

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Settlement” or “Agreement”) is made as of March 5, 2025, by and between Kristin Cobbs, Carol Lesh, Sarah Coleman, and Megan Wheeler (“Plaintiffs”), on behalf of themselves and the Class (as defined below), and VNGR Beverage, LLC d/b/a Poppi, and all its past, present, and future affiliates, subsidiaries, parent companies, and related companies (“Poppi”) (collectively, the “Parties,” and individually a “Party”).

DEFINITIONS

As used herein, the following terms have the meanings set forth below:

- A. “Administrative and Notice Costs” means all fees, costs, and expenses incurred by the Settlement Administrator while carrying out its duties under this Agreement, including, without limitation: all aspects of the Notice Plan, including issuing Email Notice, Publication Notice, and Website Notice; reviewing and approving claims; and administering, calculating, and distributing the Net Settlement Amount to Class Members.
- B. “Approved Claim” means a claim approved by the Settlement Administrator, according to the terms of this Agreement.
- C. “Attorneys’ Fees and Costs” means the amount of attorneys’ fees and reimbursement of costs and expenses awarded to Class Counsel by the Court from the Gross Settlement Amount.
- D. “Claim” means a request for relief submitted by or on behalf of a Class Member on a Claim Form, in the form attached hereto as Exhibit A, submitted to the Settlement Administrator in accordance with the terms of this Agreement.
- E. “Claim Form” means the document to be submitted by Claimants seeking direct monetary benefits pursuant to this Agreement.
- F. “Claimant” means any Class Member who submits a Claim Form for the purpose of claiming benefits, in the manner described in Section 6 of this Agreement.
- G. “Claims Deadline” means the date by which a Claimant must submit a Claim Form to be considered timely. The Claims Deadline shall be sixty (60) calendar days after the Settlement Notice Date.
- H. “Claims Process” means the process by which Class Members may make claims for relief, as described in Section 6 of this Agreement.
- I. “Class” means all persons in the United States who, between January 23, 2020 and the Settlement Notice Date, purchased in the United States, for household use and not for resale or distribution, one or more of the Products, as defined below.

- J. “Class Counsel” means:
- a. L. Timothy Fisher, of Bursor & Fisher, P.A., 1990 North California Blvd., 9th Floor, Walnut Creek, CA 94596; and
 - b. Marie A. McCrary, of Gutride Safier LLP, 100 Pine Street, Suite 1250, San Francisco, CA 94111.
- K. “Class Member” means any person who is a member of the Class.
- L. “Class Payment” means the distributions from the Net Settlement Amount to each Class Member as set forth in Section 6.
- M. “Class Representatives” means Kristin Cobbs, Carol Lesh, Sarah Coleman, and Megan Wheeler.
- N. “Consolidated Action” means the following class actions filed in the United States District Court for the Northern District of California and thereafter consolidated into the litigation styled *In re VNGR Beverage, LLC Litigation*, No. 4:24-cv-03229-HSG (N.D. Cal.): *Cobbs v. VNGR Beverage, LLC*, No. 4:24-cv-03229; *Lesh, et al. v. VNGR Beverage, LLC*, No. 3:24-cv-03612; and *Wheeler v. VNGR Beverage LLC*, No. 4:24-cv-04396.
- O. “Court” means the United States District Court for the Northern District of California, where the Consolidated Action is pending.
- P. “Effective Date” means the date which all of the following events and conditions of this Agreement have occurred or have been met: (1) the Court has entered a Final Approval Order approving the Settlement, and (2) the Court has entered Final Judgment that has become final such that the time for any and all appeals or writ of certiorari has expired or, if an appeal or writ of certiorari is taken and the Settlement is affirmed, the time period during which further petition for hearing, appeal, or writ of certiorari can be taken has expired. If the Final Judgment is set aside, materially modified, or overturned by the trial court or on appeal, and is not fully reinstated on further appeal, the Final Judgment shall not become final. In the event of an appeal or other effort to obtain review, the Parties may agree jointly in writing to deem the Effective Date to have occurred; however, there is no obligation to agree to advance the Effective Date.
- Q. “Email Notice” means the notice of the Settlement to be emailed to Class Members for whom a valid email address is available in connection with the Settlement, in the form attached hereto as Exhibit B, and as set forth in Section 7 below.
- R. “Excluded Persons” means (1) the Honorable Judge Haywood S. Gilliam, Jr., the Honorable Maxine M. Chesney, Magistrate Judge Sallie Kim, the Honorable Jay C. Gandhi (Ret.), and any member of their immediate families; (2) any government entity; (3) Poppi; and (4) any persons who timely opt-out of the Settlement.

- S. “Final Approval Hearing” means the Court hearing where the Parties will request the Final Approval Order be entered approving this Agreement, and where Class Counsel will request that the Court enter Final Judgment.
- T. “Final Approval Order” means the final order to be entered by the Court, following the Final Approval Hearing, approving the Settlement. A proposed Final Approval Order is attached hereto as Exhibit 2.
- U. “Final Judgment” means a document labeled by the Court as such and that has the effect of a judgment under Fed. R. Civ. P. 54. The Final Judgment will set the amounts of the Attorneys’ Fees and Costs award and Service Award and allow for the distributions of Class Payments.
- V. “Gross Settlement Amount” means the amount of eight million and nine hundred thousand dollars (\$8,900,000.00), which constitutes the total amount of non-reversionary funds that will comprise the Class Payment, Class Counsel’s Attorneys’ Fees and Costs, Administrative and Notice Costs, Service Award to Plaintiffs, and any distribution to the *cy pres* recipient as outlined in Section 1.6. Poppi shall not, under any circumstances be obligated to pay more than the Gross Settlement Amount.
- W. “Household” means any number of persons occupying the same dwelling unit.
- X. “Interim Class Counsel” means Bursor & Fisher, P.A. and Gutride Safier LLP, as appointed by the Court on August 21, 2024.
- Y. “Minimum Class Payment” means the minimum Class Payment for any Approved Claim and shall be five dollars (\$5.00) per Household, even if the Class Member purchased fewer units, subject to the availability of funds remaining in the Settlement Fund.
- Z. “Net Settlement Amount” means the Gross Settlement Amount reduced by the sum of the following amounts: (1) Administrative and Notice Costs; (2) any Attorneys’ Fees and Costs payment to Class Counsel, and (3) any Service Award to the Plaintiffs, as set forth below.
- AA. “Notice Plan” means the procedure for providing notice to the Class, as prepared by the Settlement Administrator, subject to review and approval by the Parties, including Email Notice, Publication Notice, and Website Notice.
- BB. “Objection” means the written notice that a Class Member may file with the Court objecting to the Settlement.
- CC. “Objection and Exclusion Deadline” means the date by which a Class Member must file an Objection, if any, to the Court and the date by which a Class Member Opt-Out must be postmarked, as set forth in Sections 4 and 5. The Objection and Exclusion Deadline shall be sixty (60) days after the Settlement Notice Date.
- DD. “Objector” means a person or entity who is a Class Member who files an Objection with the Court.

- EE. “Opt-Out” means a Class Member’s request to be excluded from the Settlement by submitting a written request to be excluded to the Settlement Administrator containing their name, address, and email address, as set forth in Section 5.
- FF. “Plaintiffs” means Kristin Cobbs, Carol Lesh, Sarah Coleman, and Megan Wheeler.
- GG. “Poppi Counsel” means Cooley LLP.
- HH. “Preliminary Approval Order” means the Court’s order preliminarily approving the Settlement and ordering the Notice Plan to proceed.
- II. “Proof of Purchase” means a receipt or other documentation from a third-party commercial source (*i.e.*, a store or online retailer) that reasonably establishes the fact and date of purchase of Products by a Class Member between January 23, 2020 and the Settlement Notice Date.
- JJ. “Products” means all flavors and package sizes of Poppi’s beverages sold between January 23, 2020 and the Settlement Notice Date.
- KK. “Publication Notice” means the notice of the Settlement to be provided to Class Members to be disseminated by the Settlement Administrator, in the form attached hereto as Exhibit C and as set forth in Section 7 below.
- LL. “Released Claims” means any and all claims, demands, actions, causes of action, lawsuits, arbitrations, damages, liabilities, or penalties, whether federal or state, known or unknown, asserted or unasserted, regardless of legal theory, legal, equitable, or otherwise, that were or could have been asserted in the Consolidated Action or that arise out of or relate to the labeling, advertising, or formulation of the Products between January 23, 2020 and the Settlement Notice Date. The Released Claims shall not release any Class Member’s rights to enforce this Agreement. The Released Claims shall not release any Class Member’s personal injury claims.
- MM. “Released Persons” means Poppi and each of its past, present or future direct or indirect parents, subsidiaries, divisions, affiliates and related entities, stockholders, shareholders, officers, directors, partners, insurers, investors, employees, agents, attorneys, advisors, consultants, joint venturers, independent contractors, wholesalers, resellers, distributors, retailers, related companies, divisions, and any of their legal representatives (and the predecessors, heirs, executors, administrators, successors, purchasers, and assigns of each of the foregoing).
- NN. “Releasing Persons” means Plaintiffs and all Class Members, including any and all of their respective heirs, executors, administrators, or assigns, provided that any Class Member who timely and properly excludes themselves under Section 5 below shall not be included herein.
- OO. “Second Amended Complaint” means the Second Consolidated Amended Class Action Complaint filed in the Consolidated Action (ECF No. 35 in the Consolidated Action).

- PP. “Service Award” means the award sought by Plaintiffs in consideration for their service during the course of the Consolidated Action and approved by the Court. Any such Service Award is separate and apart from any Class Payment the Plaintiffs may receive as a Class Member.
- QQ. “Settlement Administrator” means Verita Global, LLC, an independent settlement administrator as agreed to by the Parties, or any such administrator approved by the Court to provide all notice and administration of the settlement process and claims in the Consolidated Action.
- RR. “Settlement Fund” means an interest-bearing account at a financial institution that constitutes a qualified settlement fund pursuant to 26 CFR 1.468B-1 *et seq.* established to maintain the Gross Settlement Amount.
- SS. “Settlement Notice Date” means the date set forth in the Preliminary Approval Order for commencing the transmission of the Notice Plan.
- TT. “Single Can Unit” means a single quantity of a 12-ounce or 16-ounce can of the Products as sold at retail.
- UU. “4-pack Unit” means a single quantity of a 4-pack of the Products as sold at retail.
- VV. “8-pack Unit” means a single quantity of an 8-pack of the Products as sold at retail.
- WW. “12-pack Unit” means a single quantity of a 12-pack of the Products as sold at retail.
- XX. “15-pack Unit” means a single quantity of a 15-pack of the Products as sold at retail.
- YY. “Website” means a publicly accessible website located at the web address www.poppisettlement.com created and maintained by the Settlement Administrator for the purpose of providing the Class with notice of and information about the proposed Settlement, as well as the option of providing information within a specified time period to the Settlement Administrator to receive the Class Payment.
- ZZ. “Website Notice” means the notice of the Settlement on the Website maintained by the Settlement Administrator, in the form attached hereto as Exhibit D, and as set forth in Section 7 below.

RECITALS

This Agreement is made for the following purposes and with reference to the following facts:

WHEREAS, on May 29, 2024, Plaintiff Kristin Cobbs filed a putative class action against Poppi, captioned *Cobbs v. VNGR Beverage, LLC*, No. 4:24-cv-03229-HSG (the “*Cobbs Action*”), alleging violations of California’s False Advertising Law, Business and Professions Code § 17500, *et seq.* (“FAL”); Consumers Legal Remedies Act, California Civil Code § 1750, *et seq.* (the “CLRA”); Common Law Fraud, Deceit and/or Misrepresentation; Unlawful, unfair, and

fraudulent trade practices violation of Business and Professions Code § 17200, *et seq.* (“UCL”); and Unjust Enrichment, arising from Poppi’s allegedly unlawful, misleading, and deceptive labeling of the Products. The initial complaint alleged that Poppi unlawfully, misleadingly, and deceptively marketed and labeled its Products as gut healthy based on the presence of putatively prebiotic fiber and the Products’ sugar content.

WHEREAS, on June 14, 2024, a substantially similar putative class action, involving the same questions of law and fact, was filed in the Northern District of California, captioned *Lesh, et al. v. VNGR Beverage, LLC*, No. 4:24-cv-03612 (the “*Lesh* Action”).

WHEREAS, on June 25 and 27, 2024, the Court entered orders relating and then consolidating the *Lesh* Action to the *Cobbs* Action, recaptioned as *In re VNGR Beverage LLC, Litigation* (the “Consolidated Action”), and set deadlines for filing a consolidated amended complaint and related responsive filings.

WHEREAS, on July 19, 2024, a third substantially similar putative class action, involving the same questions of law and fact as in the Consolidated Action, was filed in the Northern District of California, captioned *Wheeler v. VNGR Beverage LLC*, No. 4:24-cv-04396 (the “*Wheeler* Action”).

WHEREAS, on July 25, 2024, Plaintiffs in the *Cobbs* and *Lesh* Actions filed a Consolidated Amended Complaint in the Consolidated Action.

WHEREAS, on August 20, 2024, Plaintiffs in the *Cobbs*, *Lesh*, and *Wheeler* Actions filed a Second Consolidated Amended Complaint in the Consolidated Action.

WHEREAS, on August 21, 2024, the Court consolidated the *Wheeler* Action into the Consolidated Action. The Court also appointed Bursor & Fisher, P.A., and Gutride Safier LLP as co-lead Interim Class Counsel in the Consolidated Action.

WHEREAS, on September 23, 2024, Poppi filed a Motion to Dismiss the Second Consolidated Amended Complaint under Federal Rules of Civil Procedure 9(b), 12(b)(1), and 12(b)(6). That same day, a substantially similar putative class action, involving the same questions of law and fact as in the Consolidated Action, was filed in the Northern District of California, captioned *Jackson v. VNGR Beverage LLC*, No. 3:24-cv-06666 (the “*Jackson* Action”).

WHEREAS, on October 11, 2024, the *Jackson* Action was related to the Consolidated Action and on October 15, 2024, the Court extended Poppi’s deadline to respond to the *Jackson* Action until forty-five (45) days after Poppi’s Motion to Dismiss in the Consolidated Action is decided.

WHEREAS, on December 4, 2024, the Parties attended an all-day private mediation with the Honorable Judge Jay C. Gandhi (Ret.) and subsequently have continued to discuss a potential resolution of the Consolidate Action.

WHEREAS, on December 16, 2024, the Court granted a sixty (60) calendar day stay of the Consolidated Action given that the Parties had reached a resolution in principle and requested a stay of proceedings to finalize and execute formal class settlement agreements, as well as preserve

judicial resources given Poppi's pending Motion to Dismiss.

WHEREAS, Class Counsel and Plaintiffs believe that the claims asserted in the Consolidated Action have merit and have examined and considered the benefits to be obtained under this Settlement, the risks associated with the continued prosecution of this complex and time-consuming litigation, and the likelihood of ultimate success on the merits, and have concluded that the Settlement is fair, adequate, reasonable, and in the best interests of the Class Members.

WHEREAS Poppi has at all times denied and continues to deny any and all alleged wrongdoing or liability. Specifically, Poppi denies that it has unlawfully, misleadingly, or deceptively marketed and labeled its Products. Additionally, Poppi represents that it elected to revise the Products' label to remove any and all references to gut health in late 2023. Even so, taking into account the uncertainty and risks inherent in litigating this case through trial, Poppi has concluded that continuing to defend the Consolidated Action would be burdensome and expensive.

WHEREAS the Parties desire to settle the Consolidated Action in its entirety as to the Plaintiffs, the Class, and Poppi with respect to all claims arising out of the facts underlying the Consolidated Action. The Parties intend this Agreement to bind Plaintiffs (both as the class representative and individually), Poppi, Class Counsel, and all Class Members.

In light of the foregoing, for good and valuable consideration, the Parties, and each of them, hereby warrant, represent, acknowledge, covenant, and agree, subject to approval by the Court, as follows:

1. CONSIDERATION FOR SETTLEMENT AND CLASS PAYMENTS

- 1.1 Subject to the terms of this Agreement, Poppi's total financial commitment under this Agreement shall not exceed the Gross Settlement Amount of \$8,900,000.00. Poppi shall have no other financial obligations under this Agreement. Poppi shall pay a deposit for the initial Administrative and Notice Costs from the Gross Settlement Amount into the Settlement Fund within seven (7) days of a grant of Preliminary Approval for payment of claims administration expenses. The remainder of the Gross Settlement Payment shall be paid within fifteen (15) days of the Effective Date. 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 Class Counsel and subject to the oversight of the Settlement Administrator.
- 1.2 Creation and Administration of Settlement Fund. The Settlement Administrator is authorized to act as the "administrator" of the settlement claims in the Consolidated Action and to undertake all duties as administrator in accordance with the Treasury Regulations promulgated under § 1.468B of the Internal Revenue Code of 1986. All costs incurred by the Settlement Administrator while carrying out its duties under this Agreement shall be construed as Administrative and Notice Costs, as defined above, and shall be borne solely by the Gross Settlement Amount.
- 1.3 The Settlement Fund shall be applied to pay, in the following order: (1) all Administrative and Notice Costs, including the costs and payments associated with the Notice Plan and

administration of the Settlement, including all payments to the Settlement Administrator; (2) any necessary taxes and tax expenses on the Settlement Fund; (3) any award of Attorneys' Fees and Costs made by the Court to Class Counsel under this Agreement; (4) any Service Award made by the Court to Plaintiffs; and (5) Class Payments for Approved Claims.

- 1.4 Class Payment to Class Members. Class Members shall receive a pro rata distribution of the Net Settlement Amount based on the overall payments claimed by each Class Member for his or her purchase of the Products between January 23, 2020 and the Settlement Notice Date.
- 1.5 Payment Method. Within ninety (90) days of the Effective Date, subject to such supervision and direction of the Court and the Parties as may be necessary or as circumstances may require, the Class Payment shall be distributed to Class Members. Pursuant to the Notice Plan, Class Members will be notified of the Settlement and each will be given the option of providing information to the Settlement Administrator as to how the Class Member wants to receive their Class Payment.
- 1.6 Distribution of Any Remainder. It is the intent of the Parties that the entire Net Settlement Amount be distributed to the Class Members. Nevertheless, the Parties recognize that even Class Members who receive a payment may not cash or deposit their payment check or that certain checks may be undeliverable due to, *inter alia*, incorrect addresses. The Settlement Administrator shall twice attempt to follow up and communicate with Class Members who have not cashed their Class Payment checks. Any remaining funds from the Gross Settlement Amount after the Administrative and Notice Costs, Class Payment, Attorneys' Fees and Costs, and Service Award are distributed, including, but not limited to, those resulting from uncashed checks, will be distributed to the *cy pres* recipient. If any distribution is not administratively and economically feasible, any remaining amount will be distributed to the *cy pres* recipient. In no event shall the remainder be returned to Poppi. Any funds that remain unclaimed or remain unused after the initial distribution, including interest thereon, will be donated *cy pres* to Feeding America. If the organization is not acceptable to the Court, the parties shall meet and confer in good faith, and consult with the Court, to identify one or more suitable alternatives.

2. CLASS SETTLEMENT PROCEDURES

- 2.1 Conditional Certification. The Parties reached this Settlement before Plaintiffs filed a motion for class certification. Accordingly, Plaintiffs shall include a request for conditional certification as part of the motion for approval that seeks certification of the Class for settlement purposes only.
- 2.2 As a material part of this Settlement, Poppi, while reserving all defenses if this Agreement is not finally approved, hereby stipulates and consents, solely for purposes of and in consideration of the Settlement, to provisional certification of the Class. Poppi's stipulation and consent to class certification is expressly conditioned upon the entry of a Preliminary Approval Order, a Final Approval Order and Final Judgment, and as otherwise set forth in this Settlement. As part of the provisional stipulation, Poppi further consents

to (1) the appointment of Interim Class Counsel as Class Counsel and (2) the Class Representatives to represent the Class. The provisional certification of the Class, the appointment of the Class Representatives, and the appointment of Class Counsel shall be binding only with respect to this Settlement and this Agreement. If the Court fails to enter a Preliminary Approval Order or a Final Approval Order and Final Judgment, or if this Agreement and the Settlement proposed herein is terminated, canceled, or fails to become effective for any reason whatsoever, or the Court enters any order that increases the cost or burden of the Settlement on Poppi beyond what is set forth in this Agreement, the class certification, to which the Parties have stipulated solely for the purposes of this Settlement, this Agreement, and all of the provisions of any Preliminary Approval Order or any Final Approval Order shall be vacated by its own terms and the Consolidated Action will revert to its status as it existed prior to the date of this Agreement with respect to class certification, the appointment of the Class Representatives, and the appointment of Class Counsel. In that event, Poppi shall retain all rights it had immediately preceding the execution of this Agreement to object to the maintenance of the Consolidated Action as a class action, the appointment of the Class Representatives, and the appointment of Class Counsel and, in that event, nothing in this Agreement or other papers or proceedings related to this Settlement shall be used as evidence or argument by any of the Parties concerning whether the Consolidated Action may properly be maintained as a class action under applicable law, whether the Class Representatives are adequate or typical, or whether Class Counsel is adequate or may be appointed to represent the Class or any Class Members.

- 2.3 Leave to File Third Amended Complaint. Within seven (7) days of the execution of the Settlement, the Parties shall also file with the Court a stipulation providing for the filing of a Third Consolidated Amended Class Action Complaint (“TAC”) and providing that upon the filing of the TAC all response dates will be stayed pending the resolution of the motions associated with the Settlement. The TAC shall add a claim for breach of implied warranty of merchantability.

3. OBTAINING COURT APPROVAL OF THE AGREEMENT

- 3.1 Preliminary Approval. The Parties agree to recommend approval of the Settlement to the Court as fair and reasonable and to undertake their best efforts to obtain such approval. The Parties therefore agree that Plaintiffs shall submit this Agreement, together with its exhibits, to the Court and shall apply for entry of a Preliminary Approval Order in the form attached as Exhibit 1 hereto. The approval motion may be made by way of a calendared motion.
- 3.2 Class Counsel shall draft and file the motion requesting issuance of the Preliminary Approval Order and shall provide that draft to Poppi Counsel no later than ten (10) days before filing. Poppi shall have the right to provide feedback concerning the motion, and Class Counsel will meet and confer with Poppi in good faith regarding Poppi’s feedback. Additionally, Poppi may file supplemental briefing in support of Plaintiffs’ approval motion.
- 3.3 Upon filing of the motion requesting issuance of the Preliminary Approval Order, the Settlement Administrator, on behalf of Poppi, shall provide timely notice of such motion

to the appropriate officials as required by the Class Action Fairness Act, 28 U.S.C. § 1711, *et seq.*

- 3.4 Final Approval and Final Judgment. In accordance with the schedule set forth in the Preliminary Approval Order, Class Counsel shall request final approval of the Settlement, the Proposed Final Approval Order, and the Proposed Final Judgment and shall provide drafts of that filing to Poppi's Counsel at least ten (10) days before filing such a brief with the Court. Poppi shall have the right to provide feedback concerning the filing, and Class Counsel will meet and confer with Poppi in good faith regarding Poppi's feedback. Additionally, Poppi may file supplemental briefing in support of Plaintiffs' request for final approval of the Settlement.
- 3.5 In the event that the Settlement is not approved, or in the event that its approval is conditioned on any modifications (including modifications to the proposed form and method of notice) that are not acceptable to Poppi, then (1) this Agreement shall be null and void and of no force and effect and (2) any release shall be of no force or effect. In such event, the Consolidated Action will revert to the status that existed before the Agreement's execution date, the Parties shall each be returned to their respective procedural postures so that the Parties may take such litigation steps that they otherwise would have been able to take absent the pendency of this Settlement, and neither the Agreement nor any facts concerning its negotiation, discussion, terms, or documentation shall be admissible in evidence for any purpose in these Consolidated Action or in any other litigation.

4. **OBJECTIONS**

- 4.1 Objections. Any Class Member who has not submitted a timely written Opt-Out request and who wishes to object to the fairness, reasonableness, or adequacy of the Settlement, the Attorneys' Fees and Costs award, or the Service Award must comply with the below requirements.
- 4.2 Content of Objections. All Objections and supporting papers must be in writing and must:
- 4.2.1 Clearly identify the case name and number, *In re VNGR Beverage, LLC Litigation*, No. 4:24-cv-03229-HSG;
 - 4.2.2 Include the full name, address, telephone number, and email address of the person objecting;
 - 4.2.3 Include the full name, address, telephone number, and email address of the Objector's counsel (if the Objector is represented by counsel);
 - 4.2.4 Include documents or testimony sufficient to establish that the person objecting is a member of the Class;
 - 4.2.5 State the grounds for the Objection;

- 4.2.6 A statement confirming whether the Objector intends to personally appear and/or testify at the Final Approval Hearing; and
- 4.2.7 The Objector's signature (an attorney's signature is not sufficient).
- 4.3 Filing of Objections. Any Objections from Class Members regarding the proposed Agreement must be filed with the Court. If a Class Member does not file a timely written Objection, the Class Member will not be able to participate in the Final Approval Hearing.
- 4.4 Deadline for Objections. Objections must be filed by the Objection and Exclusion Deadline, which is sixty (60) days after the Settlement Notice Date.
 - 4.4.1 If filed through ECF, Objections must be filed no later than 11:59 p.m. PT of the date of the Objection and Exclusion Deadline.
 - 4.4.2 If submitted by U.S. mail or other mail services to the Clerk of the Court, Objections must be postmarked by the Objection and Exclusion Deadline. The date of the postmark on the envelope containing the written statement objecting to the Settlement shall be the exclusive means used to determine whether an Objection has been timely submitted. In the event a postmark is illegible or unavailable, the date of mailing shall be deemed to be three (3) days prior to the date that the Court scans the Objection into the electronic case docket.
- 4.5 The Parties will be permitted to respond in writing to any Objections filed with the Court before the Objection and Exclusion Deadline. Class Members who fail to file timely written Objections in the manner specified above shall be deemed to have waived any Objections and shall be foreclosed from making any Objection to the Agreement and the proposed Settlement by appearing at the Final Approval Hearing, or through appeal, collateral attack, or otherwise.
- 4.6 Attendance at Final Approval Hearing. Any Objector who timely files an Objection has the option to appear and request to be heard at the Final Approval Hearing, either in person or through the Objector's counsel. Any Objector wishing to appear and be heard at the Final Approval Hearing must include a request to appear and provide notice of his or her intention to appear in the body of the Objector's Objection.
- 4.7 Objector's Attorneys' Fees and Costs. If an Objector makes an Objection through an attorney, the Objector shall be solely responsible for the Objector's attorneys' fees and costs unless the Court orders otherwise. In no event shall Poppi be responsible for more than the Gross Settlement Amount.
- 4.8 No Solicitation of Settlement Objections. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to submit written Objections to the Settlement or encourage an appeal from the Court's Final Approval Order.

5. EXCLUSIONS

- 5.1 Opt-Out. The Notice Plan shall advise all Class Members of their right to exclude themselves from the Settlement. This Agreement will not bind Class Members who timely Opt-Out to exclude themselves from the Settlement.
- 5.2 How to Request Exclusion. To request to be excluded from the Settlement, Class Members must timely submit a completed Opt-Out. The Opt-Out must be sent by postal mail to the Settlement Administrator.
- 5.3 Content of Opt-Out. All Opt-Outs and supporting papers must be in writing and must:
 - 5.3.1 Clearly identify the case name and number, *In re VNGR Beverage, LLC Litigation*, No. 4:24-cv-03229-HSG;
 - 5.3.2 Clearly state the Class Member's desire to be excluded from the Settlement; and
 - 5.3.3 Include the full name, address, telephone number, email address, and signature of the Class Member requesting exclusion.
- 5.4 Deadline to Request Exclusion. To be excluded from the Settlement, the completed Opt-Out must be postmarked by the Objection and Exclusion Deadline, which is sixty (60) days after the Settlement Notice Date.
- 5.5 Effect of Exclusion. Any person or entity who falls within the definition of the Class and who validly and timely requests exclusion from the Settlement shall not be a Class Member; shall not be bound by the Agreement; shall not be eligible to apply for any benefit under the terms of the Agreement; and shall not be entitled to file an Objection to the Settlement. In the event that a Class Member timely submits both an Objection and an Opt-Out, the Opt-Out shall prevail.
- 5.6 Exclusion List. No later than fourteen (14) days after the Objection and Exclusion Deadline, the Settlement Administrator shall provide Class Counsel and Poppi Counsel with the number and identity of the persons who have timely and validly excluded themselves from the Settlement.

6. CLAIMS PROCESS

- 6.1 General Process. To obtain monetary relief as part of the Settlement, a Class Member must fill out and submit a Claim Form, completed online or in hard copy mailed to the Settlement Administrator. The Claim made via the Claim Form will proceed through the following general steps:
 - 6.1.1 The Claimant will be asked to provide identifying information.
 - 6.1.2 The Claimant will be asked to certify, under penalty of perjury, which and how many units of the Products he or she has purchased for personal or household consumption since January 23, 2020 and to certify that such Products were purchased for personal or household consumption and not for distribution or resale.

- 6.1.3 The Claimant will be asked to provide Proof of Purchase if he or she has any. A Claimant does not need to submit Proof of Purchase to submit a Claim Form.
- 6.1.4 The Claimant will have the option of electing to receive the Class Payment by digital payment, ACH transfer, or by check.
- 6.1.5 The Claimant who submits an Approved Claim will be entitled to a Class Payment of seventy-five cents (\$0.75) per each Single Can Unit of the Products purchased, three dollars (\$3.00) per 4-pack Unit of the Products purchased, six dollars (\$6.00) per 8-pack Unit of the Products purchased, nine dollars (\$9.00) per 12-pack or 15-pack Unit of the Products purchased, subject to the following minimums and maximums:
 - (a) The Minimum Class Payment for any Approved Claim shall be five dollars (\$5.00) per Household, even if the Class Member purchased fewer units, subject to the availability of funds remaining in the Settlement Fund.
 - (b) The maximum Class Payment for any Approved Claim without a Proof of Purchase shall be sixteen dollars (\$16.00) per Household, even if the Class Member claimed to have purchased more units, subject to the availability of funds remaining in the Settlement Fund.
- 6.1.6 A maximum of one Claim Form may be submitted for a single household. If more than one Claim is submitted per Household, all such Claims shall be combined and treated as a single Claim for purposes of the limits set forth herein. All the amounts outlined in Section 6.1 shall be subject to being increased or decreased pro rata, pursuant to the terms of Section 6.4.
- 6.1.7 Each Settlement Class Member who wishes to submit a Claim shall submit a Claim individually using the procedures specified in the Website Notice. Other than a parent or guardian acting on behalf of a minor or other individual, or a duly authorized legal representative, no Person may submit a Claim on behalf of any other Person. For clarity, Claims submitted by third-party claims aggregators shall not be accepted by the Settlement Administrator.
- 6.2 The Claim Form and Timing. The Claim Form will be available on the Website, and may be submitted to the Settlement Administrator online. A maximum of one Claim Form may be submitted for a single household. Claim Forms must be submitted online or postmarked on or before the Claims Deadline to be considered timely. The Claims Deadline shall be clearly and prominently stated in the Preliminary Approval Order, Email Notice, Publication Notice, and Website Notice, and on the Claim Form.
- 6.3 Claim Validation. The Settlement Administrator shall be responsible for reviewing all Claims to determine their validity. The Settlement Administrator shall reject any Claim that does not comply in any material respect with the instructions on the Claim Form or with the terms of Section 6, that is submitted after the Claims Deadline, or that the Settlement Administrator identifies as fraudulent. The Settlement Administrator shall retain discretion in accepting or rejecting claims.

- 6.4 Pro Rata Adjustment of Class Payments. If the total value of all Approved Claims either exceeds or falls short of the funds available for distribution to Class Members, then the amounts of the Class Payments will be reduced or increased pro rata, as necessary, to use as much of the funds available for distribution to Class Members as possible. Any such pro rata adjustment will be calculated prior to distribution of funds (*i.e.*, all funds will be made in a single distribution). Any pro rata upward adjustment for claims without Proof of Purchase shall be capped at five times the claimed amount. For avoidance of doubt, this means that under no circumstances shall a person who submits a Claim without a Proof of Purchase for \$16 or more in Class Payment receive more than \$80.
- 6.5 Any remaining funds from the Gross Settlement Amount after the Settlement has been administered will be distributed in accordance with Section 1.6.
- 6.6 Taxes on Distribution. Any Claimant who receives a Class Payment will be solely responsible for any taxes or tax-related expenses owed or incurred by that Claimant by reason of that award. Such taxes and tax-related expenses will not be paid from the Settlement Fund. In no event will Poppi, the Class Representatives, Class Counsel, the Settlement Administrator, or any of the other Released Parties have any responsibility or liability for taxes or tax-related expenses arising in connection with the issuance of Class Payments or other payments made from the Settlement Fund to Class Representatives, Class Members, or any other person or entity.

7. SETTLEMENT ADMINISTRATION

- 7.1 Subject to Court approval, the Parties agree to the following procedures for giving notice of this Settlement to Class Members. The Parties also agree that providing notice to the Class Members in the manner described herein is the best and most fair and reasonable notice practicable under the circumstances.
- 7.2 Poppi will provide to the Settlement Administrator the names and valid email addresses for potential Class Members it may have in its records. The Settlement Administrator shall keep their identities and contact information strictly confidential and shall only use them for purposes of administering this Settlement.
- 7.3 The Settlement Administrator shall administer the Notice Plan described herein and pursuant to the Preliminary Approval Order.
- 7.4 The Parties agree upon and will request the Court's approval of the following forms and methods of notice to the Class:
- 7.4.1 The Settlement Administrator shall email to each Class Member for whom Poppi provides an email address a copy of the Email Notice substantially in the form attached hereto as Exhibit B. The Email Notice shall inform Class Members of the fact of the Settlement and that further information is available on the Website.
- 7.4.2 Publication Notice shall be provided as described in the Notice Plan. Publication Notice will conform to all applicable requirements of the California Constitution,

the United States Constitution (including the Due Process Clauses), and any other applicable law, and be in the manner and form approved by the Parties and Court.

- 7.4.3 The Settlement Administrator shall establish and maintain the Website. The Website shall be optimized for viewing on both mobile devices and personal computers. The Website will include case-related documents, including, but not limited to, the operative complaint, this Agreement, the Website Notice, the Preliminary Approval Order, Plaintiffs' motion for approval and request for Attorneys' Fees and Costs, a set of frequently asked questions, information on how to submit an Objection or request exclusion, and contact information for Class Counsel, Poppi Counsel, and the Settlement Administrator.
- 7.4.4 Website Notice will also be available to all Class Members on the Website.
- 7.5 The Settlement Administrator has agreed to perform all settlement administration duties required by the Agreement, and pursuant to Section 1.1, Poppi will deposit funds from the Gross Settlement Amount into the Settlement Fund for initial payment of the Administrative and Notice Costs. The Administrative and Notice Costs shall cover all costs and expenses related to the settlement administration functions to be performed by the Settlement Administrator, including providing all aspects of the Notice Plan (including issuing Email Notice, Publication Notice, and Website Notice and performing the other administration processes described in this Agreement). The Administrative and Notice Costs shall be paid from the Settlement Fund Account. In the event that unanticipated costs and expenses arise in connection with the notice and/or administration process prior to final approval, such that they exceed the initial deposit into the Settlement Fund, the Settlement Administrator shall promptly raise the matter with Poppi Counsel and Class Counsel as soon as practicable after becoming aware of the unanticipated costs and expenses. If both Poppi Counsel and Class Counsel, acting in good faith, agree that unanticipated costs and expenses justify an increase to the amount payable to the Settlement Administrator in excess of the deposited funds, then the amount in excess of the deposited funds shall be paid for exclusively from the Gross Settlement Amount. If unanticipated costs and expenses arise following final approval, if both Poppi Counsel and Class Counsel, acting in good faith, agree that unanticipated costs and expenses justify an increase to the amount payable to the Settlement Administrator in excess of the deposited funds, the amount in excess of the capped amount shall be paid exclusively from the Settlement Fund by way of any funds represented by checks that remain uncashed after two hundred ten (210) days, as contemplated under Section 1. Poppi shall, under no circumstances, be responsible for any Administration and Notice Costs in excess of its contribution to the Gross Settlement Amount under Section 1.
- 7.6 The Email Notice, Publication Notice, and Website Notice shall provide information on the procedure by which Class Members may request to Opt-Out from the Class or submit an Objection to the Settlement.
- 7.7 No later than fourteen (14) days after the Objection and Exclusion Deadline, the Settlement Administrator shall give written notice to Poppi and Class Counsel of the total number and identity of Class Members who have elected to exclude themselves from the Class. If the

number of Class Members who request exclusion from the Class exceeds more than one thousand (1,000) Class Members, Poppi, in its sole discretion, may elect to terminate this Settlement, in which case the entire Agreement shall be null and void. Alternatively, Poppi may elect to waive this condition and proceed with the Settlement. Any such waiver by Poppi must be unambiguous and in writing and provided to Class Counsel within fourteen (14) days after the Settlement Administrator provides Poppi and Class Counsel the total number and identity of Class Members who have elected to exclude themselves from the Class.

8. ATTORNEYS' FEES AND COSTS AND SERVICE AWARD

- 8.1 Class Counsel will apply to the Court seeking an award of up to 30% of the Gross Settlement Amount as payment for their Attorneys' Fees and Costs incurred in connection with prosecuting the Consolidated Action (the "Fee Application"). Class Counsel's Fee Application shall be filed at least thirty-five (35) days before the Objection and Exclusion Deadline and shall be posted on the Website within three (3) days of it being filed. Poppi expressly reserves the right to oppose the Fee Application for any reason at its discretion. Any award of attorneys' fees, costs, or expenses, shall come solely from the Settlement Fund and be paid to Class Counsel no later than thirty (30) calendar days after the Effective Date.
- 8.2 Class Counsel may also apply for a Service Award of no more than five thousand dollars (\$5,000.00) for each of the Plaintiffs. The Service Award is not a measure of damages whatsoever, but is solely an award for the Plaintiffs' service. For tax purposes, the Service Award will be treated as a 100% non-wage claim payment. Such Service Award shall come solely from the Settlement Fund. Within thirty (30) days after the Effective Date, the Settlement Administrator shall pay the Court-approved Service Award from the Settlement Fund to Class Counsel for distribution to the Plaintiffs.
- 8.3 Poppi shall not be liable for any additional fees or expenses of Plaintiffs or any Class Member in connection with the Consolidated Action. Class Counsel agree that they will not seek any additional fees or costs from Poppi in connection with the Consolidated Action or the Settlement of the Consolidated Action beyond the approved Attorneys' Fees and Costs award. Poppi agrees that it will not seek to recover its Court costs, attorneys' fees, or expenses once the Court enters a Final Approval Order and Final Judgment.
- 8.4 In the event that, after the Court grants preliminary approval the Settlement does not become final or final approval is not granted, Poppi agrees that it shall be responsible for, and will not seek to recover any of the costs incurred by the Settlement Administrator for the notice and settlement administration tasks undertaken by the Settlement Administrator since the time preliminary approval was granted. Notwithstanding the foregoing, Poppi may seek to recover such costs if the cause of the Settlement not becoming final or obtaining final approval is attributable to a breach of this Agreement by Plaintiffs or Class Counsel.

9. RELEASES AND WARRANTIES

- 9.1 As of the Effective Date, the Releasing Persons release and forever discharge and covenant not to sue, and are permanently enjoined from suing the Released Persons and including Poppi's past, present or future direct or indirect parents, subsidiaries, divisions, affiliates and related entities, stockholders, shareholders, officers, directors, partners, insurers, investors, employees, agents, attorneys, advisors, consultants, joint venturers, independent contractors, wholesalers, resellers, distributors, retailers, related companies, divisions, and any of their legal representatives (and the predecessors, heirs, executors, administrators, successors, purchasers, and assigns of each of the foregoing) from the Released Claims.
- 9.2 With respect to the Released Claims, the Releasing Persons expressly waive and relinquish, to the fullest extent permitted by law, the provisions, rights, and benefits of California Civil Code § 1542, or any other similar provision under federal or state law. The Releasing Persons understand that California Civil Code § 1542 states:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

The Releasing Persons expressly waive and relinquish any and all rights and benefits that they may have under, or that may be conferred upon them by, the provisions of Section 1542 of the California Civil Code, or any other law of any state or territory that is similar, comparable, or equivalent to Section 1542, to the fullest extent that they may lawfully waive such rights or benefits pertaining to the Released Claims. In connection with such waiver and relinquishment, the Releasing Persons hereby acknowledge that they are aware that they or their attorneys may hereafter discover claims or facts in addition to or different from those that they now know or believe exist with respect to the Released Claims, but that it is their intention to hereby fully, finally, and forever settle and release all of the Released Claims known or unknown, suspected or unsuspected, that they have against the Released Persons. In furtherance of such intention, the release herein given by the Releasing Persons to the Released Persons shall be and remain in effect as a full and complete general release notwithstanding the discovery or existence of any such additional different claims or facts. Each Releasing Person and Released Person expressly acknowledges that he/she/it has been advised by his/her/its attorney of the contents and effect of Section 1542, and with knowledge, each of the Releasing Persons and Released Persons hereby expressly waives whatever benefits he/she/it may have had pursuant to such section. Plaintiffs and Class Members shall be deemed by operation of the Final Approval Order and Final Judgment to have acknowledged that the foregoing waiver was separately bargained for and a material element of the Settlement of which this release is a part.

- 9.3 In addition to the release contained in paragraphs 9.1 and 9.2, Plaintiffs on behalf of each of their respective spouses, children, executors, representatives, guardians, wards, heirs, estates, bankruptcy estates, bankruptcy trustees, successors, predecessors, attorneys, agents and assigns, and all those who claim through them or who assert claims (or could assert

claims) on their behalf, release and forever discharge the Released Parties from any actions, causes of action (in law, equity, or administratively), suits, debts, liens, or claims, known or unknown, suspected or unsuspected, fixed or contingent, which they may have or claim to have that arise before entry of the Final Approval Order and Judgement. With respect to the release in this paragraph 9.3, Plaintiffs, on behalf of each of their respective spouses, children, executors, representatives, guardians, wards, heirs, estates, bankruptcy estates, bankruptcy trustees, successors, predecessors, attorneys, agents and assigns, and all those who claim through them or who assert claims (or could assert claims) on their behalf, shall be deemed to have, and by operation of the Settlement Agreement shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits of Section 1542 of the California Civil Code (to the extent applicable, or any other similar provision under federal, state, or local law to the extent any such provision is applicable), which reads:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Each Plaintiff expressly waives and relinquishes, to the fullest extent permitted by law all rights and benefits under Section 1542 of the California Civil Code, and any law or legal principle of similar effect in any jurisdiction, whether federal or state, with respect to the release and/or discharge granted in this Agreement. Each Plaintiff fully understands that the facts upon which this Agreement is executed may hereafter be other than or different from the facts now believed by Plaintiffs and/or Plaintiffs' Counsel to be true and expressly accepts and assumes the risk of such possible difference in facts and agrees that this Agreement shall remain effective notwithstanding any such difference in facts.

- 9.4 The amount of the Class Payment pursuant to this Agreement shall be deemed final and conclusive against all Class Members who shall be bound by all of the terms of this Agreement, including the terms of the Final Judgment to be entered in the Consolidated Action and the releases provided for herein.
- 9.5 No person shall have any claim of any kind against the Parties, their counsel, or the Settlement Administrator with respect to the matters set forth in Section 6 hereof, or based on determinations or distributions made substantially in accordance with this Agreement, the Final Approval Order, the Final Judgment, or further order(s) of the Court.

10. POPPI'S DENIAL OF LIABILITY; AGREEMENT AS DEFENSE IN FUTURE PROCEEDINGS

- 10.1 Poppi has indicated its intent to vigorously contest each and every claim in the Consolidated Action and continues to vigorously deny all of the material allegations in the Consolidated Action. Poppi enters into this Agreement without in any way acknowledging

any fault, liability, or wrongdoing of any kind. Poppi nonetheless has concluded that it is in its best interests that the Consolidated Action be settled on the terms and conditions set forth herein in light of the expense that would be necessary to defend the Consolidated Action, the benefits of disposing of protracted and complex litigation, and the desire of Poppi to conduct its business unhampered by the distractions of continued litigation.

- 10.2 Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, shall be construed as an admission or concession by Poppi of the truth of any of the allegations in the Consolidated Action, or of any liability, fault, or wrongdoing of any kind, nor as an admission or concession by Plaintiffs of any lack of merit of their claims against Poppi.
- 10.3 To the extent permitted by law, neither this Agreement, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, shall be offered as evidence or received in evidence in any pending or future civil, criminal, or administrative action or proceeding to establish any liability or admission by Poppi.
- 10.4 To the extent permitted by law, the Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit, or other proceeding which may be instituted, prosecuted, or attempted for the Released Claims.

11. MISCELLANEOUS

- 11.1 Extensions of Time. All time periods and dates described in this Agreement are subject to the Court's approval. Unless otherwise ordered by the Court, the Parties through their counsel may jointly agree to reasonable extensions of time to carry out any of the provisions of this Agreement. These time periods and dates may be changed by the Court or the Parties' counsel's written consent without notice to the Class Members.
- 11.2 Integration. This Agreement, including all exhibits, constitutes a single, integrated written contract expressing the entire agreement of the Parties relative to the subject matter hereof. No covenants, agreements, representations, or warranties of any kind whatsoever have been made by any Party hereto, except as provided for herein.
- 11.3 Governing Law. This Agreement shall be construed in accordance with, and be governed by, the laws of the State of California, without regard to the principles thereof regarding choice of law.
- 11.4 Gender and Plurals. As used in this Agreement, the masculine, feminine, or neuter gender, and the singular or plural number, shall each be deemed to include the others whenever the context so indicates.
- 11.5 Survival of Warranties and Representations. The warranties and representations of this Agreement are deemed to survive the date of execution hereof.
- 11.6 Representative Capacity. Each person executing this Agreement in a representative capacity represents and warrants that he or she is empowered to do so.

- 11.7 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all Parties do not sign the same counterparts.
- 11.8 Cooperation of Parties. The Parties to this Agreement and their counsel agree to prepare and execute all documents, to seek Court approvals, to defend Court approvals, and to do all things reasonably necessary to complete the Settlement.
- 11.9 Execution Voluntary. This Agreement is executed voluntarily by each of the Parties without any duress or undue influence on the part, or on behalf, of any of them. The Parties represent and warrant to each other that they have read and fully understand the provisions of this Agreement and have relied on the advice and representation of legal counsel of their own choosing. Each of the Parties has cooperated in the drafting and preparation of this Agreement and has been advised by counsel regarding the terms, effects, and consequences of this Agreement. Accordingly, in any construction or interpretation to be made of this Agreement, this Agreement shall not be construed as having been drafted solely by any one or more of the Parties or their counsel. The Agreement has been, and must be construed to have been, drafted by all Parties and their counsel, so that any rule that construes ambiguities against the drafter will have no force or effect.
- 11.10 Notices.
- 11.10.1 All Notices to Class Counsel provided for herein shall be sent by email and a hard copy sent by overnight mail to: Class Counsel as identified in Definition J.
- 11.10.2 All Notices to Poppi provided for herein shall be sent by email and a hard copy sent by overnight mail to: Michelle C. Doolin, Cooley LLP, 10265 Science Center Drive, San Diego, CA 92121, mdoolin@cooley.com.
- 11.10.3 The notice recipients and addresses designated above may be changed by written notice pursuant to this section.
- 11.11 Modification and Amendment. This Agreement may be amended or modified only by a written instrument signed by the Parties' counsel and approved by the Court.
- 11.12 Any and all disputes arising out of or related to the Settlement or this Agreement must be brought by the Parties and/or each member of the Class exclusively in this Court. The Parties and each member of the Class hereby irrevocably submit to the exclusive and continuing jurisdiction of the Court for any suit, action, proceeding or dispute arising out of or related to the Settlement or this Agreement.

[Signatures on next page]

The Parties have agreed to the terms of this Agreement and have signed below.

Dated: March 3, 2025

KRISTIN COBBS

DocuSigned by:
Kristin Cobbs

Kristin Cobbs

Named Plaintiff and Class Representative

Dated: _____, 2025

CAROL LESH N/A - Deceased

Marie Melony

Gutride Safier LLP

Carol Lesh

Named Plaintiff and Class Representative

Dated: _____, 2025

SARAH COLEMAN

Sarah Coleman

Sarah Coleman

Named Plaintiff and Class Representative

Dated: 3-3, 2025

MEGAN WHEELER

Megan Wheeler

Megan Wheeler (Mar 3, 2025 12:05 PST)

Megan Wheeler

Named Plaintiff and Class Representative

Dated: 3/1, 2025

VNGR BEVERAGE, LLC

Chris Hall

Chris Hall
Chief Executive Officer

Defendant VNGR Beverage, LLC

EXHIBIT A

IMPORTANT LEGAL MATERIALS

CLAIM FORM

GENERAL INSTRUCTIONS

You can submit a Claim for a Class Payment under this Settlement if you purchased any Poppi beverage in the United States **between January 23, 2020, and [Settlement Notice Date]**. **A maximum of one Claim Form may be submitted for a single Household.**

To obtain a Class Payment from the Settlement you must complete and return this Claim Form. Completed Claim Forms must be mailed to the Settlement Administrator at [address/telephone number] or can be submitted via the settlement Website, www.poppisettlement.com. **Claim Forms must be POSTMARKED or SUBMITTED ONLINE NO LATER THAN sixty (60) calendar days after [the Settlement Notice Date].**

Before you complete and submit this Claim Form by mail or online, you should read and be familiar with the Settlement Notice available at www.poppisettlement.com. Defined terms (with initial capitals) used in these General Instructions have the same meaning as set forth in the Settlement. By submitting this Claim Form, you acknowledge that you have read and understand the Settlement Notice at issue, and you agree to release the Released Claims which is included as a material term of the Settlement.

If you fail to timely submit a Claim Form, you will be precluded from any recovery from the Settlement. If you are a member of the Class and you do not timely and validly seek to Opt-Out from the Class, you will be bound by any judgment entered by the Court approving the Settlement regardless of whether you submit a Claim Form. To receive the most current information and receive regular updates, please visit the settlement Website at www.poppisettlement.com.

The information you provide will not be disclosed to anyone other than the Court, the Settlement Administrator, and the Parties in this case, and will be used only for purposes of administering this Settlement (such as to audit and review a claim for completeness, truth, and accuracy).

Claimant Information

Claimant Name: _____
First Name MI Last Name

Street Address: _____

Street Address2: _____

City: _____ State: _____ Zip Code: _____

[optional] Daytime Phone Number: (_____) _____ - _____

[optional] Evening Phone Number: (_____) _____ - _____

E-mail Address: _____

Class Payment Information

All claimants may receive a Class Payment of up to the following: seventy-five cents (\$0.75) per Single Can Unit of the Product purchased; three dollars (\$3.00) per 4-pack Unit of the Product purchased; six dollars (\$6.00) per 8-pack Unit of the Product purchased; and nine dollars (\$9.00) per 12-pack or 15-pack Unit of the Product purchased. All Claimants that submit a valid Claim are entitled to a Minimum Class Payment of five dollars (\$5.00). However, the actual Class Payment received may be reduced or increased pro rata depending on the number of valid Claims and the cost of other expenses paid out of the Settlement Fund.

If you **do not** provide Proof of Purchase, you can claim a maximum Class Payment of **\$16.00** per Household.

“Proof of Purchase” means a receipt or other documentation from a third-party commercial source (*i.e.*, a store or online retailer) that reasonably establishes the fact and date of purchase of Products by a Class Member between January 23, 2020 and the [Settlement Notice Date].

“Single Can Unit” means a single quantity of a 12-ounce or 16-ounce can of the Products as sold at retail; “4-pack Unit” means a single quantity of a 4-pack of the Products as sold at retail; “8-pack Unit” means a single quantity of an 8-pack of the Products as sold at retail; “12-pack Unit” means a single quantity of a 12-pack of the Products as sold at retail; and “15-pack Unit” means a single quantity of a 15-pack of the Products as sold at retail.

Purchase Information

1. Did you purchase any Poppi beverages in the United States between January 23, 2020, and [Settlement Notice Date]?

Yes No

2. How many Single Can Unit(s) did you purchase? _____

3. How many 4-pack Unit(s) did you purchase? _____

4. How many 8-pack Unit(s) did you purchase? _____

5. How many 12-pack Unit(s) did you purchase? _____

6. How many 15-pack Unit(s) did you purchase? _____

To provide Proof of Purchase, attach it to this form.

If you **are not** providing Proof of Purchase, you must answer question 7:

7. Please provide the following information about specific Product(s) you purchased. (Complete this section if you are not including proof of purchase). You may attach additional sheets of paper if necessary to provide all requested information.

Poppi Product purchased (Single Can Unit, 4-pack Unit, 8-pack Unit, 12-pack Unit, or 15-	Approximate Month & Year of Purchase	Place of Purchase	Number of Units Purchased

pack Unit)			
	TOTAL		

I wish to receive my payment by:

PayPal – Provide your PayPal email address: _____

Venmo – Provide the mobile number associated with your Venmo account: ____ - ____ - ____

Zelle – Provide the email address or mobile number associated with your Zelle account:

ACH Transfer – Provide the account number, routing number, and type of account associated with your bank account:

_____ Account Type: Checking Savings
 _____ Routing Number Business

Physical Check – Payment will be mailed to the address provided above.

Certification under Penalty of Perjury

I hereby certify under penalty of perjury that:

1. The information provided in this Claim Form is accurate and complete to the best of my knowledge, information, and belief;
2. Any additional documentation information I provided with this Claim Form to support my Claim is original or else a complete and true copy of the original(s);
3. I am not (a) a person who purchased or acquired the Product for resale or distribution; (b) a government entity; nor (c) a judge to whom this Action is assigned, or any member of the judge’s immediate family;
4. I have not submitted any other Claim for the same purchases and have not authorized any other person or entity to do so, and know of no other person or entity having done so on my behalf;
5. I understand that by not opting out of the Settlement, I have given a complete release of all Released Claims; and
6. I understand that Claims will be audited for veracity, accuracy, and fraud. Claims Forms that are not valid and/or illegible can be rejected.

I hereby certify under penalty of perjury, under the laws of the United States, that the above is correct.

Signature: _____ Dated: ____ / ____ / ____

Location:

EXHIBIT B

If you purchased Poppi Products, a class action Settlement may affect you.

A proposed class action Settlement has been reached in cases alleging Poppi beverages (the “Products”) were improperly labeled as “gut healthy.” Poppi contends that the label claims are expressly true and denies that it did anything wrong. Notwithstanding, the parties have agreed to settle the cases on a nationwide basis, and Defendant has agreed to provide Class Payments to Class Members. The cases are *In re VNGR Beverage, LLC Litigation*, No. 4:24-cv-03229-HSG filed in the United States District Court for the Northern District of California; *Cobbs v. VNGR Beverage, LLC*, No. 4:24-cv-03229 filed in the United States District Court for the Northern District of California; *Lesh, et al. v. VNGR Beverage, LLC*, No. 3:24-cv-03612 filed in the United States District Court for the Northern District of California; and *Wheeler v. VNGR Beverage LLC*, No. 4:24-cv-04396 filed in the United States District Court for the Northern District of California.

Does The Class Include Me?

You are a Class Member if you purchased any flavor or packaging of Poppi beverage for household use and not for resale or distribution in the United States between January 23, 2020, and [Settlement Notice Date].

What are the Settlement Benefits?

To settle the case, Defendant will create a Settlement Fund of \$8,900,000.00. This fund will be used to pay Class Payments for Approved Claims as well as Administrative and Notice Costs, Attorneys’ Fees and Costs, and Service Awards to the Class Representatives. If you make an Approved Claim in the Settlement, you will receive a Class Payment for each unit of any Product that you purchased, subject to the maximums and minimums set forth below. “Single Can Unit” means a single quantity of a 12-ounce or 16-ounce can of the Products as sold at retail; “4-pack Unit” means a single quantity of a 4-pack of the Products as sold at retail; “8-pack Unit” means a single quantity of an 8-pack of the Products as sold at retail; “12-pack Unit” means a single quantity of a 12-pack of the Products as sold at retail; and “15-pack Unit” means a single quantity of a 15-pack of the Products as sold at retail.

If you make an Approved Claim, you are entitled to a Class Payment up to as follows: seventy-five cents (\$0.75) per Single Can Unit of the Product purchased; three dollars (\$3.00) per 4-pack Unit of the Product purchased; six dollars (\$6.00) per 8-pack Unit of the Product purchased; and nine dollars (\$9.00) per 12-pack or 15-pack Unit of the Product purchased. Each Approved Claim shall receive a Minimum Class Payment of five dollars (\$5.00), though the Class Payment may be less or more depending upon, among other things, the number of Approved Claims received, the amount of Attorneys’ Fees and Costs paid to the Plaintiffs’ lawyers, the amount of Service Awards paid to the Plaintiffs, and the costs of providing notice and administering the Settlement. If you do not have Proof of Purchase, you may obtain a maximum Class Payment of up to sixteen dollars (\$16.00) per Household. “Proof of Purchase” means a receipt or other documentation from a third-party commercial source (*i.e.*, a store or online retailer) that reasonably establishes the fact and date of purchase of Products by a Class Member between January 23, 2020 and the Settlement Notice Date.

If there is money left over in the Settlement Fund after payment of all Class Payments, Attorneys’ Fees and Costs, Service Awards to the Class Representatives, and Administrative and Notice Costs, the money will be donated to a charity.

How Do I Make A Claim?

To file a claim, click <link>here</link> and fill out the form. You can also obtain a claim form by contacting the Settlement Administrator.

What are my rights?

You may make a Claim, Object, Opt-Out, or do nothing. **To receive a Class Payment, you must <link>submit a Claim</link>**, online or by mail, by the Claims Deadline, which is [date 60 days after the Settlement Notice Date]. If you **Opt-Out of the Settlement**, you may pursue a separate lawsuit, but you will receive no Class Payment. Your Opt-Out request must be mailed to the Settlement Administrator and postmarked by the Objection and Exclusion Deadline, which is [date 60 days after the Settlement Notice Date]. If you do not Opt-Out, you give up your right to bring a separate lawsuit. **To object**, you must file a written Objection that complies with the requirements in the Long Form Notice available at www.poppisettlement.com. Your Objection must be filed with the Court by the Objection and Exclusion Deadline, which is [date 60 days after the Settlement Notice Date]. **Do nothing**, and you will not receive a Class Payment and you will release the Released Claims against Defendant that relate to the allegations in the lawsuits.

What will happen next?

The Court will hold a hearing on [DATE] at [] p.m. to consider whether to finally approve the Settlement. Class Counsel will ask the Court to award them no more than 30% of the Settlement Fund in attorneys' fees and approximately \$30,000 in out-of-pocket expenses and up to \$20,000 total in Service Awards to the four individuals who pursued the lawsuit, out of the Settlement Fund. Note that the hearing date may change without further notice to you. Consult the Website at www.poppisettlement.com or for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, for updated information on the hearing date and time.

How can I get more information?

For more information, please visit www.poppisettlement.com or contact the Settlement Administrator at [] or by telephone at [telephone]. Please do not telephone the Court or the Court's Clerk's Office to inquire about this Settlement.

EXHIBIT C

If you purchased Poppi Products, a class action Settlement may affect you.

A proposed class action Settlement has been reached in cases alleging Poppi beverages (the “Products”) were improperly labeled as “gut healthy.” Poppi contends that the label claims are expressly true and denies that it did anything wrong. Notwithstanding, the parties have agreed to settle the cases on a nationwide basis, and Defendant has agreed to provide Class Payments to Class Members. The cases are *In re VNGR Beverage, LLC Litigation*, No. 4:24-cv-03229-HSG filed in the United States District Court for the Northern District of California; *Cobbs v. VNGR Beverage, LLC*, No. 4:24-cv-03229 filed in the United States District Court for the Northern District of California; *Lesh, et al. v. VNGR Beverage, LLC*, No. 3:24-cv-03612 filed in the United States District Court for the Northern District of California; and *Wheeler v. VNGR Beverage LLC*, No. 4:24-cv-04396 filed in the United States District Court for the Northern District of California.

Does The Class Include Me?

You are a Class Member if you purchased any flavor or packaging of Poppi beverage for household use and not for resale or distribution in the United States between January 23, 2020, and [Settlement Notice Date].

What are the Settlement Benefits?

To settle the case, Defendant will create a Settlement Fund of \$8,900,000.00. This fund will be used to pay Class Payments for Approved Claims as well as Administrative and Notice Costs, Attorneys’ Fees and Costs, and Service Awards to the Class Representatives. If you make an Approved Claim in the Settlement, you will receive a Class Payment for each unit of any Product that you purchased, subject to the maximums and minimums set forth below. “Single Can Unit” means a single quantity of a 12-ounce or 16-ounce can of the Products as sold at retail; “4-pack Unit” means a single quantity of a 4-pack of the Products as sold at retail; “8-pack Unit” means a single quantity of an 8-pack of the Products as sold at retail; “12-pack Unit” means a single quantity of a 12-pack of the Products as sold at retail; and “15-pack Unit” means a single quantity of a 15-pack of the Products as sold at retail.

If you make an Approved Claim, you are entitled to a Class Payment up to as follows: seventy-five cents (\$0.75) per Single Can Unit of the Product purchased; three dollars (\$3.00) per 4-pack Unit of the Product purchased; six dollars (\$6.00) per 8-pack Unit of the Product purchased; and nine dollars (\$9.00) per 12-pack or 15-pack Unit of the Product purchased. Each Approved Claim shall receive a Minimum Class Payment of five dollars (\$5.00), though the Class Payment may be less or more depending upon, among other things, the number of Approved Claims received, the amount of Attorneys’ Fees and Costs paid to the Plaintiffs’ lawyers, the amount of Service Awards paid to the Plaintiffs, and the costs of providing notice and administering the Settlement. If you do not have Proof of Purchase, you may obtain a maximum Class Payment of up to sixteen dollars (\$16.00) per Household. “Proof of Purchase” means a receipt or other documentation from a third-party commercial source (*i.e.*, a store or online retailer) that reasonably establishes the fact and date of purchase of Products by a Class Member between January 23, 2020 and the Settlement Notice Date.

If there is money left over in the Settlement Fund after payment of all Class Payments, Attorneys’ Fees and Costs, Service Awards to the Class Representatives, and Administrative and Notice Costs, the money will be donated to a charity.

How Do I Make A Claim?

To file a claim, click <link>here</link> and fill out the form. You can also obtain a claim form by contacting the Settlement Administrator.

What are my rights?

You may make a Claim, Object, Opt-Out, or do nothing. **To receive a Class Payment, you must <link>submit a Claim</link>**, online or by mail, by the Claims Deadline, which is [date 60 days after the Settlement Notice Date]. If you **Opt-Out of the Settlement**, you may pursue a separate lawsuit, but you will receive no Class Payment. Your Opt-Out request must be mailed to the Settlement Administrator and postmarked by the Objection and Exclusion Deadline, which is [date 60 days after the Settlement Notice Date]. If you do not Opt-Out, you give up your right to bring a separate lawsuit. **To object**, you must file a written Objection that complies with the requirements in the Long Form Notice available at www.poppisettlement.com. Your Objection must be filed with the Court by the Objection and Exclusion Deadline, which is [date 60 days after the Settlement Notice Date]. **Do nothing**, and you will not receive a Class Payment and you will release the Released Claims against Defendant that relate to the allegations in the lawsuits.

What will happen next?

The Court will hold a hearing on [DATE] at [] p.m. to consider whether to finally approve the Settlement. Class Counsel will ask the Court to award them no more than 30% of the Settlement Fund in attorneys' fees and approximately \$30,000 in out-of-pocket expenses and up to \$20,000 total in Service Awards to the four individuals who pursued the lawsuit, out of the Settlement Fund. Note that the hearing date may change without further notice to you. Consult the Website at www.poppisettlement.com or for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, for updated information on the hearing date and time.

How can I get more information?

For more information, please visit www.poppisettlement.com or contact the Settlement Administrator at [] or by telephone at [telephone]. Please do not telephone the Court or the Court's Clerk's Office to inquire about this Settlement.

EXHIBIT D

Attention purchasers of Poppi sodas
Between January 23, 2020 and [Settlement Notice Date]

This notice may affect your rights. Please read it carefully.

A court has authorized this notice. This is not a solicitation from a lawyer.

- The notice concerns the following cases: *In re VNGR Beverage, LLC Litigation*, No. 4:24-cv-03229-HSG filed in the United States District Court for the Northern District of California; *Cobbs v. VNGR Beverage, LLC*, No. 4:24-cv-03229 filed in the United States District Court for the Northern District of California; *Lesh, et al. v. VNGR Beverage, LLC*, No. 3:24-cv-03612 filed in the United States District Court for the Northern District of California; and *Wheeler v. VNGR Beverage LLC*, No. 4:24-cv-04396 filed in the United States District Court for the Northern District of California.
- This class action Settlement will completely resolve this lawsuit against VNGR Beverage, LLC d/b/a Poppi (“Defendant”), on behalf of all individuals in the United States who purchased any flavor or package size of Poppi beverages (the “Products”) for household use and not for resale or distribution between January 23, 2020, and [Settlement Notice Date]. The Settlement affects all persons in that category (the “Class Members”).
- To settle the case, Defendant has agreed to pay \$8,900,000 into a Settlement Fund.
- Each member of the Class who submits an Approved Claim will receive a Class Payment up to as follows: seventy-five cents (\$0.75) per Single Can Unit of the Product purchased; three dollars (\$3.00) per 4-pack Unit of the Product purchased; six dollars (\$6.00) per 8-pack Unit of the Product purchased; and nine dollars (\$9.00) per 12-pack or 15-pack Unit of the Product purchased. A Class Member who does not provide valid Proof of Purchase shall recover a maximum of sixteen dollars (\$16.00). The Minimum Class Payment for any Approved Claim shall be five dollars (\$5.00) per Household. However, the Class Payment amount may be reduced or increased pro rata depending on the number of Approved Claims and the cost of other expenses paid out of the Settlement Fund. Any leftover funds after payment of Administrative and Notice Costs, Attorneys’ Fees and Expenses, payments to the Class Representatives, and payment of Approved Claims will go to a charitable organization.
- The lawyers who brought the lawsuit will ask the Court to set aside some of the Settlement Fund for reimbursement of their out-of-pocket expenses of up to \$30,000 and no more than 30% of the Settlement Fund in attorneys’ fees for investigating the facts, litigating the case, and negotiating the Settlement. They will additionally ask for up to \$20,000 in total for the four named Plaintiffs who brought this lawsuit. These payments are called “Service Awards.” If the Court approves, these amounts would be paid to Plaintiffs and the lawyers out of the Settlement Fund.
- The parties will also ask the Court to set aside an initial amount of the Settlement Fund to pay the Claim Administrator, Verita Global LLC, for its services and costs for administering the Settlement (e.g., disseminating notice of the Settlement, processing Claims, and distributing Class Payments).
- Your legal rights are affected whether you act or don’t act. Read this notice carefully.

This notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please see the settlement agreement available at www.poppisettlement.com. Alternatively, you can contact the Settlement Administrator at: [ADDRESS], or Class Counsel:

Questions? Visit www.poppisettlement.com or call [telephone number].

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PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK’S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.

YOUR RIGHTS AND OPTIONS IN THIS SETTLEMENT		DEADLINE
Submit a Claim Form	The only way to receive a Class Payment under the Settlement for your purchases.	[sixty (60) calendar days after the Settlement Notice Date]
Opt-Out	Exclude yourself from the lawsuit and the Settlement. This is the only option that allows you to ever bring or join another lawsuit raising the same legal claims against Defendant. You will receive no payment from this Settlement. (If you wish to exclude yourself from the Settlement, you must submit a completed Opt-Out by postal mail to the Settlement Administrator by the Objection and Exclusion Deadline.)	[sixty (60) calendar days after the Settlement Notice Date]
File Objection	Write to the Court about any aspect of the Settlement you do not like or you do not think is fair, adequate, or reasonable. (If you object to any aspect of the Settlement, you must file a written Objection with the Court by the Objection and Exclusion Deadline.)	[sixty (60) calendar days after the Settlement Notice Date]
Go to a Hearing	Speak in Court about the Settlement. (Only if you submit a written Objection by the Objection and Exclusion Deadline noted above.)	[] at []pm
Do Nothing	You will not receive any Class Payment; also, you will have no right to sue later for the claims released by the Settlement.	

- These rights and options—and the deadlines to exercise them—are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. Class Payments will be sent to Class Members only if the Court approves the Settlement. If there are appeals, Class Payments will not be made until the appeals are resolved and the Settlement becomes effective. Please be patient and continue to check the Website for updates.

Questions? Visit www.poppisettlement.com or call [telephone number].

- Fairness Hearing:** On [], at [] p.m., the Court will hold hearings to determine (1) whether the proposed Settlement is fair, reasonable, and adequate and should receive final approval; (2) whether to grant the applications for Attorneys’ Fees and Costs brought by the Class Counsel; and (3) whether to grant the application for Service Awards to the Plaintiffs who brought the lawsuit. The hearing will be held in the United States District Court of the Northern District of California, before the Honorable Judge Haywood S. Gilliam, Jr. in the Oakland Courthouse, Courtroom 2 – 4th Floor, located at 1301 Clay Street, Oakland, CA 94612. This hearing date may change without further notice to you. Consult the settlement website at www.poppisettlement.com, or the Court docket in this case available through Public Access to Court Electronic Records (“PACER”) (<http://www.pacer.gov>), for updated information on the hearing date and time.

Important Dates

[]	Claims Deadline
[]	Objection Deadline
[]	Opt-Out Deadline
at [] p.m.	Fairness Hearing

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1. How Do I Know If I Am Affected By The Settlement?

This case involves all Poppi beverages, including all flavors and package sizes (the “Products”) purchased for household use and not for resale or distribution in the United States between January 23, 2020, and [Settlement Notice Date].

For purposes of Settlement only, the Court has conditionally certified the following Settlement Class: “All persons in the United States who, between January 23, 2020 and the Settlement Notice Date, purchased in the United States, for household use and not for resale or distribution, one or more of the Products.” Excluded from the Class are: (1) the Honorable Judge Haywood S. Gilliam, Jr., the Honorable Maxine M. Chesney, Magistrate Judge Sallie Kim, the Honorable Jay C. Gandhi (Ret.), and any member of their immediate families; (2) any government entity; (3) Poppi; and (4) any persons who timely opt-out of the Settlement.

If the Settlement does not become effective (for example, because it is not finally approved, or the approval is reversed on appeal), then this lawsuit will continue.

2. What Is The Lawsuit About?

Plaintiffs brought this lawsuit alleging Defendant improperly marketed and labeled the Products with “gut healthy” representations. Plaintiffs allege that, as a result, consumers purchased Products that they would not have otherwise purchased and/or paid more for the Products as a result of the “gut healthy” claims.

Defendant denies there is any factual or legal basis for Plaintiffs’ allegations. Defendant contends that its Product labeling is truthful and accurate, denies making any misrepresentations and, therefore, denies any liability. Defendant also denies that Plaintiffs or any other members of the Class have suffered any injury or are entitled to monetary or other relief.

The Court has not determined who is correct.

3. Why Is This Case Being Settled?

This lawsuit was originally filed on May 29, 2024, in the Northern District of California. Defendant filed a motion to dismiss Plaintiffs’ claims on September 23, 2024. The Plaintiffs opposed. The Court has not decided the motion to dismiss.

Counsel for both Plaintiffs and Defendant have determined, as with any lawsuit, that there is risk in continuing the litigation. 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.

On December 4, 2024, the Parties participated in an all-day mediation conducted by Honorable Jay Gandhi (Ret.), at JAMS. After considering the risks and costs of further litigation, the Parties have concluded that it is desirable to settle Plaintiffs’ claims on the terms of the Settlement Agreement.

Plaintiffs and their counsel believe that the terms and conditions of the Settlement are fair, reasonable, adequate, and equitable, and that the Settlement is in the best interest of the Class Members. The Settlement creates a Settlement Fund of \$8,900,000 and allows Class Members to file a Claim to obtain a Class Payment up to as follows: seventy-five cents (\$0.75) per Single Can Unit of the Product purchased; three dollars (\$3.00) per 4-pack Unit of the Product purchased; six dollars (\$6.00) per 8-pack Unit of the Product purchased; and nine dollars (\$9.00) per 12-pack or 15-pack Unit of the Product purchased. This exceeds the damages that might be recovered at trial on a per-Unit basis. Furthermore, even if Plaintiffs succeeded at trial, it would be necessary for Class Members to make claims, because Defendant does not have records identifying the Class Members.

4. What Can I Get In The Settlement?

Class Members may file Claims to obtain a Class Payment for Products purchased between January 23, 2020, and [Settlement Notice Date], regardless of the price the Class Member paid. All Approved Claims will be paid according to the following procedures:

- (a) Settlement Class Members who submit an Approved Claim shall receive up to the following: seventy-five cents (\$0.75) per Single Can Unit of the Product purchased; three dollars (\$3.00) per 4-pack Unit of the Product purchased; six dollars (\$6.00) per 8-pack Unit of the Product purchased; and nine dollars (\$9.00) per 12-pack or 15-pack Unit of the Product purchased, subject to the restrictions set forth below, though the Class Payment may be reduced or increased depending upon the number of Approved Claims and the amount of the Settlement Fund devoted to other costs, such as Administrative and Notice Costs, Attorneys' Fees and Costs, and Service Awards to the Class Representatives. "Single Can Unit" means a single quantity of a 12-ounce or 16-ounce can of the Products as sold at retail; "4-pack Unit" means a single quantity of a 4-pack of the Products as sold at retail; "8-pack Unit" means a single quantity of an 8-pack of the Products as sold at retail; "12-pack Unit" means a single quantity of a 12-pack of the Products as sold at retail; and "15-pack Unit" means a single quantity of a 15-pack of the Products as sold at retail.
- (b) A Class Member who does not provide valid Proof of Purchase may recover a maximum Class Payment of sixteen dollars (\$16.00), per Household.
- (c) All Claims submitted from the same Household shall be treated as a single Claim including for the purposes of meeting these maximums and the Proof of Purchase requirements.

"Proof of Purchase" means a receipt or other documentation from a third-party commercial source (*i.e.*, a store or online retailer) that reasonably establishes the fact and date of purchase of Products by a Class Member between January 23, 2020 and the Settlement Notice Date.

Claims will be paid as a Class Payment only if the claim is deemed valid and only after the Court approves the Settlement.

5. How Do I Make A Claim?

To make a Claim, you must fill out the Claim Form available on this Website, www.poppisettlement.com. You can submit the Claim Form online, or you can print it and mail it to the

Questions? Visit www.poppisettlement.com or call [telephone number].

Settlement Administrator at: [ADDRESS]. If submitted online, Claim Forms must be submitted no later than [sixty (60) calendar days after the Settlement Notice Date]. If mailed, claim forms must be postmarked no later than [sixty (60) calendar days after the Settlement Notice Date]. Class Payments for Approved Claims will be issued only if the Court gives final approval to the proposed Settlement and after the final approval is no longer subject to appeal. Please be patient as this may take months or even years in the event of an appeal.

6. When Do I Get My Class Payment?

Filing a Claim does not provide a guaranteed Class Payment to you. A Final Approval Hearing will be held on [DATE] at [TIME]. If the Court approves the Settlement and there are no appeals, then Class Payments on Approved Claims will be distributed within 90 days after the Settlement is no longer subject to appeal or review, unless otherwise ordered by the Court. If the Court does not approve the Settlement, or if the Settlement is overturned on appeal, no Class Payments will be issued.

7. What Do Plaintiffs And Their Lawyers Get?

To date, Plaintiffs' lawyers have not been compensated for any of their work on this case. Plaintiffs' lawyers will present evidence to the Court that they have spent nearly [XX] hours litigating this case. In addition, Plaintiffs' lawyers will present evidence that they have paid out-of-pocket expenses (including filing fees, service costs, and copying costs) of more than \$[]. None of these expenses has yet been reimbursed. As part of the Settlement, Plaintiffs' lawyers may apply to the Court to award them up to 30% of the Settlement Fund to pay their attorneys' fees and approximately \$[] in out-of-pocket expenses. Defendant has reserved the right to object to an award of fees, at its discretion.

In addition, each of the named Plaintiffs in this case may apply to the Court for a Service Award of \$5,000 each, for a combined total of not more than \$20,000. These payments are designed to compensate the Plaintiffs for the time, effort, and risks they undertook in pursuing this litigation and for executing a broader release of claims than other Class Members.

Plaintiffs and their lawyers will file a motion with the Court in support of their applications for Attorneys' Fees and Costs and payment of Service Awards to the Plaintiffs. A copy of that motion will be available on the Website. The Court will determine what amounts of fees, costs, expenses, and Service Awards to award.

The award of Attorneys' Fees and Costs will be paid to Plaintiffs' lawyers within 30 days after the Effective Date of the Settlement.

8. What Happens If I Do Not Opt-Out From The Settlement?

If you are a Class Member and you do not Opt-Out from the Settlement, you will be legally bound by all orders and judgments of the Court, and you will also be legally bound to release the Released Claims as provided in the Settlement, even if you do not file an Approved Claim or receive a Class Payment. This means that in exchange for being a Class Member and being eligible for the Class Payment, you will not be able to sue, continue to sue, or be part of any other lawsuit against VNGR Beverage, LLC d/b/a Poppi and/or any of the Released Persons that involves the marketing, labeling, or formulation of the Products

from January 23, 2020 to the present.

You will not be responsible for any out-of-pocket costs or attorneys' fees concerning this case if you stay in the Class.

Staying in the Class means that you agree to the following terms of the Settlement that describe exactly the legal claims that you give up:

- (a) As of the Effective Date, Class Members release and forever discharge and covenant not to sue, and are permanently enjoined from suing the Released Persons, including Poppi and each of its past, or present or future direct or indirect parents, subsidiaries, divisions, affiliates and related entities, stockholders, shareholders, officers, directors, partners, insurers, investors, employees, agents, attorneys, advisors, consultants, joint venturers, independent contractors, wholesalers, resellers, distributors, retailers, related companies, divisions, and any of their legal representatives (and the predecessors, heirs, executors, administrators, successors, purchasers, and assigns of each of the foregoing) from the Released Claims. "Released Claims" means any and all claims, demands, actions, causes of action, lawsuits, arbitrations, damages, liabilities, or penalties, whether federal or state, known or unknown, asserted or unasserted, regardless of legal theory, legal, equitable, or otherwise, that were or could have been asserted in the Consolidated Action or that arise out of or relate to the labeling, advertising, or formulation of the Products between January 23, 2020 and the Settlement Notice Date. The Released Claims shall not release any Class Member's rights to enforce this Agreement. The Released Claims shall not release any Class Member's personal injury claims.
- (b) With respect to the Released Claims, the Class Member expressly waives and relinquishes, to the fullest extent permitted by law, the provisions, rights, and benefits of California Civil Code § 1542, or any other similar provision under federal or state law. The Class Member understands that California Civil Code § 1542 states:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

- (c) The Class Member expressly waives and relinquishes any and all rights and benefits that they may have under, or that may be conferred upon them by, the provisions of Section 1542 of the California Civil Code, or any other law of any state or territory that is similar, comparable, or equivalent to Section 1542, to the fullest extent that they may lawfully waive such rights or benefits pertaining to the Released Claims. In connection with such waiver and relinquishment, the Class Member hereby acknowledges that they are aware that they or their attorneys may hereafter discover claims or facts in addition to or different from those that they now know or believe exist with respect to the Released Claims, but that it is their intention to hereby fully, finally, and forever settle and release all of the Released Claims known or unknown, suspected or unsuspected, that they have against the Released Persons. In furtherance of such intention, the release herein given by the Class Member to the Released Persons shall be and remain in effect as a full and complete general

Questions? Visit www.poppisettlement.com or call [telephone number].

release notwithstanding the discovery or existence of any such additional different claims or facts. Each Releasing Person and Released Person expressly acknowledges that he/she/it has been advised by his/her/its attorney of the contents and effect of Section 1542, and with knowledge, each of the Releasing Persons and Released Persons hereby expressly waives whatever benefits he/she/it may have had pursuant to such section. Plaintiffs and Class Members shall be deemed by operation of the Final Approval Order and Final Judgment to have acknowledged that the foregoing waiver was separately bargained for and a material element of the Settlement of which this release is a part.

- (d) The Class Members shall be deemed to have agreed that the release set forth herein will be and may be raised as a complete defense to and will preclude any action or proceeding based on the Released Claims.

9. **How Do I Opt-Out From The Settlement?**

You can Opt-Out if you wish to retain the right to sue Defendant separately for the Released Claims. If you Opt-Out, you cannot file a Claim, receive a Class Payment from the Settlement Fund, or file an Objection to the Settlement. You need **not** exclude yourself if you merely want to retain a right to sue for personal injury arising out of your use of the Products.

To Opt-Out, you must mail an Opt-Out request to the Settlement Administrator at [ADDRESS]. The Opt-Out request must be signed by you, clearly identify the case name and number, *In re VNGR Beverage, LLC Litigation*, No. 4:24-cv-03229-HSG, contain your full name, address, phone number(s), email address, and the following statement: "I/We request to Opt-Out from the settlement in the Poppi Class Action." The Opt-Out request must be postmarked by the Objection and Exclusion Deadline set forth above, which is [sixty (60) calendar days after the Settlement Notice Date].

10. **How Do I Object To The Settlement?**

You can ask the Court to deny approval of the Settlement by timely filing an Objection with the Court. You cannot ask the Court to order a larger Settlement; the Court can only approve or disallow the Settlement. If the Court denies approval to the entire Settlement, no Class Payments will be sent out, and the lawsuit will continue. If that is what you want to happen, you must object.

If you file an Objection by [sixty (60) calendar days after the Settlement Notice Date], you may also appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for paying that attorney.

To file an Objection, you must submit that Objection in writing to the Clerk for the Northern District of California, by the Objection and Exclusion Deadline set forth above. Any Objection must: (1) clearly identify the case name and number, *In re VNGR Beverage, LLC Litigation*, No. 4:24-cv-03229-HSG; (2) include your full name, address, telephone number, and email address; (3) include the full name, address, telephone number, and email address of the all lawyers (if any) who (a) are representing you in making the objection, (b) may be entitled to compensation in connection with your objection, and/or (c) will appear on your behalf at the Final Approval Hearing; (4) include documents or testimony sufficient to establish that you are a member of the Class; (5) provide a detailed statement of your objection(s), including the grounds and legal support for those objection(s); (6) provide a statement as to whether you

Questions? Visit www.poppisettlement.com or call [telephone number].

are requesting the opportunity to appear and be heard at the Final Approval Hearing; and (7) add your signature as objector, in addition to the signature of your attorney, if an attorney is representing you with the objection. Failure to include this information and documentation may be grounds for overruling and rejecting your objection.

All the information listed above must be filed as a written objection, either electronically via the Northern District of California's electronic filing system no later than 11:59 p.m. PT on [sixty (60) calendar days after the Settlement Notice Date] or via mail to the Clerk of the Northern District of California, postmarked by mail, express mail, or personal delivery on or before the Objection and Exclusion Deadline, which is [sixty (60) calendar days after the Settlement Notice Date]. By filing an objection, you consent to the jurisdiction of the Court, including to any order of the Court to produce documents or provide testimony prior to the Final Approval Hearing.

If you file an Objection to the Settlement but still want to submit a Claim in the event the Court approves the Settlement, you must still timely submit a Claim Form according to the instructions described above.

11. When Will The Court Decide If The Settlement Is Approved?

The Court will hold a hearing on [] at [] p.m., to consider whether to approve the Settlement. The hearing will be held in the United States District Court of the Northern District of California, before the Honorable Judge Haywood S. Gilliam, Jr. in the Oakland Courthouse, Courtroom 2 – 4th Floor, located at 1301 Clay Street, Oakland, CA 94612, or such other judge assigned by the Court.

The hearing is open to the public. This hearing date may change without further notice to you. For updated information on the hearing date and time, consult the Website at www.poppisettlement.com or the Court docket in this case available for a fee through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, Oakland Courthouse, 1301 Clay Street, Oakland, CA 94612, Suite 400S, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

12. How Do I Get More Information?

You can inspect many of the court documents connected with this case on the Website. Other papers filed in this lawsuit are available by accessing the Court docket in this case available for a fee through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, Oakland Courthouse, 1301 Clay Street, Oakland, CA 94612, Suite 400S, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.

You can contact the Settlement Administrator at [ADDRESS], or by telephone at [number].

You can also obtain additional information by contacting Class Counsel:

Questions? Visit www.poppisettlement.com or call [telephone number].

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