

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: PROCESSED EGG : **MDL No. 2002**
PRODUCTS ANTITRUST : **08-md-02002**
LITIGATION :

THIS DOCUMENT APPLIES TO: :
All Direct Purchaser Actions :

**SETTLEMENT AGREEMENT BETWEEN DIRECT PURCHASER PLAINTIFFS
AND DEFENDANTS HILLANDALE FARMS OF PA., INC. AND HILLANDALE-
GETTYSBURG, L.P.**

This Settlement Agreement (“Agreement”) is made and entered into as of this 22nd day of October 2014 (the “Execution Date”) by and between Hillandale Farms of Pa., Inc. (“Hillandale PA”) and Hillandale-Gettysburg, L.P. (“Hillandale-Gettysburg”) (collectively referred to herein as “the Hillandale/Gettysburg Defendants”) and Direct Purchaser Plaintiffs’ Class representatives (“Plaintiffs”) (as defined herein at Paragraph 16), both individually and on behalf of a Class (as defined herein at Paragraphs 4 and 23) of direct purchasers of Shell Eggs and Egg Products (as defined herein at Paragraphs 7 and 22).

WHEREAS, Plaintiffs are prosecuting the above-captioned Direct Purchaser Plaintiff actions currently pending and consolidated in the Eastern District of Pennsylvania, and including all actions transferred for coordination, and all direct purchaser actions currently pending such transfer (including, but not limited to, “tag-along” actions) on their own behalf and on behalf of the Class against the Hillandale/Gettysburg Defendants and other Defendants (the “Action”);

WHEREAS, Plaintiffs allege that the Hillandale/Gettysburg Defendants participated in an unlawful conspiracy to raise, fix, maintain, and/or stabilize the price of Shell Eggs and Egg Products in the United States at artificially inflated levels in violation of Section 1 of the Sherman Act;

WHEREAS, the Hillandale/Gettysburg Defendants deny all allegations of wrongdoing in the Action;

WHEREAS, the Parties (as defined herein at Paragraph 15) have conducted an investigation into the facts and the law regarding the Action and have completed discovery;

WHEREAS, despite their belief that they are not liable for, and have good defenses to, the claims alleged in the Action, the Hillandale/Gettysburg Defendants desire to settle the Action so as to avoid the risk, expense, exposure, inconvenience, and distraction of continued litigation of the Action, or any action or proceeding relating to the matters being fully settled and finally put to rest in this Agreement;

WHEREAS, the Hillandale/Gettysburg Defendants have previously provided and identified financial information to Class Counsel and Class Counsel has evaluated the Hillandale/Gettysburg Defendants' finances and has reached appropriate settlement terms commensurate with those finances;

WHEREAS, Class Counsel and the Hillandale/Gettysburg Defendants' Counsel have engaged in arm's-length settlement negotiations, and this Agreement has been reached as a result of these negotiations; and

WHEREAS, Plaintiffs have concluded that settlement with the Hillandale/Gettysburg Defendants on the terms set forth below is the best that is

practically attainable, that it is in the best interests of the Class to enter into this Agreement, and that under the circumstances the Agreement is fair, reasonable, and adequate, and beneficial to and in the best interests of Plaintiffs and the Class;

NOW, THEREFORE, in consideration of the covenants, agreements, and releases set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed by and among the undersigned that the Action be settled, compromised and dismissed on the merits with prejudice as to the Hillandale/Gettysburg Defendants only, without costs as to Plaintiffs, the Class, or the Hillandale/Gettysburg Defendants, and subject to the approval of the Court, on the following terms and conditions:

A. Definitions

The following terms, as used in this Agreement, have the following meanings:

1. "Class Counsel" shall refer to the law firms of Weinstein Kitchenoff & Asher LLC, 1845 Walnut Street, Suite 1100, Philadelphia, PA 19103; Hausfeld LLP, 1700 K Street NW, Suite 650, Washington, DC 20006; Bernstein Liebhard LLP, 10 East 40th Street, 22nd Floor, New York, NY 10016; and Susman Godfrey, 654 Madison Avenue, 5th Floor, New York, NY 10065. "Plaintiffs' Counsel" shall refer to the law firms identified on pages 147-151 of the Third Consolidated Amended Class Action Complaint filed in the Action on January 4, 2013.

2. The "Hillandale/Gettysburg Defendants' Counsel" shall refer to the law firm of Buchanan Ingersoll & Rooney PC, One Oxford Centre, 301 Grant Street, 20th Floor, Pittsburgh, PA 15219.

3. "Claims Administrator" shall mean the Garden City Group, Inc.

4. "Class Member" or "Class" shall mean each member of the Settlement Class, as defined in Paragraph 23 of this Agreement, who does not timely elect to be excluded from the Class, and includes, but is not limited to, Plaintiffs.

5. "Class Period" shall mean the period from and including January 1, 2000 up to and including the date on which the Court enters an order preliminarily approving the Agreement and certifying a Class for settlement purposes.

6. "Defendant(s)" shall refer to the parties listed as defendants in the Third Consolidated Amended Complaint filed on January 4, 2013 and each of their corporate parents, subsidiaries, and affiliated companies.

7. "Egg Products" shall mean the whole or any part of Shell Eggs that have been removed from their shells and then processed, with or without additives, into dried, frozen or liquid forms.

8. "Escrow Account" means the account with the Escrow Agent that holds the Settlement Fund.

9. "Escrow Agent" means the bank into which the Settlement Fund shall be deposited and maintained as set forth in Paragraph 40 of this Agreement.

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

11. "Final Approval" shall mean an Order entered by the Court finally approving this Agreement under Rule 23(e) of the Federal Rules of Civil Procedure.

12. "Hillandale PA's Total Sales" shall mean the sum of the annual U.S. sales by Hillandale PA of Shell Eggs and Egg Products, excluding sales to Producers, for the years during the Class Period.

13. "Non-Settling Defendants" shall refer to those parties that, as of the execution of this Agreement, are Defendants, other than Hillandale PA and Hillandale-Gettysburg.

14. "Other Settling Defendants" shall refer to National Food Corporation, Midwest Poultry Services, L.P., NuCal Foods, Inc., United Egg Producers, Inc., United States Egg Marketers, Inc., Moark LLC, Norco Ranch, Inc., Land O'Lakes, Inc. Sparboe Farms, Inc., and Cal-Maine Foods, Inc.

15. "Parties" means the Hillandale/Gettysburg Defendants and Plaintiffs.

16. "Plaintiffs" shall mean each of the following proposed named Class representatives: T.K. Ribbing's Family Restaurant, LLC; Eby-Brown Company LLC; Goldberg and Solovy Foods, Inc.; Karetas Foods, Inc.; Nussbaum-SF, Inc.; Somerset Industries, Inc.; Wixon, Inc.; John A. Lisciandro d/b/a/ Lisciandro's Restaurant, and SensoryEffects Flavor Co. d/b/a SensoryEffects Flavor Systems.

17. "Producer" shall mean any person or entity that owns, contracts for the use of, leases, or otherwise controls hens for the purpose of producing eggs for sale, and the parents, subsidiaries, and affiliated companies of such Producer.

18. "Releasees" shall refer, jointly and severally, and individually and collectively, to Hillandale PA, Hillandale-Gettysburg, Hillandale Farms East, Inc. and Hillandale Farms, Inc., together with (a) each of their past and present subsidiaries, parents and affiliates and (b) each of their past and present shareholders, partners,

officers, directors, trustees, representatives, joint ventures, employees, agents, attorneys, including, without limitation, HGLP, LLC, predecessors and successors of the persons referenced in the preceding clauses (a) and (b), but not as to any other Defendant other than the Hillandale/Gettysburg Defendants, including without limitation, defendant Ohio Fresh Eggs, LLC and (a) each of its past and present subsidiaries, parents and affiliates and (b) each of its past and present shareholders, partners, officers, directors, trustees, representatives, joint ventures, employees, agents, attorneys, including, without limitation, its predecessors and successors.

19. “Releasors” shall refer, jointly and severally, and individually and collectively, to Plaintiffs, the Class Members, each of their respective past and present officers, directors, parents, subsidiaries, affiliates, partners, and insurers, and the predecessors, successors, heirs, executors, administrators, and assigns of each of the foregoing.

20. “Settlement Amount” shall refer to \$3,000,000 U.S. dollars.¹

21. “Settlement Fund” shall refer to the funds accrued in the escrow account established in accordance with Paragraphs 40 and 41 below.

22. “Shell Eggs” shall mean eggs produced from caged birds that are sold in the shell for consumption or for breaking and further processing, excluding “specialty” Shell Eggs (certified organic, nutritionally enhanced, cage free, free range, and vegetarian fed

¹ The Settlement Amount will be equally split between Hillandale PA and Hillandale-Gettysburg.

types) and “hatching” Shell Eggs (used by poultry breeders to produce breeder stock or growing stock for laying hens or meat).

B. Settlement Class Certification

23. The Parties to this Agreement hereby stipulate for purposes of settlement only that the requirements of Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure are satisfied, and, subject to Court approval, the following Class shall be certified for settlement purposes as to the Hillandale/Gettysburg Defendants only:

All persons and entities that purchased Shell Eggs or Egg Products in the United States directly from any Producer, including any Defendant, during the Class Period from January 1, 2000 through the date on which the Court enters an order preliminarily approving the Agreement and certifying a Class for Settlement purposes.

a.) Shell Egg SubClass

All individuals and entities that purchased Shell Eggs in the United States directly from any Producer, including any Defendant, during the Class Period from January 1, 2000 through the date on which the Court enters an order preliminarily approving the Agreement and certifying a Class for Settlement purposes.

b.) Egg Products SubClass

All individuals and entities that purchased Egg Products produced from Shell Eggs in the United States directly from any Producer, including any Defendant, during the Class Period from January 1, 2000 through the date on which the Court enters an order preliminarily approving the Agreement and certifying a Class for Settlement purposes.

Excluded from the Class and SubClasses are Defendants, Other Settling Defendants, and Producers, and the parents, subsidiaries and affiliates of

Defendants, Other Settling Defendants, and Producers, all government entities, as well as the Court and staff to whom this case is assigned, and any member of the Court's or staff's immediate family.

C. Approval of this Agreement and Dismissal of Claims

24. The Parties shall use their best efforts to effectuate this Agreement, including cooperating in promptly seeking Court approval of this Agreement and securing both the Court's certification of the Class and the Court's approval of procedures, including the giving of Class notice under Federal Rules of Civil Procedure 23(c) and (e), to secure the prompt, complete, and final dismissal with prejudice of the Action as to the Hillandale/Gettysburg Defendants.

25. Within five (5) business days after the execution of this Agreement by the Hillandale/Gettysburg Defendants, the Parties shall jointly file with the Court a stipulation for suspension of all proceedings against the Hillandale/Gettysburg Defendants in the Action pending approval of this Agreement. Within thirty-one (31) business days after execution of the Agreement by the Hillandale/Gettysburg Defendants, Plaintiffs shall submit to the Court a motion (the "Motion") for an Order granting preliminary approval of the Agreement, appointing Class Counsel as lead counsel for purposes of this Settlement Agreement, and certifying a Class for settlement purposes ("Preliminary Approval"). Plaintiffs shall submit the Motion requesting entry of a Preliminary Approval Order, substantially in the form of Exhibit A, attached hereto, which shall provide that, *inter alia*:

- a. the settlement proposed in the Settlement Agreement has been negotiated at arm's length and is preliminarily determined to be fair, reasonable, adequate, and in the best interests of the Settlement Class;
- b. the Settlement Class defined herein be certified, designating Class Representatives and Settlement Class Counsel as defined herein, on the

condition that the certification and designations shall be automatically vacated in the event that the Settlement Agreement is not approved by the Court or any appellate court;

- c. a Fairness Hearing on the settlement proposed in this Settlement Agreement shall be held by the Court to determine whether the proposed settlement is fair, reasonable, and adequate, and whether it should be finally approved by the Court.

After Preliminary Approval, and subject to approval by the Court of the form of and means for dissemination of notice, individual notice of the Agreement (“Class Notice”) shall be mailed to persons and entities who are located in the United States and who purchased Shell Eggs or Egg Products directly from the Hillandale/Gettysburg Defendants, any Non-Settling Defendant(s) in the Action, or Other Settling Defendants during the Class Period that: are identified by the Hillandale/Gettysburg Defendants; were previously identified by the Hillandale/Gettysburg Defendants and Other Settling Defendants; and are identified by Plaintiffs and Plaintiffs’ Counsel or Non-Settling Defendants in the Action. In addition, after Preliminary Approval, and subject to Court approval of the form of and means for dissemination of notice, Class Notice shall also be published once in the *Wall Street Journal* and in such other trade journals targeted towards direct purchasers of Shell Eggs and Egg Products, if any, proposed by Class Counsel. Within twenty (20) calendar days after the Execution Date, the Hillandale/Gettysburg Defendants shall supply to Class Counsel at the Hillandale/Gettysburg Defendants’ expense and in such form as kept in the regular course of business (electronic format if available) such names and addresses of potential Class Members as they have. Plaintiffs shall use reasonable best efforts to, subject to approval by the Court, combine dissemination of notice of the certification of the Class for settlement purposes and of the Agreement with the dissemination of notice of other

settlement agreements that may be reached with other Defendants in the Action near the time of the Execution Date of the Agreement.

26. Within twenty (20) days after the end of the opt-out period established by the Court and set forth in the notice, Plaintiffs shall provide the Hillandale/Gettysburg Defendants, through the Hillandale/Gettysburg Defendants' Counsel, a written list of all potential Class Members who have exercised their right to request exclusion from the Class.

27. Plaintiffs shall, following Preliminary Approval, seek entry of an order and final judgment, the text of which shall be proposed by Plaintiffs subject to the agreement of the Hillandale/Gettysburg Defendants, which agreement shall not be unreasonably withheld, which shall:

- a. approve finally this Agreement and its terms as being a fair, reasonable, and adequate settlement as to the Class Members within the meaning of Rule 23 of the Federal Rules of Civil Procedure and directing its consummation according to its terms;
- b. determine that the Class Notice constituted, under the circumstances, the most effective and best practicable notice of this Agreement and of the Fairness Hearing, and constituted due and sufficient notice for all other purposes to all Persons entitled to received notice;
- c. reconfirm the appointment of Class Representatives and Settlement Class Counsel as defined herein;
- d. direct that, as to the Hillandale/Gettysburg Defendants, the Action be dismissed with prejudice and, except as explicitly provided for in this Agreement, without costs;
- e. reserve to the United States District Court for the Eastern District of Pennsylvania exclusive jurisdiction over the Settlement and this Agreement, including the administration and consummation of this Settlement;
- f. determine under Federal Rule of Civil Procedure 54(b) that there is no just reason for delay, and directing that the final judgment of dismissal as to

the Hillandale/Gettysburg Defendants shall be entered; and

- g. require Class Counsel to file with the Clerk of the Court a record with the names and addresses of Class Members who timely excluded themselves from the Class, and provide a copy of the record to counsel for the Hillandale/Gettysburg Defendants.

28. This Agreement shall become final only when (a) the Court has entered an order granting Final Approval to this Agreement; (b) the Court has entered final judgment dismissing the Action against the Hillandale/Gettysburg Defendants on the merits with prejudice as to all Class Members and without costs; and (c) the time for appeal or to seek permission to appeal from the Court's approval of this Agreement and entry of a final judgment as described in clause (b) above has expired or, if appealed, approval of this 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. 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, Plaintiffs and the Hillandale/Gettysburg Defendants shall be bound by the terms of this Agreement, and the Agreement shall not be rescinded except in accordance with Paragraphs 35 through 39 of this Agreement.

29. Should the Court require Hillandale/Gettysburg Defendants or Plaintiffs to submit any of the Hillandale/Gettysburg Defendants' confidential information or documentation to obtain preliminary or final approval, such submission shall be, to the full extent permitted by law or the Court, for review by the court *in camera* only.

D. Release and Discharge

30. In addition to the effect of any final judgment entered in accordance with this Agreement, upon Final Approval of this Agreement, and for other valuable consideration as described herein, Releasees shall be completely released, acquitted, and forever discharged from any and all claims, demands, actions, suits and causes of action, whether Class, individual or otherwise in nature, that Releasers, or each of them, ever had, now has, or hereafter can, shall, or may have on account of or arising out of, any and all known and unknown, foreseen and unforeseen, suspected or unsuspected injuries or damages, and the consequences thereof, arising out of or resulting from: (i) any agreement or understanding between or among two or more Producers of eggs, including any Defendants, including any entities or individuals that may later be added as a defendant to the Action, (ii) the reduction or restraint of supply, the reduction of or restrictions on production capacity, or (iii) the pricing, selling, discounting, marketing, or distributing of Shell Eggs or Egg Products in the United States or elsewhere, including but not limited to any conduct alleged, and causes of action asserted, or that could have been alleged or asserted, whether or not concealed or hidden, in the Complaints filed in the Action (the "Complaints"), which in whole or in part arise from or are related to the facts and/or actions described in the Complaints, including under any federal or state antitrust, unfair competition, unfair practices, price discrimination, unitary pricing, trade practice, consumer protection, fraud, RICO, civil conspiracy law, or similar laws, including, without limitation, the Sherman Antitrust Act, 15 U.S.C. § 1 et seq., from the beginning of time to the date on which the Court enters an order preliminarily approving the Settlement and certifying a Class for settlement purposes (the "Released Claims").

Releasors shall not, after the date of this Agreement, seek to recover against any of the Releasees for any of the Released Claims. Notwithstanding anything in this Paragraph, Released Claims shall not include, and this Agreement shall not and does not release, acquit or discharge, claims based solely on purchases of Shell Eggs and Egg Products outside of the United States on behalf of persons or entities located outside of the United States at the time of such purchases.

31. This Release is made with full recognition of the possibility of subsequent discovery or existence of different or additional facts. Each Releasor waives California Civil Code Section 1542 and similar or comparable present or future law or principle of law of any jurisdiction. Each Releasor hereby certifies that he, she, or it is aware of and has read and reviewed the following provision of California Civil Code Section 1542 (“Section 1542”): “A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.” The provisions of the release set forth above shall apply according to their terms, regardless of the provisions of Section 1542 or any equivalent, similar, or comparable present or future law or principle of law of any jurisdiction. Each Releasor 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 the subject matter of this Agreement, but each Releasor hereby expressly and fully, finally and forever waives and relinquishes, and forever settles and releases any known or unknown, suspected or unsuspected, contingent or non-contingent, claim whether or not concealed or hidden, with full recognition of the possibility of the subsequent discovery or existence of such

different or additional facts, as well as any and all rights and benefits existing under (i) Section 1542 or any equivalent, similar or comparable present or future law or principle of law of any jurisdiction and (ii) any law or principle of law of any jurisdiction that would limit or restrict the effect or scope of the provisions of the release set forth above, again with full recognition of the possibility of the subsequent discovery or existence of such other or different facts.

32. In addition to the provisions of Paragraphs 30 and 31, each Releasor hereby expressly and irrevocably waives and releases, upon this Agreement becoming finally approved by the Court, any and all defenses, rights, and benefits that each Releasor may have or that may be derived from the provisions of applicable law which, absent such waiver, may limit the extent or effect of the release contained in Paragraphs 30 and 31. Each Releasor also expressly and irrevocably waives any and all defenses, rights, and benefits that the Releasor may have under any similar statute in effect in any other jurisdiction that, absent such waiver, might limit the extent or effect of the release.

33. The release and discharge set forth in Paragraphs 30 through 32 herein do not include claims relating to payment disputes, physical harm, defective product, or bodily injury (the "Excepted Claims") and do not include any Non-Settling Defendant or Other Settling Defendant.

34. Each Plaintiff, and each Class Member who submits a claim to participate in the distribution of the Settlement Amount, shall represent and warrant that their portion of the Released Claims is their property and they have not assigned or transferred to any person or entity any right to recovery for any claim or potential claim that would otherwise be released under this Agreement. Each Plaintiff, and each Class Member who

submits a claim to participate in the distribution of the Settlement Amount, shall further represent and warrant that each of them has a valid and existing right to release such claims and is releasing such claims pursuant to their participation in the settlement.

E. Rescission

35. If the Court refuses to approve this Agreement or any part hereof, or if such approval is modified or set aside on appeal, or if the Court does not enter the final judgment provided for in Paragraph 28 of this Agreement, or if the Court enters the final judgment and appellate review is sought, and on such review, such final judgment is not affirmed, then the Hillandale/Gettysburg Defendants and Plaintiffs shall each, in their sole discretion, have the option to rescind this Agreement in its entirety within ten (10) business days of the action giving rise to such option. If this Agreement is rescinded, within ten (10) business days of (i) the written notice of rescission to Class Counsel and the Escrow Agent and (ii) the Hillandale/Gettysburg Defendants' written instructions to the Escrow Agent, all amounts in the escrow account created pursuant to Paragraph 40 hereof, plus any interest on the Settlement Amount only, shall be wire transferred to the Hillandale/Gettysburg Defendants, pursuant to their instructions; provided, however, that simultaneous with their written instructions to the Escrow Agent, the Hillandale/Gettysburg Defendants shall provide to Class Counsel notice of such instructions, and Class Counsel shall, within five (5) business days of receipt of such notice, notify the Escrow Agent of any objections to the Hillandale/Gettysburg Defendants' instructions and funds shall not be wired until expiration of that objection deadline. In the event that, pursuant to paragraphs 25, 41, 44-46, or 49, funds have been paid out of the Escrow Account prior to the Agreement's rescission, Class Counsel shall

reimburse the Settlement Fund all of the draw-down with interest on the Settlement Amount only, calculated as the rate of interest published in the Wall Street Journal for 3-month U.S. Treasury Bills within ten (10) business days of notice. If Class Counsel objects, the provisions of Article First, subsection h of the Escrow Agreement (attached as Exhibit B) shall govern.

36. If Final Approval of this Agreement is not obtained, or if the Court does not enter the final judgment provided for in Paragraph 28 of this Agreement, Class Counsel and the Hillandale/Gettysburg Defendants agree that this Agreement, including its exhibits, and any and all negotiations, documents, information, and discussions associated with it shall be without prejudice to the rights of the Hillandale/Gettysburg Defendants or Plaintiffs, 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 this Action in any pleading, and shall not be used directly or indirectly, in any way, whether in this 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.

37. Class Counsel further agree that in the event of the Agreement's rescission the originals and all copies of any notes, memos or records related to the cooperation obligations pursuant to paragraph 47 shall be returned to the Hillandale/Gettysburg Defendants at the Hillandale/Gettysburg Defendants' expense or destroyed by Class Counsel at their own expense; provided, however, that such attorney notes, memoranda

or records may be destroyed rather than produced if an affidavit of such destruction is promptly provided by Class Counsel to the Hillandale/Gettysburg Defendants' Counsel.

38. The Hillandale/Gettysburg Defendants have the right and the option to rescind this Agreement if they determine, within fifteen (15) business days after receipt of the written list pursuant to Paragraph 26 of all potential Class Members who have exercised their right to request exclusion from the Class (the "Excluded Class Members"), that the Excluded Class Members' combined annual purchases of Shell Eggs and/or Egg Products from Hillandale PA over the Class Period equal or exceed a percentage of Hillandale PA's Total Sales set forth in a Supplemental Agreement signed by the parties ("Opt-Out Threshold"). If the Hillandale/Gettysburg Defendants exercise their right of rescission pursuant to this paragraph, the Hillandale/Gettysburg Defendants will provide written notice of their intentions to Class Counsel and, contemporaneously with that written notice, shall provide to Plaintiffs (to the extent that such data has not already been produced by the Hillandale/Gettysburg Defendants in discovery in the Action) in a text delimited format, data reflecting Hillandale PA's Total Sales over the Class Period sufficient to show the dollar volume of sales of Shell Eggs and Egg Products to each of Hillandale PA's customers during the Class Period (the "Hillandale/Gettysburg Defendants' Opt-Out Threshold Data"). Upon request from Plaintiffs' counsel, Hillandale PA shall make an employee knowledgeable about the Hillandale/Gettysburg Defendants' Opt-Out Threshold Data available for a two hour interview, under oath, at the offices of Buchanan Ingersoll & Rooney PC in Pittsburgh, Pennsylvania. If this Agreement is rescinded, subject to the terms of the Supplemental Agreement, all amounts in the Escrow Account created pursuant to Paragraph 40 hereof, plus any interest on the

Settlement Amount only, shall be wire transferred to the Hillandale/Gettysburg Defendants, pursuant to their instructions to the Escrow Agent; provided, however, that simultaneous with their written instructions to the Escrow Agent, the Hillandale/Gettysburg Defendants shall provide to Class Counsel notice of such instructions, and Class Counsel shall, within fifteen (15) business days of receipt of such notice, notify the Escrow Agent of any objections to the Hillandale/Gettysburg Defendants' instructions and funds shall not be wired until expiration of that objection deadline. In the event that, pursuant to paragraphs 25, 41, 44-46, or 49, funds have been paid out of the Escrow Account prior to the Agreement's rescission, Class Counsel shall reimburse the Settlement Fund all of the draw-down with interest on the Settlement Amount only, calculated as the rate of interest published in the Wall Street Journal for 3-month U.S. Treasury Bills within ten (10) business days of notice. If Class Counsel object, the provisions of Article First, subsection h of the Escrow Agreement (attached as Exhibit B) shall govern.

39. The parties intend that the Supplemental Agreement shall be specifically disclosed to the Court and offered for *in camera* inspection by the Court at or prior to entry of the Preliminary Approval Order, but, subject to the Court's approval, it shall not be filed with the Court before the expiration of the Opt-Out Deadline unless ordered otherwise by the Court. The parties shall seek to keep the Opt-Out Threshold confidential prior to the Opt-Out Deadline. In the event that the Court directs that the Supplemental Agreement be filed prior to the Opt-Out Deadline, no party shall have any right to any relief by reason of such disclosure.

F. Payment

40. The Hillandale/Gettysburg Defendants shall pay or cause to be paid the Settlement Amount in Settlement of the Action. The Settlement Amount shall be wire transferred by the Hillandale/Gettysburg Defendants or their designee within thirty (30) days of the Execution Date into the Settlement Fund, which shall be established as an Escrow Account at a bank selected by Class Counsel and administered in accordance with the Escrow Agreement entered into by the Parties. Other than their payment pursuant to this paragraph, the Hillandale/Gettysburg Defendants shall have no obligations to either the Class or Class Counsel, except as otherwise provided herein.

41. No distributions of the Settlement Amount to the Settlement Class shall be made from the Escrow Account except upon Court approval.

42. Each Class Member shall look solely to the Settlement Amount for settlement and satisfaction, as provided herein, of all claims released by the Releasors pursuant to this Agreement.

43. Class Counsel may, at a time approved by the Court, seek an award of attorneys' fees and reasonable litigation expenses and incentive awards for class representatives approved by the Court, to be paid out of the Settlement Amount after the Final Approval of the Agreement. The Hillandale/Gettysburg Defendants agree not to object to Class Counsel's petition to the Court for payment of attorneys' fees, costs, expenses, and incentive awards for class representatives from the Settlement Amount as long as the amount for attorneys' fees does not exceed 33 1/3% of the Settlement Amount not including for reasonable litigation and administrative expenses and incentive awards. Except to the extent that the Court may award attorneys' fees and litigation expenses to

be paid out of the Settlement Amount, the Hillandale/Gettysburg Defendants shall have no further obligation to pay any fees or expenses of Class Counsel.

44. Upon entry of an order by the Court approving the request for an award of attorneys' fees and expenses and incentive awards for class representatives ("Attorneys' Fees Order") made pursuant to Paragraph 43 above, attorneys' fees may be distributed from the Settlement Fund pursuant to the terms of the fee order, provided however that any Class Counsel seeking to draw down their share of the attorneys' fees prior to Final Approval and the Attorneys' Fees Order becoming final shall secure the repayment of the amount drawn down by a letter of credit or letters of credit on terms, amounts, and by banks acceptable to the Hillandale/Gettysburg Defendants, which acceptance shall not be unreasonably withheld. The Attorneys' Fees Order becomes final when the time for appeal or to seek permission to appeal from the Attorneys' Fees Order has expired or, if appealed, has been affirmed 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.

45. In order to receive distribution of funds pursuant to Paragraph 43 prior to Final Approval and the Attorneys' Fees Order becoming final above, each Class Counsel shall be required to provide the Claims Administrator the approved letter(s) of credit in the amount of Class Counsel's draw-down, and shall be required to reimburse the Settlement Fund within ten (10) business days all or the pertinent portion of the draw-down with interest on the Settlement Amount only, calculated as the rate of interest published in the *Wall Street Journal* for 3-month U.S. Treasury Bills as of the close on the date that the draw-down was distributed, if Final Approval is not granted or if the award of attorneys' fees is reduced or overturned on appeal. The Claims Administrator

may present the letter(s) of credit in the event the Class Counsel fails to honor the obligation to repay the amount withdrawn.

46. Disbursements for any payments and expenses incurred in connection with taxation matters relating to this Settlement Agreement shall be made from the Settlement Amount pursuant to section H of this Agreement upon written notice to the Escrow Agent by Class Counsel of such payments and expenses.

47. **Cooperation:** The Hillandale/Gettysburg Defendants' cooperation pursuant to this Agreement is limited to providing authentication of documents as requested by Plaintiffs. The Hillandale/Gettysburg Defendants' obligations pursuant to this paragraph shall apply only to Releasors who act with, by or through Class Counsel pursuant to this Agreement in this Action. More specifically, such cooperation shall consist of the following:

- a. **Authentication of Documents:** Prior to trial in this Action, the Hillandale/Gettysburg Defendants shall, at the request of Class Counsel and through reasonable means (including, but not limited to, affidavits and declarations by persons qualified to testify as to authenticity) authenticate documents, including business records if applicable, produced by the Hillandale/Gettysburg Defendants and, to the extent possible, any documents produced by Non-Settling Defendants or the alleged co-conspirators in this Action authored or created by the Hillandale/Gettysburg Defendants or sent to or received by the Hillandale/Gettysburg Defendants. Class Counsel shall use reasonable efforts to minimize the burden to the Hillandale/Gettysburg Defendants of any such requests for authentication.
- b. **Privileged or Protected Matters:** Neither the entry into this agreement nor any performance of it shall constitute a waiver of the Hillandale/Gettysburg Defendants' attorney-client privilege or work-product protection. The Hillandale/Gettysburg Defendants' obligation to cooperate will be subject to its attorney-client privilege and work-product protection; provided, however, that the Hillandale/Gettysburg Defendants shall not produce any documents or disclose information that any Non-Settling Defendant or Other Settling Defendant asserts is privileged or protected until such time as the privileges and/or protection have been

waived or determined to have been waived or otherwise determined to be inapplicable whether by agreement between Plaintiffs and such other party or by order of the Court.

- c. **Confidentiality:** All information provided by the Hillandale/Gettysburg Defendants to Class Counsel pursuant to the Hillandale/Gettysburg Defendants' cooperation obligations shall be subject to the protective order entered in the Action.
- d. **Further Discovery.** The Hillandale/Gettysburg Defendants will not be required to participate in further discovery in the Action except as stated above.

G. Notice of Settlement to Class Members

48. Class Counsel shall take all necessary and appropriate steps to ensure that notice of this Settlement Agreement ("Notice") and the date of the hearing scheduled by the Court to consider the fairness, adequacy, and reasonableness of this Agreement is provided in accordance with the Federal Rules of Civil Procedure and any Court orders. Class Counsel will undertake all reasonable efforts to obtain from Non-Settling Defendants the names and addresses of those persons that purchased Shell Eggs or Egg Products directly from any Non-Settling Defendant during the Class Period. Class Notice will be issued after Preliminary Approval by the Court and subject to any Court orders regarding the means of dissemination of notice.

49. Subject to Court approval, disbursements for any payments and expenses incurred in connection with the costs of Notice and administration of the Agreement by the Claims Administrator shall be made from the Settlement Amount upon written notice to the Escrow Agent by Class Counsel of such payments and expenses. Plaintiffs shall use best efforts to combine Notice of the Agreement with notice of other settlement agreements as provided for under paragraph 25.

H. Taxes

50. Class Counsel shall be solely responsible for directing the Claims Administrator to file all informational and other tax returns necessary to report any taxable and/or net taxable income earned by the Settlement Amount. Further, Class Counsel shall be solely responsible for directing the Escrow Agent to make any tax payments, including interest and penalties due, on income earned by the Escrow Funds (“Tax Expenses”). Class Counsel shall be entitled to direct the Escrow Agent in writing to pay customary and reasonable Tax Expenses, including reasonable professional fees and expenses incurred in connection with carrying out their responsibilities as set forth in this Paragraph, from the applicable Escrow Fund by notifying the Escrow Agent in writing and as provided in Paragraph 46 herein. The Hillandale/Gettysburg Defendants shall have no responsibility to make any tax filings relating to this Agreement.

51. For the purpose of § 468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the “Administrator” of the Settlement Amount shall be the Claims Administrator, who shall timely and properly file or cause to be filed on a timely basis, all tax returns necessary or advisable with respect to the Settlement Amount (including, without limitation, all income tax returns, all informational returns, and all returns described in Treas. Reg. § 1.468B 2(1)).

52. The Parties to this Agreement and their Counsel shall treat, and shall cause the Claims Administrator to treat, the Settlement Amount as being at all times a “qualified settlement fund” within the meaning of Treas. Reg. § 1.468B 1. In addition, the Claims Administrator and, as required, the parties, 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 the Claims Administrator 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 Agreement shall be interpreted in a manner that is consistent with the Settlement Amount being a “qualified settlement fund” within the meaning of Treas. Reg. § 1.468B 1.

I. Miscellaneous

53. This Agreement does not settle or compromise any claim by Plaintiffs or any Class Member asserted in the Action against any Non-Settling Defendant or any potential defendant other than the Releasees. All rights of any Class Member against Non-Settling Defendants or any other person or entity other than the Releasees are specifically reserved by Plaintiffs and the Class Members. The sales of Shell Eggs and Egg Products by the Hillandale/Gettysburg Defendants to Class Members shall remain in the case against the Non-Settling Defendants in the Action as a basis for damage claims and shall be part of any joint and several liability claims against Non-Settling Defendants in the Action or other persons or entities other than the Releasees. This Agreement further does not settle, compromise or prejudice any defenses or affirmative defenses the Hillandale/Gettysburg Defendants have asserted or may assert in indirect purchaser actions currently pending and consolidated in the Eastern District of Pennsylvania. All rights of the Hillandale/Gettysburg Defendants against such indirect purchaser plaintiffs are specifically reserved by the Hillandale/Gettysburg Defendants.

54. Subject to Court approval, the United States District Court for the Eastern District of Pennsylvania shall retain jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Agreement or the applicability of this Agreement that cannot be resolved by negotiation and agreement by Plaintiffs and the Hillandale/Gettysburg Defendants. This Agreement shall be governed by and interpreted according to the substantive laws of the Commonwealth of Pennsylvania without regard to its choice of law or conflict of laws principles. The Hillandale/Gettysburg Defendants submit to the jurisdiction in the Eastern District of Pennsylvania only for the purposes of this Agreement and the implementation, enforcement, and performance thereof. The Hillandale/Gettysburg Defendants otherwise retain all defenses to the Court's exercise of personal jurisdiction over the Hillandale/Gettysburg Defendants.

55. This Agreement constitutes the entire agreement among Plaintiffs (and the other Releasors) and the Hillandale/Gettysburg Defendants (and the other Releasees) pertaining to the settlement of the Action against the Hillandale/Gettysburg Defendants only and supersedes any and all prior and contemporaneous undertakings of Plaintiffs and the Hillandale/Gettysburg Defendants in connection therewith. In entering into this Agreement, Plaintiffs and the Hillandale/Gettysburg Defendants have not relied upon any representation or promise made by Plaintiffs or the Hillandale/Gettysburg Defendants not contained in this Agreement. This Agreement may be modified or amended only by a writing executed by Plaintiffs and the Hillandale/Gettysburg Defendants and approved by the Court.

56. This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of Releasors and Releasees. Without limiting the generality of the foregoing: (a) each and every covenant and agreement made herein by Plaintiffs, Class Counsel, or Plaintiffs' Counsel shall be binding upon all Class Members and Releasors; and (b) each and every covenant and agreement made herein by Releasees shall be binding upon all Releasees.

57. This Agreement may be executed in counterparts by Class Counsel and the Hillandale/Gettysburg Defendants' Counsel, and an electronically-scanned (in either .pdf or .tiff format) signature will be considered an original signature for purposes of execution of this Agreement.

58. The headings in this Agreement are included for convenience only and shall not be deemed to constitute part of this Agreement or to affect its construction.

59. In the event this Agreement is not approved, or in the event that the order and final judgment approving the settlement is entered but is substantially reversed, modified, or vacated, or in the event that this Agreement is rescinded, the pre-settlement status of the litigation (including, without limitation, any applicable tolling of all statutes of limitations) shall be restored, and the Agreement shall have no effect on the rights of the Hillandale/Gettysburg Defendants or Plaintiffs to prosecute or defend the pending Action in any respect, including the right to litigate fully the issues related to Class certification, raise personal jurisdictional defenses, or any other defenses, which rights are specifically and expressly retained by the Hillandale/Gettysburg Defendants.

60. Neither the Hillandale/Gettysburg Defendants nor Plaintiffs, nor any of them, shall be considered to be the drafter of this Agreement or any of its provisions 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 of this Agreement.

61. Nothing expressed or implied in this Agreement is intended to or shall be construed to confer upon or give any person or entity other than Class Members, Releasors, the Hillandale/Gettysburg Defendants, and Releasees any right or remedy under or by reason of this Agreement.

62. Any putative Class Member that does not opt out of the Class created pursuant to the Agreement may remain in the Class without prejudice to the right of such putative Class Member to opt out of any other past, present, or future settlement class or certified litigation class in the Action.

63. Where this Agreement requires any party to provide notice or any other communication or document to any other party, such notice, communication, or document shall be provided by electronic mail or overnight delivery to:

For the Class:

Steven A. Asher
WEINSTEIN KITCHENOFF & ASHER LLC
1845 Walnut Street, Suite 1100
Philadelphia, PA 19103
asher@wka-law.com

For the Hillandale/Gettysburg Defendants:

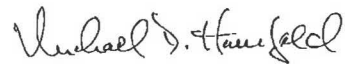
Wendelynne J. Newton
BUCHANAN INGERSOLL & ROONEY PC
One Oxford Centre
301 Grant Street, 20th Floor
Pittsburgh, PA 15219-1410
wendelynne.newton@bipc.com

64. Each of the undersigned attorneys represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Agreement, subject to Court approval.

Dated: October 22, 2014



Steven A. Asher
WEINSTEIN KITCHENOFF & ASHER
LLC
1845 Walnut Street, Suite 1100
Philadelphia, PA 19103
(215) 545-7200
(215) 545-6536 (fax)
asher@wka-law.com



Michael D. Hausfeld
HAUSFELD LLP
1700 K Street, Suite 650
Washington, DC 20006
(202) 540-7200
(202) 540-7201 (fax)
mhausfeld@hausfeldllp.com



Stanley D. Bernstein
BERNSTEIN LIEBHARD LLP
10 East 40th Street, 22nd Floor
New York, NY 10016
(212) 779-1414
(212) 779-3218 (fax)
bernstein@bernlieb.com



Stephen D. Susman
SUSMAN GODFREY LLP
654 Madison Avenue, 5th Floor
New York, NY 10065-8404
(212) 336-8330
(212) 336-8340 (fax)
SSusman@SusmanGodfrey.com

(Interim Co-Lead Counsel for the Class)



Wendelynn J. Newton
BUCHANAN INGERSOLL & ROONEY
PC
One Oxford Centre
301 Grant Street, 20th Floor
Pittsburgh, PA 15219-1410
wendelynn.newton@bipc.com

(Counsel for Hillandale Farms of Pa., Inc.
and Hillandale-Gettysburg, L.P.)

Exhibit A

**UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF PENNSYLVANIA**

**IN RE: PROCESSED EGG PRODUCTS :
ANTITRUST LITIGATION :**

**MDL No. 2002
Case No: 08-md-02002**

**THIS DOCUMENT APPLIES TO :
ALL DIRECT PURCHASER ACTIONS :**

**[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF PROPOSED
SETTLEMENT WITH DEFENDANT'S HILLANDALE FARMS, PA., INC. AND
HILLANDALE-GETTYSBURG, L.P., CERTIFYING THE CLASS FOR PURPOSES OF
SETTLEMENT, AND GRANTING LEAVE TO FILE MOTION FOR ATTORNEY'S
FEES, REIMBURSEMENT OF EXPENSES, AND INCENTIVE AWARDS FOR CLASS
REPRESENTATIVES**

It is hereby ORDERED AND DECREED as follows:

1. The motion of Direct Purchaser Plaintiffs for preliminary approval of the proposed settlement, which Defendants Hillandale Farms of Pa., Inc. and Hillandale-Gettysburg, L.P. (collectively referred to herein as "the Hillandale/Gettysburg Defendants") do not oppose, is hereby GRANTED.

2. The Court finds that the proposed settlement with the Hillandale/Gettysburg Defendants, as set forth in the settlement Agreement, subject to final determination following an approved form of and plan for notice and a Fairness Hearing,¹ has been negotiated at arm's length by qualified counsel, falls within the range of reasonableness and is sufficiently fair, reasonable and adequate to the following settlement class (the "Settlement Class"), for settlement purposes only:

¹ The capitalized terms used in this Order that are defined in the settlement Agreement are, unless otherwise defined herein, used in this Order as defined in the Agreement.

All persons and entities that purchased Shell Eggs or Egg Products in the United States directly from any Producer, including any Defendant, during the Class Period from January 1, 2000 through the date on which the Court enters an order preliminarily approving the Agreement and certifying a Class for Settlement purposes.

a.) Shell Egg SubClass

All individuals and entities that purchased Shell Eggs in the United States directly from any Producer, including any Defendant, during the Class Period from January 1, 2000 through the date on which the Court enters an order preliminarily approving the Agreement and certifying a Class for Settlement purposes.

b.) Egg Products SubClass

All individuals and entities that purchased Egg Products produced from Shell Eggs in the United States directly from any Producer, including any Defendant, during the Class Period from January 1, 2000 through the date on which the Court enters an order preliminarily approving the Agreement and certifying a Class for Settlement purposes.

Excluded from the Class and SubClasses are Defendants, Other Settling Defendants, and Producers, and the parents, subsidiaries and affiliates of Defendants, Other Settling Defendants, and Producers, all government entities, as well as the Court and staff to whom this case is assigned, and any member of the Court's or staff's immediate family.

3. For purposes of settlement and on the basis of the entire record before the Court, the Court finds that the Settlement Class fully complies with the requirements of Federal Rule of Civil Procedure 23. Specifically, the Court finds: (1) the Settlement Class is so numerous that joinder of all members is impracticable; (2) there are questions of law or fact common to the Settlement Classes; (3) the claims or defenses of the representative parties are typical of the claims or defenses of the Settlement Classes; and (4) the representative parties will fairly and adequately protect the interests of the class. Additionally, for purposes of settlement, the Court

finds that Federal Rule of Civil Procedure 23(b)(3) is also met and that there are questions of law or fact common to class members which predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy. In accordance with the holding in *In re Community Bank of Northern Virginia*, 418 F.3d 277, 306 (3d Cir. 2005), this Court makes no determination concerning the manageability of this action as a class action if it were to go to trial.

4. Plaintiffs T.K. Ribbing's Family Restaurant, LLC; Eby-Brown Company LLC; Goldberg and Solovy Foods, Inc.; Karetas Foods, Inc.; Nussbaum-SF, Inc.; Somerset Industries, Inc.; Wixon, Inc.; John A. Lisciandro d/b/a/ Lisciandro's Restaurant, and SensoryEffects Flavor Co. d/b/a Sensory Effects Flavor Systems (collectively, "Plaintiffs"), will serve as Class Representatives on behalf of the Settlement Class.

5. The Court confirms the appointment of Class Counsel for purposes of the Settlement Class as the law firms Weinstein Kitchenoff & Asher LLC, 1845 Walnut Street, Suite 1100, Philadelphia, PA 19103; Hausfeld LLP, 1700 K Street NW, Suite 650, Washington, DC 20006; Bernstein Liebhard LLP, 10 East 40th Street, 22nd Floor, New York, NY 10016; and Susman Godfrey, 654 Madison Avenue, 5th Floor, New York, NY 10065.

6. Direct Purchaser Plaintiffs' request for leave to file a motion for attorneys' fees and litigation expenses is hereby approved. Such motion shall be filed in accordance with the schedule set forth in this Court's Order Granting Preliminary Approval of the Proposed Second Amendment to Settlement Agreement Between Direct Purchaser Plaintiffs and Sparboe Farms, Inc. and Approving the Parties' Notice Plan. Class Counsel shall also provide for notice to the Class of such motion in accordance with that Order.

7. The Court will hold a Fairness Hearing to determine whether the proposed settlement is fair, reasonable, and adequate and whether it should be finally approved by the Court.

BY THE COURT:

Gene E.K. Pratter
United States District Judge

Date: _____

Exhibit B

Citibank Preferred Custody Services

Agreement
Between
Citibank, N. A.
as 'Escrow Agent'
and

Hillandale Farms of Pa., Inc. and Hillandale-
Gettysburg, L.P.

("Settling Defendants")

and

Bernstein Liebhard LLP, Hausfeld LLP,
Susman Godfrey LLP, and Weinstein
Kitchenoff & Asher LLC as Interim Co-
Lead Counsel for Direct Purchaser
Plaintiffs

("Interim Co-Lead Counsel")

(Account Number)

Citibank Escrow Agent Custody Account

THIS ESCROW AGREEMENT is made this 22nd day of October 2014 between/among between Hillandale Farms of Pa., Inc. and Hillandale-Gettysburg, L.P. (collectively referred to herein as the "Settling Defendants"), Bernstein Liebhard LLP, Hausfeld LLP, Susman Godfrey LLP, and Weinstein Kitchenoff & Asher LLC (together, the "Interim Co-Lead Counsel" herein), and CITIBANK, N.A. (the "Escrow Agent" or "Citibank" herein).

Pursuant to that certain Settlement Agreement, dated as of October 22, 2014, by and between Settling Defendants and Interim Lead Co-Counsel (the "Settlement Agreement"), the above-named parties appoint said Escrow Agent, with the attendant duties and responsibilities, and upon the terms and conditions provided in Schedule A annexed hereto and made a part hereof. Capitalized terms used but not defined herein shall have the meaning set forth in the Settlement Agreement.

ARTICLE FIRST: The above-named parties agree that the following provisions shall control with respect to the rights, duties, liabilities, privileges and immunities of the Escrow Agent:

- a) The Escrow Agent shall neither be responsible for or under, nor chargeable with knowledge of, the terms and conditions of any other agreement, instrument or document executed between/among the parties hereto, except as may be specifically provided in Schedule A annexed hereto. This Escrow Agreement sets forth all of the obligations of the Escrow Agent, and no additional obligations shall be implied from the terms of this Escrow Agreement or any other agreement, instrument or document.
- b) The Escrow Agent, acting in good faith, may act in reliance upon any instructions, notice, certification, demand, consent, authorization, receipt, power of attorney or other writing delivered to it and signed by an authorized signer for each of the four Interim Co-Lead Counsel firms and counsel for the Settling Defendants, collectively. The Escrow Agent may, in good faith, act in reliance upon any signature believed by it to be genuine, and to be the signature of a duly authorized person.
- c) After adjudication by the court presiding over the Egg Products Antitrust Litigation, Interim Co-Lead Counsel, acting solely on behalf of Class Plaintiffs, agree to reimburse the Escrow Agent on demand for, and to indemnify and hold the Escrow Agent harmless against and with respect to, any and all loss, liability, damage or expense (including, but without limitation, attorneys' fees, costs and disbursements) that the Escrow Agent may suffer or incur in connection with this Escrow Agreement and its performance hereunder or in connection herewith, except to the extent such loss, liability, damage or expense arises from its willful misconduct or gross negligence.

- d) The Escrow Agent shall be entitled to compensation for services rendered pursuant to this Escrow Agreement as provided in Schedule B attached hereto. In addition, if the Escrow Agent is required to engage the services of legal counsel due to uncertainty about the Escrow Agent's obligations under this Escrow Agreement and, if the court presiding over the Egg Products Antitrust Litigation determines that such consultation was reasonable and warranted due to the uncertainty, the Escrow Agent shall be entitled to reimbursement from Interim Co-Lead Counsel for the payment of the reasonable fees and expenses of the Escrow Agent's counsel.
- e) The Escrow Agent shall open and maintain a separate and distinct escrow account set apart from the Escrow Agent's assets as provided in Section I of Schedule A. The Escrow Agent shall be under no duty to give the property held in escrow by it hereunder any greater degree of care than it gives its own similar property.
- f) The Escrow Agent shall invest the property held in escrow in such a manner as directed in Section III of Schedule A annexed hereto, which may include deposits in Citibank and money market mutual funds advised, serviced or made available by Citibank or its affiliates even though Citibank or its affiliates may receive a benefit or profit therefrom. The Escrow Agent and any of its affiliates are authorized to act as counterparty, principal, agent, broker or dealer while purchasing or selling investments as specified herein. The Escrow Agent and its affiliates are authorized to receive, directly or indirectly, fees or other profits or benefits for each service, task or function performed, in addition to any fees as specified in Schedule B hereof, without any requirement for special accounting related thereto.

The parties to this Escrow Agreement acknowledge that non-deposit investment products are not obligations of, or guaranteed, by Citibank/Citigroup nor any of its affiliates; are not FDIC insured; and are subject to investment risks, including the possible loss of principal amount invested. Only deposits in the United States are subject to FDIC insurance.

- g) The Escrow Agent shall have no obligation to invest or reinvest the property held in escrow on the day of deposit if all or a portion of such property is deposited with the Escrow Agent after 11:00 AM Eastern Time on the day of deposit. Instructions to invest or reinvest that are received after 11:00 AM Eastern Time will be treated as if received on the following business day in New York. The Escrow Agent shall have the power to sell or liquidate the foregoing investments whenever the Escrow Agent shall be required to distribute amounts from the escrow property pursuant to the terms of this Escrow Agreement. Requests or instructions received after 11:00 AM Eastern Time by the Escrow Agent to liquidate all or any portion of the escrowed property will be treated as if received on the following business day in New York. The Escrow Agent shall have no responsibility for any investment losses resulting from the investment, reinvestment or liquidation of the escrowed property, as applicable, provided that

the Escrow Agent has made such investment, reinvestment or liquidation of the escrowed property in accordance with the terms, and subject to the conditions, of this Escrow Agreement.

- h) In the event of any disagreement between/among any of the parties to this Escrow Agreement, or between/among them or either or any of them and any other person, resulting in adverse claims or demands being made in connection with the subject matter of the Escrow, or in the event that the Escrow Agent, in good faith, is in doubt as to what action it should take hereunder, the Escrow Agent may, at its option, refuse to comply with any claims or demands on it, or refuse to take any other action hereunder, so long as such disagreement continues or such doubt exists, and in any such event, the Escrow Agent shall not become liable in any way or to any person for its failure or refusal to act, and the Escrow Agent shall be entitled to continue so to refrain from acting until (i) the rights of all parties shall have been fully and finally adjudicated by the court presiding over the Egg Products Antitrust Litigation, or (ii) all differences shall have been adjusted and all doubt resolved by agreement among all of the interested persons, and the Escrow Agent shall have been notified thereof in writing signed by all such persons. The Escrow Agent shall have the option, after 30 calendar days' notice to the other parties of its intention to do so, to file an action in interpleader requiring the parties to answer and litigate any claims and rights among themselves. The rights of the Escrow Agent under this paragraph are cumulative of all other rights which it may have by law or otherwise.
- i) The Escrow Agent is authorized, for any securities at any time held hereunder, to register such securities in the name of its nominee(s) or the nominees of any securities depository, and such nominee(s) may sign the name of any of the parties hereto to whom or to which such securities belong and guarantee such signature in order to transfer, or in order to certify ownership of such securities to tax or other governmental authorities.
- j) Notice to the parties shall be given as provided in Section VI of Schedule A annexed hereto.

ARTICLE SECOND: The Escrow Agent shall make payments of income earned on the escrowed property as provided in Section IV of Schedule A annexed hereto. Each such payee shall provide to the Escrow Agent an appropriate W-9 form for tax identification number certification or a W-8 form for non-resident alien certification. The Escrow Agent shall be responsible only for income reporting to the Internal Revenue Service with respect to income earned on the escrowed property.

ARTICLE THIRD: The Escrow Agent may, in its sole discretion, resign and terminate its position hereunder at any time following 30 calendar days' written notice to the parties to the Escrow Agreement herein. The Escrow Agent may be removed as such at any time upon 30 calendar days' written notice to Escrow Agent by Settling Defendants and Interim Co-Lead Counsel, jointly. Any such resignation or removal shall terminate all

obligations and duties of the Escrow Agent hereunder except the obligation to cooperate with the parties hereto to transfer the funds held in escrow to a successor escrow agent of their joint choosing. On the effective date of such resignation or removal, the Escrow Agent shall deliver this Escrow Agreement together with any and all related instruments or documents to any successor Escrow Agent agreeable to the parties, subject to this Escrow Agreement herein. If a successor Escrow Agent has not been appointed prior to the expiration of 30 calendar days following the date of the notice of such resignation or removal, the then acting Escrow Agent may petition any court of competent jurisdiction for the appointment of a successor Escrow Agent, or other appropriate relief. Any such resulting appointment shall be binding upon all of the parties to this Escrow Agreement.

ARTICLE FOURTH: The Escrow Agent shall receive the fees provided in Schedule B annexed hereto. The Escrow agent shall not debit the Escrowed Funds for any charge for its fees or its costs and expenses, until it shall have received a copy of an order issued by the Court, approving the amount of fees, costs and expenses to which it is entitled. Fees and expenses of the Escrow agent charged against the Escrowed Funds shall, to the extent possible, be paid out of interest earned. Once fees have been paid, no recapture or rebate will be made by the Escrow Agent.

ARTICLE FIFTH: Any modification of this Escrow Agreement or any additional obligations assumed by any party hereto shall be binding only if evidenced by a writing signed by each of the parties hereto.

ARTICLE SIXTH: In the event funds transfer instructions are given (other than in writing at the time of execution of this Escrow Agreement), whether in writing, by telecopier or otherwise, the Escrow Agent is authorized to seek confirmation of such instructions by telephone call back to the person or persons designated in Schedule A annexed hereto, and the Escrow Agent may rely upon the confirmations of anyone purporting to be the person or persons so designated. To assure accuracy of the instructions it receives, the Escrow Agent may record such call backs. If the Escrow Agent is unable to verify the instructions, or is not satisfied with the verification it receives, it will not execute the instruction until all issues have been resolved. The persons and telephone numbers for call backs may be changed only in writing actually received and acknowledged by the Escrow Agent. The parties agree to notify the Escrow Agent of any errors, delays or other problems within 30 calendar days after receiving notification that a transaction has been executed. If it is determined that the transaction was delayed or erroneously executed as a result of the Escrow Agent's error, the Escrow Agent's sole obligation is to pay or refund such amounts as may be required by applicable law. In no event shall the Escrow Agent be responsible for any incidental or consequential damages. Any claim for interest payable will be at the Escrow Agent's published savings account rate in effect in New York, New York.

ARTICLE SEVENTH: This Escrow Agreement shall be governed by the law of the State of New York in all respects. The United States District Court for the Eastern District of Pennsylvania ("the Court"), the court presiding over the Egg Products Antitrust Litigation, has continuing jurisdiction over the Escrow Agreement, the Escrow

Account, and the Escrow Funds. The parties hereto irrevocably and unconditionally submit to the Court's jurisdiction in connection with any proceedings commenced regarding this Escrow Agreement, including but not limited to, any interpleader proceeding or proceeding for the appointment of a successor escrow agent the Escrow Agent may commence pursuant to this Agreement, and all parties irrevocably submit to the jurisdiction of the Court for the determination of all issues in such proceedings, without regard to any principles of conflicts of laws, and irrevocably waive any objection to venue of inconvenient forum.

ARTICLE EIGHTH: This Escrow Agreement may be executed in one or more counterparts, each of which counterparts shall be deemed to be an original and all of which counterparts, taken together, shall constitute but one and the same agreement. Facsimile signatures on counterparts of this Escrow Agreement shall be deemed original signatures with all rights accruing thereto.

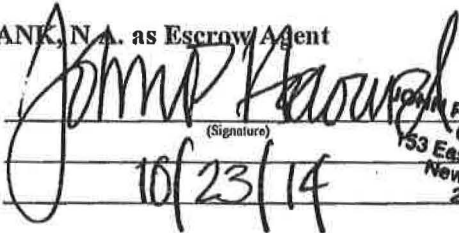
ARTICLE NINTH: The Escrow Agent shall not incur any liability for not performing any act or fulfilling any obligation hereunder by reason of any occurrence beyond its control (including, but not limited to, any provision of any present or future law or regulation or any act of any governmental authority, any act of God or war or terrorism, or the unavailability of the Federal Reserve Bank wire services or any electronic communication facility).

ARTICLE TENTH: No printed or other material in any language, including prospectuses, notices, reports, and promotional material which mentions "Citibank" by name or the rights, powers, or duties of the Escrow Agent under this Agreement shall be issued by any other parties hereto, or on such party's behalf, without the prior written consent of the Escrow Agent.

[The remainder of this page is blank.]

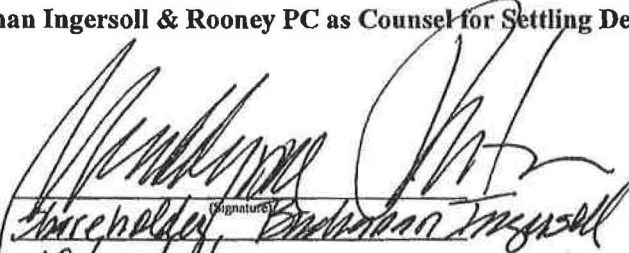
In witness whereof the parties have executed this Agreement as of the date first above written.

CITIBANK, N.A. as Escrow Agent

By: 
 (Signature)
 Title: JOHN P. HOWARD, DIRECTOR
 Citi Private Bank
 153 East 53rd Street, 21st FL
 New York, NY 10022
 212-783-7109


Date: 10/23/14

Buchanan Ingersoll & Rooney PC as Counsel for Settling Defendants

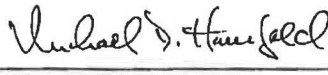
By: 
 (Signature)
 Title: Marc Helder, Buchanan Ingersoll

Date: 10/23/14


Bernstein Liebhard LLP as Interim Co-Lead Counsel

By: 
 Title: Partner, Bernstein Liebhard LLP
 Date: October 22, 2014


Hausfeld LLP as Interim Co-Lead Counsel

By: 
 Title: Partner, Hausfeld LLP
 Date: October 22, 2014

Susman Godfrey LLP as Interim Co-Lead Counsel

By: 
Title: Partner, Susman Godfrey LLP
Date: October 22, 2014

Weinstein Kitchenoff & Asher LLC as Interim Co-Lead Counsel

By: 
Title: Partner, Weinstein Kitchenoff & Asher LLC
Date: October 22, 2014

SEC Shareholder Disclosure Rule 14b-2: SEC Rule 14b-2 directs us to contact you to request authorization to provide your name, address and share position with respect to the referenced account to requesting companies whose stock you have voting authority over. Under the Rule, we must make the disclosures for accounts opened after December 28, 1986, if requested, unless you specifically object to disclosure. Hence, failure to respond will be deemed consent to disclosure. Thank you for assisting us in complying with this SEC rule.

- Yes, we are authorized to release your name, address and share positions
- No, we are not authorized to release your name, address and share positions.

(Signature)

(Date)

Reference Account No.: _____

**UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: PROCESSED EGG PRODUCTS	:	MDL No. 2002
ANTITRUST LITIGATION	:	Case No: 08-md-02002
	:	
	:	
THIS DOCUMENT APPLIES TO	:	
ALL DIRECT PURCHASER ACTIONS	:	
	:	

**[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF
PROPOSED SETTLEMENT WITH DEFENDANTS HILLANDALE
FARMS OF PA., INC., AND HILLANDALE-GETTYSBURG, L.P.,
CERTIFYING THE CLASS FOR PURPOSES OF SETTLEMENT, AND
GRANTING LEAVE TO FILE MOTION FOR ATTORNEYS’ FEES
AND REIMBURSEMENT OF EXPENSES**

It is hereby ORDERED AND DECREED as follows:

1. The motion of Direct Purchaser Plaintiffs for preliminary approval of the proposed settlement, which Defendants Hillandale Farms of Pa., Inc. and Hillandale-Gettysburg, L.P. (collectively the “Hillandale/Gettysburg Defendants”) do not oppose, is hereby GRANTED.

2. The Court finds that the proposed settlement with the Hillandale/Gettysburg Defendants, as set forth in the Settlement Agreement, subject to final determination following an approved form of and plan for notice and a Fairness Hearing,¹ has been negotiated at arm’s length by qualified counsel, falls within the range of reasonableness and is sufficiently fair, reasonable and adequate to the following settlement class (the “Settlement Class”), for settlement purposes only:

All persons and entities that purchased Shell Eggs or Egg Products in the United States directly from any Producer, including any Defendant, during the Class Period from January 1, 2000 through the date on which the Court enters an order preliminarily

¹ The capitalized terms used in this Order that are defined in the Settlement Agreement are, unless otherwise defined herein, used in this Order as defined in the Agreement.

approving the Agreement and certifying a Class for Settlement purposes.

a.) Shell Egg SubClass

All individuals and entities that purchased Shell Eggs in the United States directly from any Producer, including any Defendant, during the Class Period from January 1, 2000 through the date on which the Court enters an order preliminarily approving the Agreement and certifying a Class for Settlement purposes.

b.) Egg Products SubClass

All individuals and entities that purchased Egg Products produced from Shell Eggs in the United States directly from any Producer, including any Defendant, during the Class Period from January 1, 2000 through the date on which the Court enters an order preliminarily approving the Agreement and certifying a Class for Settlement purposes.

Excluded from the Class and SubClasses are Defendants, Other Settling Defendants, and Producers, and the parents, subsidiaries and affiliates of Defendants, all government entities, as well as the Court and staff to whom this case is assigned, and any member of the Court's or staff's immediate family.

3. For purposes of settlement and on the basis of the entire record before the Court, the Court finds that the Settlement Class fully complies with the requirements of Federal Rule of Civil Procedure 23. Specifically, the Court finds: (1) the Settlement Class is so numerous that joinder of all members is impracticable; (2) there are questions of law or fact common to the Settlement Classes; (3) the claims or defenses of the representative parties are typical of the claims or defenses of the Settlement Classes; and (4) the representative parties will fairly and adequately protect the interests of the class. Additionally, for purposes of settlement, the Court finds that Federal Rule of Civil Procedure 23(b)(3) is also met and that there are questions of law or fact common to class members which predominate over any questions affecting only

individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy. In accordance with the holding in *In re Community Bank of Northern Virginia*, 418 F.3d 277, 306 (3d Cir. 2005), this Court makes no determination concerning the manageability of this action as a class action if it were to go to trial.

4. Plaintiffs T.K. Ribbing's Family Restaurant, LLC; Eby-Brown Company LLC; Goldberg and Solovy Foods, Inc.; Karetas Foods, Inc.; Nussbaum-SF, Inc.; Somerset Industries, Inc.; Wixon, Inc.; John A. Lisciandro d/b/a/ Lisciandro's Restaurant, and SensoryEffects Flavor Co. d/b/a Sensory Effects Flavor Systems (collectively, "Plaintiffs"), will serve as Class Representatives on behalf of the Settlement Class.

5. The Court confirms the appointment of Class Counsel for purposes of the Settlement Class as the law firms Weinstein Kitchenoff & Asher LLC, 1845 Walnut Street, Suite 1100, Philadelphia, PA 19103; Hausfeld LLP, 1700 K Street NW, Suite 650, Washington, DC 20006; Bernstein Liebhard LLP, 10 East 40th Street, 22nd Floor, New York, NY 10016; and Susman Godfrey, 654 Madison Avenue, 5th Floor, New York, NY 10065-8404.

6. Direct Purchaser Plaintiffs' request for leave to file a motion for attorneys' fees and litigation expenses is hereby approved and shall be filed at least 45 days prior to the date by which potential Class Members must exclude themselves from or object to the Agreement.

7. The Court will hold a fairness hearing to determine whether the proposed settlement is fair, reasonable, and adequate and whether it should be finally approved by the Court.

BY THE COURT:

Gene E.K. Pratter
United States District Judge

Date: _____

UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: PROCESSED EGG PRODUCTS :
ANTITRUST LITIGATION :

MDL No. 2002
Case No: 08-md-02002

THIS DOCUMENT APPLIES TO :
ALL DIRECT PURCHASER ACTIONS :

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of November 2014, a copy of Direct Purchaser Plaintiffs' Motion for Approval of Notice Plan for the Proposed Settlement with Defendants HILLANDALE FARMS OF PA., INC., AND HILLANDALE-GETTYSBURG, L.P., Memorandum in Support, Proposed Notices, and Proposed Form of Order, were filed with the Clerk of the Court, per the Local Rules, will be available for viewing and downloading via the CM/ECF system, and the CM/ECF system will send notification of such filing to all registered attorneys of record and the below-listed Liaison Counsel for Defendants, Indirect Purchaser Plaintiffs, and Direct Action Plaintiffs.

Jan P. Levine, Esquire
PEPPER HAMILTON LLP
3000 Two Logan Square
18th & Arch Streets
Philadelphia, PA 19103
(215) 981-4714
(215) 981-4750 (fax)
levinej@pepperlaw.com

Defendants' Liaison Counsel

Krishna B. Narine, Esquire
MEREDITH & NARINE, LLC
100 South Broad Street, Suite 905
Philadelphia, PA 19110
(215) 564-5182
(215) 569-0958
knarine@m-npartners.com

*Indirect Purchaser Plaintiffs' Liaison
Counsel*

William J. Blechman, Esquire
KENNY NACHWALTER, P.A.
1100 Miami Center
201 South Biscayne Boulevard
Miami, Florida 33131
Telephone: 305-373-1000
Facsimile: 305-372-1861
wblechman@kennynachwalter.com

Direct Action Plaintiffs' Liaison Counsel

Date: November 21, 2014

BY: /s/ Mindee J. Reuben
WEINSTEIN KITCHENOFF & ASHER LLC