of Alleged Conspiracy: DPPs and their retained experts necessarily must present arguments and evidence concerning the existence of an antitrust conspiracy, which Hormel Foods strongly denies, and in doing so will make such arguments relating to Hormel Foods. Pursuant to the “Summary Judgment” and “Trial” provisions below, however, Hormel Foods shall have the right to rebut any arguments and evidence relating to it to the extent necessary to defend the Non-DPP Claims.
- b. Access to Witnesses: If Hormel Foods receives a request for testimony at trial from any non-settling Defendant for any trial involving the DPPs, through a subpoena or through any informal means, it will provide notice to the DPPs involved in the trial within two (2) business days. Hormel Foods will provide the DPPs the same access to potential trial witnesses as provided to any non-settling Defendant. Hormel Foods stipulates that Hormel Foods Corporation—and thus its current employees—are subject to the subpoena power of the U.S. District Court for the District of Minnesota for trial in this matter.
- c. Authentication of Documents: Hormel Foods agrees that it will work with the DPPs in good faith to provide a declaration from a records custodian addressing the factual predicates for authentication of documents that the DPPs include in an exhibit list for trial.
- d. Experts: Hormel Foods has jointly retained experts with non-settling Defendants and may continue those engagements—including

coordination and/or cost-sharing with non-settling Defendants—as necessary to defend Non-DPP Claims. Hormel Foods will make explicit to any such joint experts that they are not offering testimony or opinions on behalf of Hormel Foods against any of the DPPs.

- e. Summary Judgment: Should Hormel Foods submit an individual brief, declaration or affidavit, or evidence in support of a motion for summary judgment, Hormel Foods will include language clarifying that all such submissions are directed specifically to Non-DPP Claims. Hormel Foods may join a joint or omnibus brief submitted on behalf of multiple Defendants that addresses issues relevant to defense of the Non-DPP Claims (such as whether Defendants agreed to the alleged conspiracy). Hormel Foods will not join a brief or contribute to briefing that addresses issues unique to the DPPs.
- f. Trial: In any trial limited to the DPPs, and not including any Non-DPP Claims, Hormel Foods will not participate in the proceedings in any way, other than preparing witnesses for testimony at trial or complying with the “Access to Witnesses” provision above. In any trial that includes the DPPs and Non-DPP Claims that remain operative against Hormel Foods, Hormel Foods shall have the right to present argument and examine or cross-examine witnesses to the extent necessary to defend the Non-DPP Claims.

4. Motion for Preliminary Approval. Within seven (7) days after the Execution Date, DPPs will file a notice of settlement with the Court, maintaining confidentiality of the settlement amount. No later than ten (10) days, or earlier if agreed to by the parties, after the Execution Date, unless extended by mutual agreement, DPPs will move the Court for

Preliminary Approval of this Settlement Agreement. Within a reasonable time in advance of submission to the Court, the papers in support of the motion for Preliminary Approval shall be provided by Co-Lead Class Counsel to Hormel Foods for its review. To the extent that Hormel Foods objects to any aspect of the motion, it shall communicate such objection to Co-Lead Class Counsel, and the Parties shall meet and confer to resolve any such objection. The Parties shall take all reasonable actions as may be necessary to obtain Preliminary Approval and certification of the Certified Class.

5. Certified Class. The Certified Class shall have the same definition and consist of the litigation class certified by the Court on March 29, 2023 (Dkt. No. 1887) defined as follows:

All persons and entities who directly purchased one or more of the following types of pork, or products derived from the following types of pork, from Defendants, or their respective subsidiaries or affiliates, for use or delivery in the United States from June 29, 2014 through June 30, 2018: fresh or frozen loins, shoulders, ribs, bellies, bacon, or hams. For this lawsuit, pork excludes any product that is marketed as organic or as no antibiotics ever (NAE); any product that is fully cooked or breaded; any product other than bacon that is marinated, flavored, cured, or smoked; and ready-to-eat bacon.³

The Certified Class does not include any person or entity that has submitted a timely and valid exclusion request. *See* Order Adopting DPPs' Final List of Opt Outs from the DPP Certified Class, Dkt. No. 2086 (referencing Dkt. No. 2077-3).

6. Settlement Notice. After Preliminary Approval, and subject to approval by the Court of the means for dissemination:

³ Excluded from this Class are the Defendants, the officers, directors or employees of any Defendant; any entity in which any Defendant has a controlling interest; and any affiliate, legal representative, heir or assign of any Defendant. Also excluded from this Class are any federal, state or local governmental entities, any judicial officer presiding over this action and the members of his/her immediate family and judicial staff, any juror assigned to this action, and any Co-Conspirator identified in this action.

- a. Individual notice of this Settlement shall be mailed, emailed, or otherwise sent by the Settlement Administrator, at the direction of Co-Lead Class Counsel, to members of the Certified Class, in conformance with a notice plan to be approved by the Court.
- b. Neither the Certified Class, Co-Lead Class Counsel, nor Hormel Foods shall have any responsibility, financial obligation, or liability for any fees, costs, or expenses related to providing notice to the Certified Class or obtaining approval of the settlement or administering the settlement. Such fees, costs, or expenses shall be paid solely from the Settlement Fund, subject to any necessary Court approval. Hormel Foods shall not object to Co-Lead Class Counsel withdrawing from the Settlement Fund, subject to any necessary Court approval, up to \$400,000 to pay the costs for notice and for Preliminary Approval and Final Approval of this Settlement Agreement. No portion of the aforementioned \$400,000 shall be paid for legal fees.
- c. Co-Lead Class Counsel shall use best efforts to send out notice to the Certified Class within two (2) months of Preliminary Approval by the Court of the Settlement Agreement. Any costs of notice that Co-Lead Class Counsel are permitted to withdraw from the Settlement Fund, either pursuant to the Parties' Settlement Agreement or order of the Court, shall be nonrefundable if, for any reason, the Settlement Agreement is rescinded according to its terms or is not finally approved by the Court.

7. Motion for Final Approval and Entry of Final Judgment. If the Court grants Preliminary Approval, then DPPs, through Co-Lead Class Counsel – in accordance with the schedule set forth in the Court’s Preliminary Approval – shall submit to the Court a separate motion for Final Approval of this Settlement Agreement by the Court. A reasonable time in advance of submission to the Court, the papers in support of the motion for Final Approval shall be provided by Co-Lead Class Counsel to Hormel Foods for its review. To the extent that Hormel Foods objects to any aspect of the motion, it shall communicate such objection to Co-Lead Class Counsel, and the parties shall meet and confer to resolve any such objection. The motion for Final Approval shall seek entry of an order and Final Judgment:

- a. Finally approving the Settlement Agreement as being a fair, reasonable, and adequate settlement for the Certified Class within the meaning of Rule 23 of the Federal Rules of Civil Procedure, and directing the implementation, performance, and consummation of the Settlement Agreement;
- b. Determining that the Settlement Notice constituted the best notice practicable under the circumstances of this Settlement Agreement and the Fairness Hearing, and constituted due and sufficient notice for all other purposes to all Persons entitled to receive notice;
- c. Dismissing the Action with prejudice as to Hormel Foods in all class action complaints asserted by DPPs or the Certified Class;
- d. Discharging and releasing Hormel Foods Released Parties from all Released Claims;
- e. Reserving continuing and exclusive jurisdiction over the Settlement Agreement for all purposes; and

- f. Determining under Fed. R. Civ. P. 54(b) that there is no just reason for delay and directing that the judgment of dismissal as to Hormel Foods shall be final and appealable and entered forthwith.

The Parties shall take all reasonable steps to obtain Final Approval of the Settlement Agreement.

8. This Settlement Agreement shall become final only when (a) the Court has entered an order finally approving this Settlement Agreement under Rule 23(e) of the Federal Rules of Civil Procedure; (b) the Court has entered Final Judgment dismissing the Action against Hormel Foods on the merits with prejudice as to all Certified Class members and without costs, and (c) the time for appeal or to seek permission to appeal from the Court's approval of this Settlement Agreement and entry of a Final Judgment as described in clause (b) above has expired or, if appealed, approval of this Settlement Agreement and the Final Judgment have been affirmed in their entirety by the Court of last resort to which such appeal has been taken and such affirmance has become no longer subject to further appeal or review or any such appeal is otherwise disposed of. It is agreed that neither the provisions of Rule 60 of the Federal Rules of Civil Procedure nor the All Writs Act, 28 U.S.C. § 1651, shall be taken into account in determining if the conditions for final approval have been satisfied. On the Execution Date, DPPs and Hormel Foods shall be bound by the terms of this Settlement Agreement, and the Settlement Agreement shall not be rescinded except in accordance with Paragraph 20 of this Settlement Agreement.

9. Escrow Account. The Escrow Account shall be administered by Co-Lead Class Counsel for the DPPs and Certified Class under the Court's continuing supervision and control pursuant to the Escrow Agreement.

10. Settlement Consideration. In consideration for the release of Released Claims and the dismissal of the Action, within fourteen (14) business days of the Court's grant of

Preliminary Approval, Hormel Foods shall pay or cause to be paid the Settlement Fund of \$4,856,000.00 (Four million, eight-hundred fifty-six thousand U.S. dollars) into the Escrow Account.

11. Qualified Settlement Fund. The Parties agree to treat the Settlement Fund as being at all times a Qualified Settlement Fund within the meaning of Treas. Reg. § 1.468B-1, and to that end, the Parties shall cooperate with each other and shall not take a position in any filing or before any tax authority that is inconsistent with such treatment. In addition, Co-Lead Class Counsel shall timely make such elections as necessary or advisable to carry out the provisions of this Paragraph, including the relation-back election (as defined in Treas. Reg. § 1.468B-1(j)) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of Co-Lead Class Counsel to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur. All provisions of this Settlement Agreement shall be interpreted in a manner that is consistent with the Settlement Fund being a “Qualified Settlement Fund” within the meaning of Treas. Reg. § 1.468B-1. Co-Lead Class Counsel shall timely and properly file all information and other tax returns necessary or advisable with respect to the Settlement Fund (including without limitation the returns described in Treas. Reg. § 1.468B-2(k), (1)). Such returns shall reflect that all taxes (including any estimated taxes, interest or penalties) on the income earned by the Settlement Fund shall be paid out of the Settlement Fund. Hormel Foods shall not be responsible for the filing or payment of any taxes or expenses connected to the Qualified Settlement Fund.

12. Distribution of Settlement Fund to Certified Class. Members of the Certified Class shall be entitled to look solely to the Settlement Fund for settlement and satisfaction against the Hormel Foods Released Parties for the Released Claims, and shall not be entitled

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

13. Fee Awards, Costs and Expenses, and Incentive Payments to DPPs. Subject to Co-Lead Class Counsel's sole discretion as to timing, Co-Lead Class Counsel will apply to the Court for a fee award, plus expenses, and costs incurred, and incentive payments to the DPPs to be paid from the proceeds of the Settlement Fund. Hormel Foods shall have no responsibility, financial obligation, or liability for any such fees, costs, or expenses.

14. Release. Upon Final Judgment, the Releasing Parties shall completely release, acquit, and forever discharge the Hormel Foods Released Parties from any and all claims, demands, actions, suits, and causes of action, whether class, individual, or otherwise in nature (whether or not any member of the Certified Class has objected to the Settlement Agreement or makes a claim upon or participates in the Settlement Fund, whether directly, representatively, derivatively or in any other capacity) that the Releasing Parties ever had, now have, or hereafter can, shall, or may ever have, that exist as of November 24, 2023 against the Released Parties on account of, or in any way arising out of, any and all known and unknown, foreseen and unforeseen, suspected or unsuspected, actual or contingent, liquidated or unliquidated claims, injuries, losses, damages, and the consequences thereof

that have been asserted in the Action, or could have been asserted, under federal or state law in any way arising out of or relating in any way to the direct purchase of Pork produced, processed or sold by the Hormel Foods Released Parties or any of the Defendants or their Co-Conspirators, and purchased directly by the Releasing Parties (the “Released Claims”).⁴ Without limitation, Released Claims include (a) claims arising out of purchases made at any time before, during or after the Class Period up until November 24, 2023, and (b) claims against the Released Parties arising out of Hormel Foods’ ownership or partial ownership of other entities in which Hormel Foods has or has had an interest. Notwithstanding the above, “Released Claims” do not include (i) claims asserted against any Defendant or co-conspirator other than the Hormel Foods Released Parties, nor (ii) any claims wholly unrelated to the allegations in the Action that are based on breach of contract, any negligence, personal injury, bailment, failure to deliver lost goods, damaged or delayed goods, product defect, or securities claim. This reservation of claims set forth in (i) and (ii) of this Paragraph does not impair or diminish the right of the Hormel Foods Released Parties to assert any and all defenses to such claims. Prior to Final Judgment, all Releasing Parties who did not submitted a valid request to be excluded from the Certified Class shall be preliminarily enjoined and barred from asserting any Released Claims against the Hormel Foods Released Parties. (*See* Dkt. No. 2086 (citing Dkt. No. 2077-3).) The release of the Released Claims will become effective as to all Releasing Parties upon Final Judgment. Upon Final Judgment, the Releasing Parties further agree that they will not file any other suit against the Hormel Foods Released Parties arising out of or relating to the Released Claims.

⁴ For the avoidance of doubt, the Certified Class does not include any class member’s indirect purchases of Pork, so therefore the release applies only to the purchase of Pork by a Certified Class member directly from the Hormel Foods Released Parties or any of the Defendants or their Co-Conspirators. Provided, however, that the release applies to claims that members of the Certified Class hold by reason of assignments from direct purchasers.

15. Further Release. In addition to the provisions of Paragraph 14, the Releasing Parties hereby expressly waive and release, solely with respect to the Released Claims, upon Final Judgment, any and all provisions, rights, and benefits conferred by Section 1542 of the California Civil Code, which states:

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;

or by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to Section 1542 of the California Civil Code. Each Releasing Party may hereafter discover facts other than or different from those which he, she, or it knows or believes to be true with respect to the claims that are released pursuant to the provisions of Paragraph 14, but each Releasing Party hereby expressly waives and fully, finally, and forever settles and releases, upon Final Judgment, any known or unknown, suspected or unsuspected, contingent or non-contingent claim that the Releasing Parties have agreed to release pursuant to Paragraph 14, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts.

16. Non-Disparagement. The Parties agree they will not disparage the Action or one another, such as by making public statements that the DPPs' Action was frivolous, and instead will confine their public comments to essentially the following. The DPPs shall confine their public statements to essentially the following: "The parties have agreed to resolve this matter. DPPs believe they would have prevailed." Hormel Foods shall confine its public statements to disclosing the dollar amount of the settlement, briefly referring to the need for Court approval, and essentially the following additional comments (not intended to

be verbatim): “The parties have agreed to resolve this matter. Hormel Foods believes it would have prevailed. Hormel Foods strongly denies liability and continues to deny the allegations in DPPs’ complaint. Hormel Foods believes that it has valid defenses to the DPPs’ claims, but it has decided to settle these claims to avoid the uncertainty, risk, expense, and distraction of continued litigation. This settlement resolves Hormel Foods’ exposure in the Minnesota antitrust cases as to the Direct Purchaser Class Plaintiffs and is in the best interests of its stakeholders, employees, customers, and consumers. By putting these cases behind it, Hormel Foods can focus on achieving the long-term goals of its business.”

17. This Settlement Agreement shall not be construed as an admission of liability, or used as evidence of liability, for any purpose in any legal proceeding, claim, regulatory proceeding, or government investigation.

18. This Settlement Agreement constitutes a binding, enforceable agreement as to the terms contained herein when executed.

19. DPPs’ and Hormel Foods’ Option to Rescind. If the Court does not approve this Settlement Agreement in all material respects, or if the Court does not grant Preliminary Approval of the Settlement Agreement, or if the Court does not enter Final Approval and Final Judgment as provided for in Paragraphs 1(i) and 7 herein, or if any judgment approving this Settlement Agreement is materially modified or set aside on appeal, or if all of the conditions for Final Judgment do not occur as set forth in Paragraphs 1(i) and 7 of this Settlement Agreement, then the DPPs and Hormel Foods shall each, in their sole discretion, have the option to rescind this Settlement Agreement in its entirety within ten (10) business days of the event giving rise to such option.

20. Effect of Rescission. If the DPPs or Hormel Foods rescind this Settlement Agreement under Paragraph 19, then: (a) this Settlement Agreement shall become null and void; (b) this Settlement Agreement, including its exhibits, and any and all negotiations,

documents, information, and discussions associated with it shall be without prejudice to the rights of Hormel Foods or the DPPs, shall not be deemed or construed to be an admission or denial, or evidence or lack of evidence of any violation of any statute or law or of any liability or wrongdoing, or of the truth or falsity of any of the claims or allegations made in the Action, and shall not be used directly or indirectly, in any way, whether in the Action or in any other proceeding, unless such documents and/or information is otherwise obtainable by separate and independent discovery permissible under the Federal Rules of Civil Procedure; (c) the Parties shall return to their litigation positions before the Execution Date; (d) the DPPs shall in no way whatsoever be prejudiced in resuming full discovery and adjudication of the Action as they stood as of the Execution Date, and Hormel Foods shall be prohibited from arguing to DPPs or the Court that any agreements with other plaintiffs or parties in any way limit DPPs' ability to do so; (e) with the exception of any Settlement Funds used for notice purposes pursuant to Paragraph 6(b), all other funds in the Escrow Account shall be returned to Hormel Foods within five (5) business days of the Escrow Agent receiving notice of rescission; (f) Co-Lead Class Counsel shall immediately consent to such return of remaining funds in the Escrow Account; and (g) the Parties' position shall be returned to the status quo ante.

21. Choice of Law and Dispute Resolution. Any disputes relating to this Settlement Agreement shall be governed by Minnesota law without regard to conflicts of law provisions, and with the exception of any dispute regarding the provisions of Paragraph 14 or 15, any and all disputes regarding this Settlement Agreement will be discussed in good faith by the Parties prior to any Party seeking Court involvement.

22. Mandatory and Exclusive Jurisdiction. The Parties and any Releasing Parties hereby irrevocably agree to the exclusive jurisdiction of the Court for any suit, action, proceeding, or dispute arising out of or relating to this Settlement Agreement or the

applicability of this Settlement Agreement. Without limiting the generality of the foregoing, it is hereby agreed that any dispute concerning the provisions of Paragraphs 14 or 15, including but not limited to, any suit, action, or proceeding in which the provisions of Paragraphs 14 or 15 are asserted as a defense in whole or in part to any claim or cause of action or otherwise raised as an objection, constitutes a suit, action, or proceeding arising out of or relating to this Settlement Agreement. In the event that the provisions of Paragraphs 14 or 15 are asserted by any Hormel Foods Released Party as a defense in whole or in part to any claim or cause of action or otherwise raised as an objection in any suit, action or proceeding, it is hereby agreed that such Hormel Foods Released Party shall be entitled to a stay of that suit, action, or proceeding until the Court has entered a final judgment no longer subject to any appeal or review determining any issues relating to the defense or objection based on such provisions. Solely for purposes of such suit, action, or proceeding, to the fullest extent that they may effectively do so under applicable law, the Parties and any Releasing Parties irrevocably waive and agree not to assert, by way of motion, as a defense or otherwise, any claim or objection that they are not subject to the in personam jurisdiction of the Court. Nothing shall be construed as a submission to jurisdiction for any purpose other than enforcement of this Agreement.

23. Class Action Fairness Act. Within ten (10) days of filing of this Settlement Agreement in court with the abovementioned motion for preliminary approval, Hormel Foods at its sole expense shall submit all materials required to be served upon appropriate federal and state officials pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1715, and shall arrange for such notices to be served, and shall confirm to DPPs' Co-Lead Class Counsel that such notices have been served.

24. Costs Relating to Administration. The Hormel Foods Released Parties shall have no responsibility or liability relating to the administration, investment, or distribution of the Settlement Fund.

25. Binding Effect. This Settlement Agreement constitutes a binding, enforceable agreement as to the terms contained herein. This Settlement Agreement shall be binding upon, and inure to the benefit of, the successors, assigns, and heirs of the Parties, Certified Class, the Releasing Parties, and the Hormel Foods Released Parties. Without limiting the generality of the foregoing, upon certification of the Certified Class and Final Approval, each and every covenant and agreement herein by the DPPs shall be binding upon all members and potential members of the Certified Class and Releasing Parties who have not validly excluded themselves from the Certified Class.

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

27. Counsel's Express Authority. Each counsel signing this Settlement Agreement on behalf of a Party or Parties has full and express authority to enter into all of the terms reflected herein on behalf of each and every one of the clients for which counsel is signing.

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

29. Notices. All notices under this Settlement Agreement shall be in writing. Each such notice shall be given by: (a) email, and either (b) hand delivery; (c) registered or certified

mail, return receipt requested, postage pre-paid; or (d) Federal Express or similar overnight courier.

If directed to DPPs, the Certified Class, or any member of the Certified Class, notice shall be sent to:

W. Joseph Bruckner
Brian D. Clark
LOCKRIDGE GRINDAL NAUEN P.L.L.P.
100 Washington Avenue South, Suite 2200
Minneapolis, MN 55401
wjbruckner@locklaw.com
bdclark@locklaw.com

Clifford H. Pearson
Bobby Pouya
PEARSON WARSHAW, LLP
15165 Ventura Boulevard, Suite 400
Sherman Oaks, CA 91403
cpearson@pwfirm.com
bpouya@pwfirm.com

If directed to Hormel Foods, notice shall be sent to:

Jacob D. Bylund
FAEGRE DRINKER BIDDLE & REATH LLP
801 Grand Ave., 33rd Floor
Des Moines, IA 50309
jacob.bylund@faegredrinker.com

Emily E. Chow
Craig S. Coleman
FAEGRE DRINKER BIDDLE & REATH LLP
2200 Wells Fargo Center
90 S. Seventh St.
Minneapolis, MN 55402
emily.chow@faegredrinker.com
craig.coleman@faegredrinker.com

Or such other address as the Parties may designate, from time to time, by giving notice to all parties hereto in the manner described in this Paragraph.

30. No Admission. Whether or not Final Judgment is entered or this Settlement Agreement is rescinded, the Parties expressly agree that this Settlement Agreement and its

contents, and any and all statements, negotiations, documents, and discussions associated with it, are not and shall not be deemed or construed to be an admission of liability by any Party or Hormel Foods Released Party.

31. No Third-Party Beneficiaries. No provision of this Agreement shall provide any rights to, or be enforceable by, any person or entity that is not a Hormel Foods Released Party, DPP, member of the Certified Class, or Co-Lead Class Counsel.

32. No Party is the Drafter. None of the Parties hereto shall be considered to be the drafter of this Settlement Agreement or any provision hereof for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter hereof.

33. Headings. The headings used in this agreement are inserted for convenience only and shall not constitute a part hereof.

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

35. Execution in Counterparts. This Settlement Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute a single agreement. Facsimile or Electronic Mail signatures shall be considered as valid signatures as of the date hereof, although the original signature pages shall thereafter be appended to this Settlement Agreement and filed with the Court.

36. Integrated Agreement. This Settlement Agreement comprises the entire, complete, and integrated agreement between the Parties, and supersedes all prior and contemporaneous undertakings, communications, representations, understandings, negotiations, and discussions, either oral or written, between the Parties. In entering into this Settlement Agreement, the DPPs and Hormel Foods have not relied upon any representation or promise made by the DPPs or Hormel Foods that is not contained in this Settlement Agreement. The Parties agree that this Settlement Agreement may be modified only by a written instrument signed by the Parties and that no Party will assert any claim against another based on any alleged agreement affecting or relating to the terms of this Settlement Agreement not in writing and signed by the Parties.

37. Voluntary Settlement. The Parties agree that this Settlement Agreement was negotiated in good faith by the Parties, and reflects a settlement that was reached through extensive arm's-length negotiations, and no Party has entered this Settlement Agreement as the result of any coercion or duress.

38. Confidentiality. The Parties agree to continue to maintain the confidentiality of all settlement discussions and materials exchanged during the settlement negotiation. However, the following rules shall govern disclosure of the fact of settlement and the settlement amount prior to the public filing of the settlement agreement: (a) as of the Execution Date, Hormel Foods can inform the other Defendants that it is has reached a settlement agreement with DPPs; (b) as of the Execution Date, Hormel Foods may disclose

the amount of the settlement on a confidential basis to attorneys, auditors, and employees who need to know that information and may include a discussion of the settlement amount in its quarterly financial statements; (c) as of the Execution Date, DPPs may inform the other Plaintiffs they have reached a settlement with Hormel Foods; (d) as of the Execution Date, DPPs may inform other Defendants that they have reached a settlement with Hormel Foods in connection with settlement discussions that are subject to the confidentiality provisions of Federal Rule of Evidence 408; and (e) at any time after the Execution Date, Hormel Foods may issue a press release disclosing the fact of the settlement, the settlement amount, and the other comments allowed herein.

IN WITNESS WHEREOF, the Parties, individually or through their duly authorized representatives, enter into this Settlement Agreement on the date first above written.

Dated: March 29, 2024



W. Joseph Bruckner (MN #0147758)

Brian D. Clark (MN #0390069)

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Dated: March, 29 2024




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