

**CLASS ACTION SETTLEMENT AGREEMENT**

This Class Action Settlement Agreement is entered into this 9th day of May, 2019, between Plaintiffs and Defendant, as defined herein.

**I. RECITALS**

1.1. On December 23, 2016, Jackie Fitzhenry-Russell (“Fitzhenry-Russell”), through her counsel Gutride Safier LLP (“GSLLP”), filed a Class Action Complaint in Santa Cruz County Superior Court alleging Defendant deceptively marketed and sold its Seagram’s® Ginger Ale products by including the words “Made with Real Ginger” on the front label. Fitzhenry-Russell alleged claims for violations of the California Consumer Legal Remedies Act, Civil Code § 1780, *et seq.* (“CLRA”), false advertising under California Business and Professions Code § 17500, *et seq.*; unfair business practices under California Business and Professions Code § 17200 *et seq.*; and fraud, seeking damages, an injunction and other relief. Fitzhenry-Russell sought to pursue these claims on behalf of herself and all purchasers of Seagram’s Ginger Ale in the United States (other than resellers) between December 23, 2012, and the present. Defendant timely removed the action to the Northern District of California on February 6, 2017.

1.2. On March 13, 2017, Defendant moved to dismiss. On October 18, 2017, the Court denied Defendant’s motion to dismiss in its entirety.

1.3. On November 8, 2017, Defendant answered the complaint, denying Fitzhenry-Russell’s allegations and asserting several affirmative defenses. Fitzhenry-Russell filed an amended complaint on January 8, 2018, which Defendant answered on January 22, 2018.

1.4. Beginning in late 2017, the Parties engaged in extensive discovery.

Defendant produced over 12,000 pages of corporate documents and deposed Fitzhenry-Russell. Plaintiff deposed Defendant's Rule 30(b)(6) witnesses regarding, among other topics, marketing, product formulation, and customer inquiries. In addition, Plaintiffs' Counsel retained and worked with an expert to conduct consumer surveys. Plaintiffs' Counsel also engaged a damages expert, who opined that Class members paid a price premium for the Seagram's Ginger Ale purchased during the class period, in the amount of an average of approximately 6% of the purchase price.

1.5. Defendant engaged two survey experts. The first designed and conducted a nationwide consumer survey, and opined, based on that survey's results, that the "Made With Real Ginger" claim did not have a material impact on consumers' interest in purchasing Seagram's Ginger Ale or the price they were willing to pay for it. The second expert opined that Plaintiff's expert's consumer survey was designed in a biased manner and did not support the conclusion that consumers were willing to pay a premium for Seagram's Ginger Ale as a result of the "Made With Real Ginger" claim. Defendant also retained an economist, who opined that there was in fact no price premium charged for Seagram's Ginger Ale during the class period as a result of the "Made with Real Ginger" claim.

1.6. Defendant also produced documents and other evidence establishing that labeling and marketing materials for Seagram's Ginger Ale that used the phrase "Made with Real Ginger" first appeared in the marketplace on or about April 1, 2013.

1.7. In late 2018, the parties agreed to stay the case pending the trial of *Jackie Fitzhenry-Russell v. Keurig Dr. Pepper, Inc.*, Case No. 5:2017-cv-00564-NC (the "California Canada Dry case"), in which Plaintiff Fitzhenry-Russell, represented by Plaintiffs' Counsel, asserted substantially similar claims against Keurig Dr Pepper, the manufacturer of Canada Dry

Ginger Ale, regarding the claim “Made from Real Ginger” on that product. That trial was scheduled to begin on January 7, 2019. The California Canada Dry Case was one of several putative class actions, in various states, in which consumers asserted these claims against Keurig Dr Pepper. To settle these cases, Keurig Dr Pepper entered into two separate settlement agreements: one with a putative class of Canada Dry Ginger Ale consumers in California, and one with a putative class of Canada Dry Ginger Ale consumers in the other 49 states. Under these settlement agreements, Keurig Dr Pepper agreed to entry of a permanent injunction barring use of the unmodified phrase “Made from Real Ginger” on its Canada Dry labeling or marketing, but permitting use of certain variations on that phrase. Keurig Dr Pepper also agreed to allow consumers in both classes to submit monetary claims for purchases of Canada Dry Ginger Ale for payment of \$0.40 per unit purchased, for a total of up to \$5.20 per household with no proof of purchase and \$40.00 per household with proof of purchase. Keurig Dr Pepper agreed to pay valid claims on these terms up to a cap of \$11.2 million. The 49-state settlement (excluding California) received final approval on April 8, 2019 and the California settlement was approved on April 10, 2019.

1.8. On January 29, 2019, in this case, David Swartz, Ashley Salcedo, Scott Miller, Isabelo Pascual, Florin Carlin and Kristina Hoffman (collectively with Jackie Fitzhenry-Russell, “Plaintiffs”), filed a motion to intervene, and sought leave to file a complaint in intervention. Fitzhenry-Russell joined in the motion, and also sought leave to file a proposed amended complaint (identical to the complaint in intervention) seeking to expand the proposed class to a class of nationwide consumers and to assert claims under the laws of all states.

1.9. On February 19, 2019, the Parties participated in a mediation conducted by the Honorable Wayne Andersen (retired) at JAMS in Chicago, Illinois. That mediation resulted in the settlement memorialized in this Agreement.

1.10. Defendant denies all of Plaintiffs' allegations and charges of wrongdoing or liability against it arising out of any of the conduct, statements, acts or omissions that were or could have been alleged in the Litigation as defined below. Defendant also denies that Plaintiffs, the Settlement Class, or any member of the Settlement Class suffered damage or harm by reason of any alleged conduct, statement, act or omission of Defendant. Defendant further denies that the evidence is sufficient to support a finding of liability on any of Plaintiffs' claims in the Litigation.

1.11. Plaintiffs' Counsel has analyzed and evaluated the merits of the Parties' contentions and this Settlement as it impacts all the Parties and the Settlement Class Members. Among the risks of continued litigation for Plaintiffs are the risks of failing to prove liability or restitution and damages on a class-wide or individual basis. In particular, there may be difficulties establishing: (1) that Defendant's statements on the product labels (and other advertising and marketing materials), as challenged by Plaintiffs, were likely to deceive reasonable persons; (2) that the alleged misrepresentations and omissions were material to reasonable persons; and (3) that damages or restitution should be awarded or, if so, that the amount of the award would be more than nominal. No class has been certified. Plaintiffs and Plaintiffs' Counsel, after taking into account the foregoing along with other risks and the costs of further litigation, are satisfied that the terms and conditions of this Agreement are fair, reasonable, adequate and equitable, and that a settlement of the Litigation and the prompt

provision of effective relief to the Settlement Class are in the best interest of the Settlement Class Members.

1.12. Defendant, while continuing to deny all allegations of wrongdoing and disclaiming any liability with respect to any and all claims, considers it desirable to resolve the Litigation on the terms stated herein, in order to avoid further burden, expense, inconvenience, and interference with its ongoing business operations. Therefore, Defendant has determined that settlement of this Litigation on the terms set forth herein is in its best interests.

1.13. This Agreement reflects a compromise between the Parties, and shall in no event be construed as or be deemed an admission or concession by any Party of the truth of any allegation or the validity of any purported claim or defense asserted in any of the pleadings in the Litigation, or of any fault on the part of Defendant, and all such allegations are expressly denied. Nothing in this Agreement shall constitute an admission of liability or be used as evidence of liability, by or against any Party hereto.

1.14. This Agreement is contingent upon the issuance by the Court of both the Preliminary Approval Order and the Final Approval Order. Should the Court not issue the Preliminary Approval Order and Final Approval Order, Defendant does not waive, and expressly reserves, all rights to defend against the claims in this Litigation. Should the Court issue the Preliminary Approval Order and Final Approval Order, the undersigned parties agree that the Litigation between Plaintiffs, on the one hand, and Defendant, on the other hand, shall be fully and finally compromised, settled and released on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the covenants and agreements set forth herein, and of the releases and dismissals of claims described below, the Parties agree to this settlement, subject to Court approval, under the following terms and conditions:

## II. DEFINITIONS

Capitalized terms in this Agreement shall be defined as follows:

2.1. “Affiliate” means, with respect to any Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with such Person. For purposes of the definition, “control” means (a) with respect to any corporation or other entity having voting shares or the equivalent and elected directors, managers, or Persons performing similar functions: (i) the ownership or power, directly or indirectly, to vote more than fifty percent (50%) of shares or the equivalent, or (ii) the ability to exercise primary control over its business and affairs, and (b) with respect to any other Person: the ability to exercise primary control over its business and affairs.

2.2. “Agreement” means this Class Action Settlement Agreement, including all exhibits thereto.

2.3. “Allegations” means any and all allegations asserted by any Plaintiff in this litigation, including those in the proposed Second Amended Complaint; and claims that could be pursued under the laws of the United States or any state, subdivision or territory, on the basis of one or more of those allegations.

2.4. “Claim Administrator” means, subject to Court approval, RG2.

2.5. “Claim Filing Deadline” means 28 days prior to Final Approval.

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

2.7. “Claim Form” means a claim form in substantially the same form as Exhibit A.

2.8. “Class Period” means the period of April 1, 2013, through the date of Preliminary Approval.

2.9. “Class Representatives” means Plaintiffs.

2.10. “Common Fund” or “Settlement Fund” means the Two-Million-Four-Hundred-Fifty-Thousand Dollars (\$2,450,000.00) that is discussed further in Sections 3.1 and 3.2 below.

2.11. “Defendant” means The Coca-Cola Company.

2.12. “Defendant’s Counsel” means the law firm of Patterson Belknap Webb & Tyler LLP.

2.13. “Effective Date” means the date on which the last of the following events occurs: (a) all Parties and their counsel have executed this Settlement; (b) the Court has entered the Final Approval Order approving the Agreement and entering judgment thereon; (c) the date on which the time to appeal or to seek permission to appeal from the Court’s approval of the Settlement Agreement has expired; (d) if timely appealed, the date on which approval of the Settlement Agreement has been affirmed in its entirety by the Court of last resort to which such appeal has been taken and the mandate has issued, such that the affirmance is no longer subject to further appeal or review; and (e) if writ of certiorari is timely sought, the date upon which the writ is denied or dismissed or the order of the appellate court is affirmed and the mandate has issued, thus making the Final Approval Order a final, non-appealable judgment. However, with respect to clauses (d) and (e) above, an appeal or petition for certiorari directed only at the Fee Award shall not prevent this Settlement from becoming final and effective, and a modification or

reversal on appeal of any Fee Award shall not prevent this Settlement from becoming final and effective if all other aspects of the Final Approval Order have been affirmed.

2.14. “Excluded Persons” means (1) the Honorable Edward J. Davila, the Honorable Virginia K. DeMarchi, the Honorable Howard R. Lloyd, the Honorable Wayne Andersen (Ret.), and any member of their immediate families; (2) any government entity; (3) Defendant; (4) any entity in which Defendant has a controlling interest; (5) any of Defendant’s subsidiaries, parents, affiliates, and officers, directors, employees, legal representatives, heirs, successors, or assigns; and (6) any persons who timely opt-out of the Settlement Class.

2.15. “Exclusion Deadline” means twenty-eight (28) days prior to the initially scheduled hearing date on Final Approval.

2.16. “Fee Award” means the attorneys’ fees and expenses awarded by the Court to Plaintiffs’ Counsel for all the past, present, and future attorneys’ fees, costs (including court costs), expenses, and disbursements incurred by them and their experts, staff, and consultants in connection with the Litigation.

2.17. “Final Approval” means entry of a judgment, substantially in the form of Exhibit D, granting final approval of this Agreement as binding upon the Parties, which shall constitute a judgment respecting the Litigation.

2.18. “Household” means any number of persons occupying the same dwelling unit.

2.19. “Incentive Award” means any award sought by application to and approval by the Court that is payable to any Plaintiff to compensate him or her for efforts in bringing this Litigation and/or achieving the benefits of this Settlement on behalf of the Settlement Class, as further discussed in section 6.2.

2.20. “Labeling” means the display of written, printed, or graphic matter upon the packaging of the Products (as defined in Paragraph 2.35), as well as written, printed, or graphic matter or audio designed or disseminated by Defendant or its agents for use in the marketing, advertising, distribution or sale of the Products.

2.21. “Litigation” means *Fitzhenry-Russell, et al. v. The Coca-Cola Company*, United States District Court for the Northern District of California, Case No. 5:17-CV-00603-EJD.

2.22. “Long Form Notice” means a notice in substantially the same form as Exhibit B1.

2.23. “Notice Date” means the day on which the Claim Administrator initiates the Online Notice, the Summary Published Notice, or the Press Release, whichever comes first.

2.24. “Notice Plan” means the procedure for providing notice to the Settlement Class, as set forth in Exhibit B.

2.25. “Objection Deadline” means twenty-eight (28) days prior to the initially scheduled hearing date on Final Approval.

2.26. “Online Notice” means notice to Settlement Class Members in substantially the same form as Exhibit B3.

2.27. “Parties” means Plaintiffs and Defendant, collectively.

2.28. “Party” means either Defendant or any Plaintiff.

2.29. “Permanent Injunction” means an order of the Court requiring Defendant to undertake the actions set forth in sections 3.11 through 3.15.

2.30. “Person” means any natural person, corporation, partnership, business organization or association, or other type of legal entity.

2.31. “Plaintiffs” means Jackie Fitzhenry-Russell, David Swartz, Ashley Salcedo, Scott Miller, Isabelo Pascual, Florin Carlin, and Kristina Hoffman, collectively.

2.32. “Plaintiffs’ Counsel,” “Class Counsel” or “Settlement Class Counsel” means the law firm of Gutride Safier LLP.

2.33. “Preliminary Approval” means issuance of an order, substantially in the form of Exhibit C, granting preliminary approval of the settlement described in this Agreement.

2.34. “Products” means any Seagram’s brand ginger ale beverage, including but not limited to Seagram’s Ginger Ale, Seagram’s Diet Ginger Ale, Seagram’s Raspberry Ginger Ale, and Seagram’s Diet Raspberry Ginger Ale.

2.35. “Proof of Purchase” means a receipt or other documentation from a third-party commercial source that reasonably establishes the fact and date of purchase of any Product during the Class Period in the United States.

2.36. “Published Notice” means a notice substantially in the form of Exhibit B2.

2.37. “Released Claims” means the claims released as set forth in Part VIII of this Agreement.

2.38. “Released Parties” means Defendant and its present and former subsidiaries, parents, affiliates, divisions, officers, directors, members, managers, shareholders, insurers, suppliers, manufacturers, re-sellers, distributors, brokers, service providers, employees, agents, legal representatives, heirs, predecessors, successors, or assigns.

2.39. “Settlement” means the terms of this Agreement.

2.40. “Settlement Class” or “Settlement Class Members” means all Persons, other than Excluded Persons, who purchased, in the United States and during the Class Period, any of the Products, except for purpose of resale.

2.41. “Settlement Website” means an internet website created and maintained by the Claim Administrator for the purpose of disseminating notice and administering Claims. The URL of the Settlement Website shall be provided in the Notice Plan.

2.42. “Undertaking” means an undertaking, substantially in the form of Exhibit E.

2.43. “Unit” means any Product unit sold individually at retail (e.g., one 12-pack of 12-ounce cans, one 24-pack of 12-ounce cans, one 2-liter bottle, etc.).

2.44. “Valid Claim” means a claim submitted in compliance with Part III of this Agreement, and as further described in that Part.

### **III. SETTLEMENT BENEFITS, CLAIMS ADMINISTRATION AND CHANGED PRACTICES**

3.1. The Settlement Fund shall be maintained as a qualified settlement fund pursuant to 26 CFR 1.468B-1 *et seq.*, in an interest-bearing account at a financial institution approved by Plaintiffs’ Counsel and subject to the oversight of the Claim Administrator (the “Settlement Fund Account”).

3.2. Defendant shall pay the amount of the Settlement Fund (\$2,450,000.00) into the Settlement Fund Account, by wire transfer, according to the following schedule: (a) the costs of notice and administration through the date of Final Approval, as estimated by the Claim Administrator, within seven (7) days of an Order granting Preliminary Approval; (b) the balance of the Settlement Fund within seven (7) days of an Order granting Final Approval. The payment of the Settlement Fund is the Defendant’s only monetary obligation under the Settlement.

3.3. The Settlement Fund shall be applied to pay, in the following order: (i) all costs and payments associated with the Notice Plan and administration of the Settlement,

including all payments to the Claim Administrator; (ii) any necessary taxes and tax expenses on the Settlement Fund; (iii) any award of attorneys' fees and costs made by the Court to Plaintiffs' Counsel under this Agreement; (iv) any Incentive Awards made by the Court; and (v) Valid Claims.

3.4. The per-Unit payment amount for each Valid Claim shall be \$0.80, except that such amount shall be reduced pro-rata if the total value of Valid Claims exceeds the amount of the Settlement Fund less items (i) through (iv) in Section 3.3.

3.5. Based on estimations provided by the Claim Administrator, the Parties anticipate that the amount paid for each Valid Claim described in Section 3.4, combined with items (i) through (iv) in Section 3.3, will exhaust the monies in the Settlement Fund. If, however, after the payment of Valid Claims, there still remains money in the Settlement Fund, then upon approval by the Court, pursuant to the cy pres doctrine, the remaining amount shall be paid in equal shares to:

- (a) National Consumers' League, Washington, DC; and
- (b) Better Business Bureaus Institute for Marketplace Trust.

Cy pres payments shall be used for purposes consistent with the aims of the Litigation, and shall not be used by the recipients to fund any litigation activities against Defendant or Plaintiffs.

3.6. Every Settlement Class Member shall have the right to submit a claim for a cash payment as set forth below. A claim shall be a Valid Claim only if submitted on the Claim Form pursuant to, and in compliance with, the procedures set forth herein.

3.7. Claim Forms may be submitted in paper via first class mail or online at the Settlement Website. Claim Forms must be received by the Claim Administrator (not just postmarked) or submitted online no later than the Claim Filing Deadline, and Claim Forms

submitted after that date will not be Valid Claims. For Claim Forms that are submitted online, the Settlement Class Member shall have the opportunity to upload Proof of Purchase image files (e.g. jpg, tif, pdf); to review, prior to submitting the claim, a page that redisplay all information entered in the Claim Form and the names of image files uploaded; and to print, immediately after the Claim Form has been submitted, a page showing the information entered, the names of image files uploaded, and the date and time the Claim Form was received. If the Settlement Class Member attempts to submit an online claim for more than 13 Product units, the Settlement Class Member shall be required to upload an image file in order to complete the Claim Form submission. In addition, for Claim Forms that are submitted online, the Settlement Class Member shall be sent an email confirmation of the submitted claim that shows the information entered, the names of image files uploaded, and the date and time the Claim Form was submitted.

3.8. On the Claim Form and Settlement Website, the Settlement Class Member must certify the truth and accuracy of the following under the penalty of perjury:

- (a) The Settlement Class Member's name and mailing address;
- (b) The Settlement Class Member's email address, if the Settlement Class Member elects to provide the information;
- (c) The number of Products purchased during the Class Period, the approximate dates of purchase, and (if the Settlement Class Member elects to provide the information) the store where purchased; and
- (d) That the claimed purchases were not made for the purpose of resale.

A Claim not complying with all of the elements listed in this Section 3.8 is not a Valid Claim. Only Valid Claims will be paid.

3.9. Each Settlement Class Member who provides a Valid Claim Form, as determined by the Settlement Administrator, shall recover the per-Unit payment amount for each Unit purchased in the United States during the Class Period, to be determined as set forth in Paragraph 3.4, and subject to the following provisos and limitations:

- (a) A Settlement Class Member who submits a Valid Claim for purchases of one (1) to five (5) Product Units shall recover the per-Unit payment for five Product Units.
- (b) A Settlement Class Member who does not provide valid Proof of Purchase may recover the per-Unit payment for a maximum of thirteen (13) Product Units per Household.
- (c) A Settlement Class Member who provides valid Proof of Purchase may recover the per-Unit payment for a maximum of one hundred (100) Product Units per Household. Thus, each Household may recover the per-Unit payment for a maximum of thirteen (13) Product Units without valid Proof of Purchase and a maximum of eighty-seven (87) additional Product Units with valid Proof of Purchase.

3.10. The Claim Administrator shall be responsible for processing Claim Forms and administering the Settlement Website, opt-out process, and Settlement Benefit claims process described herein. The Claim Administrator will follow its ordinary course of practice regarding approval of claims, subject to all Parties' right to audit claims and challenge the Claim

Administrator's decision. If the Parties and the Claim Administrator cannot collectively agree how to resolve disputed claims, then such disputes shall be resolved by the Court. Within thirty (30) days after the Effective Date, the Claim Administrator shall email all Settlement Class Members whose claims are denied to state the reasons for denial, at the email address (if any) provided by the Settlement Class Member on the Claim Form. If no email address is provided by the Settlement Class Member on the Claim Form, the Administrator shall not have an obligation to provide the class member any notification of the reasons for denial of the claim. The Claim Administrator's determination of whether a claim is a Valid Claim, if not disputed by the Parties, shall be final and not subject to further review. No person shall have any claim against Plaintiffs, Defendant, Plaintiffs' Counsel, Defendant's Counsel, or the Claim Administrator based on any determination of a Valid Claim, distributions, or awards made in accordance with this Agreement and the Exhibits hereto.

3.11. Claims shall be paid by check mailed to the Settlement Class Member, or at the election of the Settlement Class Member on the Claim Form, by direct deposit into the Class Member's bank account, or another form of electronic transfer (such as Paypal, Venmo, Google Wallet, or Square Cash) to be chosen at the discretion of the Claim Administrator. All Valid Claims shall be paid by the Claim Administrator within sixty (60) days after the Effective Date.

3.12. Subject to the rights and limitations set forth in Paragraph 3.15 and 3.16, Defendant agrees that, upon Final Approval, the Court shall enter a Permanent Injunction, which shall become effective on the Effective Date, requiring Defendant to permanently remove the phrase "Made with Real Ginger" from all Labeling of the Products as described in Paragraph 3.15.

3.13. Notwithstanding the provisions of section 3.12, Defendant shall be permitted, at its option, to use any of the following words and phrases: “ginger,” “real ginger,” or “natural ginger,” in combination with one of the following three words: “taste,” “extract,” or “flavor.” For example, the words “taste,” “extract,” or “flavor” may be used, preceding, or following, the words “ginger,” “real ginger,” or “natural ginger” (the “Approved Permitted Label Claim”).

3.14. By way of example, Approved Permitted Label Claims include, but are not limited to, the following: “real ginger taste,” “made with real ginger extract,” “real ginger flavor,” “flavor from real ginger extract,” and “natural ginger flavor.” The Permanent Injunction shall not preclude the use of the phrases “ginger extract,” “natural ginger flavor extract,” “natural ginger extract,” “natural ginger flavor,” or “ginger flavor” in the ingredient statement on the Labeling of the Products. These are offered by way of example and do not set forth an exhaustive list of the phrases that shall be permissible on Product Labeling after entry of the Permanent Injunction.

3.15. Nothing herein shall limit the ability of the U.S. Food and Drug Administration (“FDA”) to enforce FDA regulations. Further, it shall not be a breach of this Agreement for Defendant to make any statement or representation on its Product Label that is mandated or expressly approved by FDA regulations or by any other applicable federal, state, or local law. The Permanent Injunction shall not be construed to prohibit any such statement or representation.

3.16. It shall not be a violation of the Permanent Injunction for Defendant and its packaging suppliers, bottlers, distributors, wholesalers and retailers of the Products to sell-

through all remaining stock using the pre-existing Product Labeling and introduce the new Labeling as they sell through existing stock. The sell-through shall not require the withdrawal or destruction of any existing labels or recall of Product. Defendant shall begin production of the new Labeling on or about 120 days after the Effective Date (the “Initiation Date”). Defendant shall complete the transition to new Labeling, such that all Product Labeling designs or templates Defendant transmits to its Product packaging vendors reflect the Labeling change, no later than 365 days after the Effective Date; provided, however, that because Defendant cannot control all sources of old stock in the market, neither Defendant nor any bottler, distributor, wholesaler or retailer shall be penalized or be liable for sales of old stock after that date. Defendant shall not create other marketing collateral (e.g. advertisements, websites) containing the phrase “Made with Real Ginger” on the Products after the Initiation Date.

#### **IV. NOTICE**

4.1. Prior to the Notice Date, the Claim Administrator shall establish a toll-free number to call to obtain additional information and to request a mailed version of the Long Form Notice Claim Form. Prior to the Notice Date, the Claim Administrator also shall establish the Settlement Website, which shall contain the Long Form Notice in both downloadable PDF format and HTML format with a clickable table of contents; answers to frequently asked questions; a Contact Information page that includes the address for the Claim Administrator and addresses and telephone numbers for Plaintiffs’ Counsel and Defendant’s Counsel; the Agreement; the signed order of Preliminary Approval and the publicly filed motion papers and declarations in support thereof; a downloadable and online version of the Claim Form; a downloadable and online version of the form by which Settlement Class Members may exclude themselves from the Settlement Class; and (when they become available) the publicly filed

motion for final approval and Plaintiffs' application(s) for a Fee Award and an Incentive Award, with supporting declarations.

4.2. The Settlement Website shall remain accessible until one hundred eighty (180) days after all settlement benefits are distributed.

4.3. Notice shall be provided as described in the Notice Plan.

4.4. The Parties shall supervise the Claim Administrator in the performance of the notice functions set forth in this Section IV.

4.5. CAFA Notice. The Claim Administrator shall provide notice in compliance with 28 U.S.C. § 1715.

4.6. At least fourteen (14) days prior to the Final Approval hearing referenced in Section VII of this Agreement, the Claim Administrator shall certify to the Court that it has complied with the notice requirements set forth herein.

4.7. All costs of notice as set forth in this Section IV and all costs of the Claim Administrator in processing objections and exclusion requests as set forth in Sections 7.4 through 7.10 shall be paid from the Settlement Fund and Defendant shall have no responsibility for paying such costs.

## **V. CONDITIONAL CERTIFICATION OF SETTLEMENT CLASS AND FILING OF SECOND AMENDED COMPLAINT**

5.1. Solely for the purpose of effectuating the Settlement set forth in this Agreement and subject to Court approval, the Parties stipulate that a Settlement Class shall be certified in accordance with the definition set forth in this Agreement, that the Class

Representatives shall represent the Settlement Class for settlement purposes, and that Plaintiffs' Counsel shall be appointed as counsel for the Settlement Class. The Parties also stipulate that the Second Amended Complaint, previously submitted as Dkt. No. 75-1, shall be filed on consent of the Parties and treated as the operative complaint.

5.2. In the event that the Court declines to enter the Preliminary Approval order or to grant Final Approval of this Agreement in its entirety (or enters any order that increases the cost or burden of the settlement to Defendant beyond what is set forth in this Agreement), the Parties may, but are not required to, modify this Agreement. Such a modification shall be binding only if it is in writing and executed by the Parties, Plaintiffs' Counsel, and Defendant's Counsel.

5.3. In the event that this Agreement (including the Settlement provided for herein) is not finally approved, is terminated, cancelled, or fails to become effective for any reason whatsoever, the conditional class certification and leave to file the Second Amended Complaint, to which the Parties have stipulated solely for the purpose of the settlement of the Litigation, shall be null and void, Defendant will not be deemed to have either consented to the filing of the Second Amended Complaint or missed a deadline to respond to the same, and the Litigation shall revert to its status as it existed prior to the date of this Agreement. In that event, the Parties shall confer on a case schedule and endeavor to submit a joint proposal to the Court setting a schedule for outstanding case deadlines. Also, in that event, the Claim Administrator shall return to Defendant such portion of the amounts deposited pursuant to Section 3.2 that are not required to pay for notice and administration then-completed. In such event, neither this Agreement nor any document filed or created in connection with this Settlement may be used as an admission or as evidence for any purpose.

**VI. ATTORNEYS' FEES, COSTS, AND EXPENSES, AND INCENTIVE AWARDS**

6.1. Plaintiffs' Counsel may apply to the Court for payment from the Settlement Fund of their out-of-pocket expenses. Plaintiffs' Counsel may additionally apply to the Court for payment from the Settlement Fund of an amount equal to up to 30% of the Settlement Fund, as their attorneys' fees. Any motion for attorneys' fees and costs and expenses must be filed at least twenty-one (21) days before the deadline for objecting to the Settlement. Any award of attorneys' fees, costs, or expenses, shall come solely from the Settlement Fund, and Defendant shall have no obligation to pay any portion of Plaintiffs' or Plaintiffs' Counsel's fees, costs, or expenses.

6.2. Each Plaintiff may additionally apply to the Court for an Incentive Award as compensation for the time and effort undertaken in and risks of pursuing this Litigation, including the risk of liability for the Parties' costs of suit, and for agreeing to the general release set forth in Section 8.1. The Incentive Award to Fitzhenry-Russell shall not exceed \$5,000, and the Incentive Award to each of the other Plaintiffs shall not exceed \$1,000. Such Incentive Awards shall come solely from the Settlement Fund.

6.3. Defendant covenants and agrees on behalf of itself and Released Parties that, provided Plaintiffs' application for attorneys' fees is consistent with Section 6.1, Defendant and Released Parties shall not (a) oppose or submit any evidence or argument challenging or undermining Plaintiffs' application for attorneys' fees and costs, except to respond to any argument raised in Plaintiffs' application for attorneys' fees and costs that disparages Defendant's honesty or integrity; (b) encourage or assist any person to oppose or submit any evidence or argument challenging or undermining Plaintiffs' application for attorneys' fees and costs; or (c) encourage or assist any person to appeal from an order awarding attorneys' fees and

costs. Defendant also covenants and agrees on behalf of itself and Released Parties that, provided Plaintiffs' application for Incentive Awards is consistent with Section 6.2, it and Released Parties shall not (a) oppose or submit any evidence or argument challenging or undermining Plaintiffs' application for Incentive Awards; (b) encourage or assist any person to oppose or submit any evidence or argument challenging or undermining Plaintiffs' application for Incentive Awards or (c) encourage or assist any person to appeal from an order making an Incentive Award.

6.4. Plaintiffs' Counsel and Plaintiffs agree that the denial of, reduction or downward modification of, or failure to grant any application for attorneys' fees, costs, and expenses or incentive awards, shall not constitute grounds for modification or termination of this Agreement, including the Settlement and releases provided for herein.

6.5. Upon Final Approval of the Settlement and Fee Award, the Claim Administrator shall pay from the Settlement Fund the Fee Award, or such portion thereof as Plaintiffs' Counsel may request, to Gutride Safier LLP within fourteen (14) days of the request, subject to the provision of security at least equal in value to the payment, and Plaintiffs' Counsel providing all payment routing information and the tax I.D. numbers for Class Counsel. Any disputes regarding the distribution of fees or the reasonableness or adequacy of the security to be provided by counsel shall be mediated and, if necessary, finally decided by the Hon. Wayne R. Andersen, and payment to Plaintiffs' Counsel pursuant to this paragraph shall be postponed pending resolution. If Final Approval or the award of attorneys' fees, costs or expenses is later reversed on appeal then, within seven (7) days of such order, all such distributions shall be repaid to the Claim Administrator, along with interest as stated in the Undertaking. If Gutride Safier fails to make such repayment in full, the Claim Administrator may recover the amount owed plus interest.

6.6. Within seven (7) days after the Effective Date, the Claim Administrator shall pay the Court-approved Incentive Awards from the Settlement Fund to the respective Plaintiffs.

6.7. Except as set forth in this Agreement, each Party shall bear his, her or its own fees, costs and expenses.

## **VII. CLASS SETTLEMENT PROCEDURES**

7.1. Stipulation of Class Representation. Within fourteen (14) days of the execution of this Agreement, the Parties shall sign, and Plaintiffs shall file in the Court, a stipulation that, for settlement purposes only, a Settlement Class shall be certified in accordance with the definition set forth in this Agreement, that the Class Representatives shall represent the Settlement Class for settlement purposes, and that Plaintiffs' Counsel shall be appointed as counsel for the Settlement Class.

7.2. Leave to File Second Amended Complaint. The Parties shall also file with the Court a stipulation providing for the filing of the Second Amended Complaint. The stipulation shall further provide that Defendant's deadlines and any other obligations to respond to Plaintiffs' outstanding motions shall be held in abeyance and, if Preliminary Approval is denied, Final Approval is denied, or a mandate is issued reversing an award of Final Approval, the stipulation to file the Second Amended Complaint shall be immediately and automatically deemed withdrawn, and the Litigation shall continue in the same position as if the stipulation were never filed and the Settlement Class never certified, with Plaintiffs' motion for leave to file the Second Amended Complaint still pending.

7.3. Any certification of a conditional, preliminary, or final Settlement Class pursuant to the terms of this Settlement shall not constitute, and shall not be construed as, an

admission on the part of Defendant that this Litigation, or any other proposed or certified class action, is appropriate for class treatment pursuant to the Federal Rules of Civil Procedure or any analogous state or federal class action statute or rule. This Settlement Agreement shall be without prejudice to the rights of Defendant to: (1) move to dismiss or stay this Litigation on any applicable basis; (2) oppose certification in this Litigation should Final Approval not be granted for any reason; or (3) oppose certification in any other proposed or certified class action. Neither the fact of this Settlement nor this Settlement Agreement shall be used in connection with efforts in any proceeding to seek certification of any claims asserted against Defendant.

7.4. Settlement Approval. As soon as practicable after the signing of this Agreement, Plaintiffs shall move, with the support of Defendant, for a Preliminary Approval order, substantially in the form of Exhibit C, conditionally certifying the Settlement Class; preliminarily approving this Agreement and this Settlement as fair, just, reasonable and adequate; approving Class Notice to the Settlement Class Members as described in Part IV above; and setting a hearing to consider Final Approval of the Settlement and any objections thereto. In that same motion, Plaintiffs shall further move, with the support of Defendant, that the Court enter an order of Final Approval, substantially in the form of Exhibit D, after expiration of the Obejction Deadline, which order shall grant final approval of this Settlement and adjudge this Agreement to be final, fair, reasonable, adequate, and binding on all Settlement Class Members who have not excluded themselves from the Settlement Class as provided below; ordering that the settlement relief be provided as set forth in this Agreement and giving effect to the releases as set forth in Part VIII, below; and entering judgment in the Litigation. The parties shall request a hearing on final approval to occur in the fall of 2019.

7.5. Exclusions and Objections. The Long Form Notice and the Print Publication Notice shall advise prospective Settlement Class Members of their rights to forgo the benefits of this Settlement and pursue individual claims; to object to this settlement individually or through counsel; and/or to appear at the Final Approval hearing.

7.6. If any Settlement Class Member wishes to object to the Settlement and/or to be heard at the Final Approval hearing, the Settlement Class Member may submit a written objection, in compliance with the requirements set forth in the Long Form Notice and the Preliminary Approval Order.

7.7. If any Settlement Class Member wishes to be excluded from this Settlement and the Settlement Class, the Settlement Class Member may do so by completing and submitting the online form at the Settlement Website or by mailing a valid request to opt out, as described in the Long Form Notice, to the Claim Administrator. Requests to opt out must be submitted online by the Exclusion Deadline, or if mailed must be *received by* the Claim Administrator (not just postmarked) by the Exclusion Deadline, or they shall not be valid. For exclusion requests that are submitted online, the Settlement Class Member shall have the opportunity to print a page immediately after submission showing the information entered and the date and time the request for exclusion was received. A Settlement Class Member who elects to opt out of this Settlement and the Settlement Class shall not be permitted to object to this Settlement or receive any of the benefits of the Settlement. Settlement Class Members shall be encouraged, but not required, to provide their email addresses in their requests for exclusion.

7.8. At least fourteen (14) days prior to the hearing on Final Approval, the Claim Administrator shall prepare a list of the names of the persons who have excluded

themselves from the Settlement Class in a valid and timely manner, and Plaintiffs' Counsel shall file that list with the Court, with service on Defendant's Counsel.

7.9. Right To Terminate Settlement Agreement. If more than 5000 persons submit a timely and valid request to opt out of the Settlement Class, Defendant shall have the unilateral right to terminate this Agreement (and any obligations thereunder) within three (3) business days of the filing with the Court of the opt-out list described in Section 7.7 of this Agreement. Furthermore, except for changes to the time periods set forth in Parts IV and VII, and except as set forth in Section 6.3 of this Agreement, all other terms and limitations set forth in this Agreement and in the documents referred to or incorporated herein (including but not limited to the Long Form Notice, the Print Publication Notice, the Online Notice and the Claim Form) shall be deemed material to the Parties' agreement, and in the event any such other term is altered or amended by the Court (including if the Court refuses to certify the Settlement Class and/or modifies the definition of the class), or any other court, or if any federal or state authority objects to or requires modifications to the Agreement, any Party whose rights or obligations are affected by the alteration or amendment may terminate this Agreement upon written notice to the other Parties.

7.10. Stay of the Litigation. The Parties shall request that the Court, in connection with Preliminary Approval, issue an immediate stay of all proceedings in this Litigation other than those necessary for obtaining Final Approval.

7.11. Effect if Settlement Not Approved or Agreement is Terminated. This Agreement was entered into only for purposes of settlement. In the event that Preliminary or Final Approval of this Agreement does not occur for any reason, including without limitation termination of this Agreement pursuant to Section 7.7, or if Final Approval is reversed on appeal,

then no term or condition of this Agreement, or any draft thereof, or discussion, negotiation, documentation, or other part or aspect of the Parties' settlement discussions shall have any effect. All drafts, discussions, negotiations, documentation or other information prepared in relation to this Agreement, and the Parties' settlement discussions, shall be treated as strictly confidential and may not, absent a court order, be disclosed to any person other than the Parties' counsel, and only for purposes of the Litigation; provided, however, that they shall not be admissible as evidence in the Litigation. In such event, the Claim Administrator shall return to Defendant such portion of the amounts deposited pursuant to Section 3.2 that are not required to pay for notice and administration then-completed, plus accrued interest.

7.12. The proposed Preliminary Approval order and Long Form Notice will provide that any Settlement Class Members wishing to object or exclude themselves who fail to properly or timely file or serve any of the requested information and/or documents will be precluded from doing so.

7.13. If any objection is received by the Claim Administrator, the Claim Administrator shall forward the objection and all supporting documentation to counsel for the Parties. At least fourteen (14) days prior to the hearing on Final Approval, Plaintiffs' Counsel shall file all such objections and supporting documentation with the Court. The failure of the Settlement Class Member to comply with the filing requirements of Section 7.4 shall be grounds for striking and/or overruling the objection, even if the objection is submitted to the Claim Administrator.

7.14. If a Settlement Class Member submits both a Claim Form and an exclusion request, the Claim Form shall take precedence and be considered valid and binding, and the exclusion request shall be deemed to have been sent by mistake and rejected.

7.15. A Settlement Class Member who objects to the settlement may also submit a Claim Form on or before the Claim Filing Deadline, which shall be processed in the same way as all other Claim Forms. A Settlement Class Member shall not be entitled to an extension to the Claim Filing Deadline merely because the Settlement Class Member has also submitted an objection.

## **VIII. RELEASES**

8.1. Releases Regarding Plaintiffs and Released Parties. Upon Final Approval, Plaintiffs on the one hand, and Defendant on the other hand, shall have unconditionally, completely, and irrevocably released and forever discharged each other from and shall be forever barred from instituting, maintaining, or prosecuting (1) any and all claims, liens, demands, actions, causes of action, rights, duties, obligations, damages or liabilities of any nature whatsoever, whether legal or equitable or otherwise, known or unknown, that actually were, or could have been, asserted in the Litigation, whether based upon any violation of any state or federal statute or common law or regulation or otherwise, or arise directly or indirectly out of, or in any way relate to, the allegations, claims, or contentions that Plaintiffs, on the one hand, and Defendant, on the other hand, have had in the past, or now have, related in any manner to the Defendant's products, services or business affairs; and (2) any and all other claims, liens, demands, actions, causes of action, rights, duties, obligations, damages or liabilities of any nature whatsoever, whether legal or equitable or otherwise, known or unknown, that Plaintiffs, on the one hand, and Defendant, on the other hand, have had in the past or now have, related in any manner to any and all Released Parties' products, services or business affairs, or otherwise.

8.2. Releases Regarding Settlement Class Members and Released Parties.

Upon Final Approval, Settlement Class Members shall have unconditionally, completely, and irrevocably released and discharged the Released Parties from any and all claims, liens, demands, actions, causes of action, rights, duties, obligations, damages or liabilities of any nature whatsoever, whether legal or equitable or otherwise, known or unknown, whether arising under any international, federal, state or local statute, ordinance, common law, regulation, principle of equity or otherwise, that were, or could have been, asserted in the Litigation and that arise out of or relate to the Allegations; or that could have been asserted in the Litigation regarding the Labeling, advertising, or formulation of the Products (the “Released Claims”), except that there shall be no release of claims for personal injury allegedly arising out of use of the Products. Upon Final Approval, Settlement Class Members shall be forever barred from initiating, maintaining, or prosecuting any Released Claims against Released Parties.

8.3. Waiver of Provisions of California Civil Code § 1542. Plaintiffs and Defendant shall, by operation of Final Approval, be deemed to have waived the provisions, rights and benefits of California Civil Code § 1542, and any similar law of any state or territory of the United States or principle of common law. In addition, Settlement Class Members shall, by operation of Final Approval, be deemed to have waived the provisions, rights and benefits of California Civil Code § 1542, and any similar law of any state or territory of the United States or principle of common law, but only with respect to the matters released as set forth section 8.2. Section 1542 provides:

**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.**

8.4. Effectuation of Settlement. None of the above releases includes releases of claims to enforce the terms of the Settlement provided for in this Agreement.

8.5. Protective Order. The Parties and their Counsel remain bound by, and do not release in this Agreement, their respective rights and obligations under the September 6, 2017 Stipulated Protective Order (Dkt. No.44) in the Litigation.

8.6. No Admission of Liability. This Agreement reflects, among other things, the compromise and settlement of disputed claims among the Parties hereto, and neither this Agreement nor the releases given herein, nor any consideration therefor, nor any actions taken to carry out this Agreement are intended to be, nor may they be deemed or construed to be, an admission or concession of liability, or the validity of any claim, or defense, or of any point of fact or law (including but not limited to matters respecting class certification) on the part of any Party. Defendant expressly denies the allegations of the complaints in the Litigation. Neither this Agreement, nor the fact of settlement, nor the settlement proceedings, nor settlement negotiations, nor any related document, shall be used as an admission of any fault or omission by the Released Parties, or be offered or received in evidence as an admission, concession, presumption, or inference of any wrongdoing by the Released Parties in any proceeding, except that this Agreement may be offered or received in evidence in such proceedings as may be necessary to consummate, interpret, or enforce this Agreement.

## **IX. ADDITIONAL PROVISIONS**

9.1. Best Efforts. The Parties' counsel shall use their best efforts to cause the Court to approve of this Agreement and Settlement as promptly as practicable, and shall take all steps contemplated by this Agreement to effectuate the Settlement on the stated terms and conditions.

9.2. Change of Time Periods. The time periods and/or dates described in this Agreement with respect to the giving of notices and hearings are subject to approval and change by the Court or by the written agreement of Plaintiffs' Counsel and Defendant's Counsel, without notice to Settlement Class Members.

9.3. Time for Compliance. If the date for performance of any act required by or under this Agreement falls on a Saturday, Sunday or court holiday, that act may be performed on the next business day with the same effect as if it had been performed on the day or within the period of time specified by or under this Agreement.

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

9.5. Representations Regarding Changed Practices. Plaintiffs and Plaintiffs' Counsel represent that the Labeling changes required in sections 3.11 through 3.13 satisfy their concerns regarding the misrepresentations as alleged in the complaints.

9.6. Entire Agreement. The terms and conditions set forth in this Agreement constitute the complete and exclusive statement of the agreement between the Parties hereto relating to the subject matter of this Agreement, superseding all previous negotiations and understandings, and may not be contradicted by evidence of any prior or contemporaneous agreement. The Parties further intend that this Agreement constitute the complete and exclusive statement of its terms as between the Parties, and that no extrinsic evidence whatsoever may be introduced in any agency or judicial proceeding, if any, involving the interpretation of this Agreement. Any amendment or modification of the Agreement must be in writing signed by Plaintiffs' Counsel and Defendant's Counsel.

9.7. Advice of Counsel. The determination of the terms of, and the drafting of, this Agreement have been by mutual agreement after negotiation, with consideration by and participation of all Parties and their counsel. The presumption found in California Civil Code section 1654 that uncertainties in a contract are interpreted against the party causing an uncertainty to exist is hereby waived by all Parties.

9.8. Binding Agreement. This Agreement shall be binding upon and inure to the benefit of the respective heirs, successors and assigns of the Parties.

9.9. No Waiver. The waiver by any Party of any provision or breach of this Agreement shall not be deemed a waiver of any other provision or breach of this Agreement.

9.10. Requirement of Execution. This Agreement shall be valid and binding as to Plaintiffs, Plaintiffs' Counsel, the Settlement Class and Defendant upon (1) signature by Plaintiffs, (2) signature by an authorized representative of Defendant, and (3) signature as to form by an authorized representative of each of the law firms defined as Plaintiffs' Counsel and Defendant's Counsel.

9.11. Execution in Counterparts. This Agreement shall become effective upon its execution by all of the undersigned. The Parties may execute this Agreement in counterparts and/or by fax or electronic mail, and execution of counterparts shall have the same force and effect as if all Parties had signed the same instrument.

9.12. Extensions of Time. The Parties reserve the right, by agreement and subject to the Court's approval, to grant any reasonable extension of time that might be needed to carry out any of the provisions of this Agreement.

9.13. Enforcement of this Agreement. The Court shall retain jurisdiction to enforce, interpret, and implement this Agreement.

9.14. Notices. All notices to the Parties or counsel required by this Agreement, shall be made in writing and communicated by mail and fax or email to the following addresses:

If to Plaintiffs or Plaintiffs' Counsel:

Seth Safier, Esq.  
Gutride Safier LLP  
100 Pine Street, Suite 1250  
San Francisco, CA 94111  
Telephone: (415) 639-9090  
Fax: (415) 449-6469  
Email:  
seagramsgingerale@gutridesafier.com

If to Defendant or Defendant's Counsel:

Steven A. Zalesin  
Patterson Belknap Webb & Tyler LLP  
1133 Avenue of the Americas  
New York, New York 10036  
Telephone : 212-336-2110  
Fax: 212-336-2111  
Email: sazalesin@pbwt.com

9.15. Confidentiality. The Parties, Plaintiffs' Counsel, and Defendant's Counsel agree to keep this Agreement confidential until the filing of the motion for Preliminary Approval.

9.16. Exhibits. The Exhibits to the Agreement are an integral part of the Settlement and are hereby incorporated and made part of the Agreement.

9.17. Complete Resolution. The Parties intend for this Agreement to be a complete and final resolution of all disputes between them with respect to the Litigation.

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

**APPROVED AS TO FORM:**

DATED: \_\_\_\_, 2019

GUTRIDE SAFIER LLP

May 9, 2019

\_\_\_\_\_  
Adam Gutride, Esq.  
Seth Safier, Esq.  
Attorneys for Plaintiffs

DATED: \_\_\_\_, 2019

PATTERSON BELKNAP WEBB & TYLER LLP

May 9, 2019

\_\_\_\_\_  
/s/ Steven A. Zalesin  
Steven A. Zalesin, Esq.  
Attorneys for Defendant

**APPROVED AND AGREED:**

DATED: \_\_\_\_, 2019

JACKIE FITZHENRY-RUSSELL

5/9/2019

DocuSigned by:  
*Jackie Fitzhenry-Russell*  
\_\_\_\_\_  
BA003D28CFC244E...  
Jackie Fitzhenry-Russell

DATED: \_\_\_, 2019  
5/9/2019

DAVID SWARTZ

DocuSigned by:  
  
F84B95A8CD184CB...  
David Swartz

DATED: \_\_\_, 2019  
5/9/2019

ASHLEY SALCEDO

DocuSigned by:  
  
A3901F7274E44FD...  
Ashley Salcedo

DATED: \_\_\_, 2019  
5/8/2019

SCOTT MILLER

DocuSigned by:  
  
DA1DA71666724F9...  
Scott Miller

DATED: \_\_\_, 2019  
5/8/2019

ISABELO PASCUAL

DocuSigned by:  
  
8BA0DE5442424FA...  
Isabelo Pascual

DATED: \_\_\_, 2019  
5/9/2019

FLORIN CARLIN

DocuSigned by:  
  
97887B59023749F...  
Florin Carlin

DATED: \_\_\_, 2019

KRISTINA HOFFMAN

Kristina Hoffman

DATED: \_\_\_, 2019

THE COCA-COLA COMPANY.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_