

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
PEORIA DIVISION

FILED

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
KERRY INC.,)
)
Defendant.)
)

FEB 03 2023

CLERK OF COURT
U.S. DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS

Case No. 22-10051

PLEA AGREEMENT AND STIPULATION OF FACTS

The United States Department of Justice, Consumer Protection Branch (“government”), by and through the undersigned Trial Attorneys, and Defendant, KERRY INC. (“Kerry Inc.” or “Defendant”), by and through Douglas A. Fellman and David I. Sharfstein of Hogan Lovells US LLP, Attorneys for Defendant, enter into the following plea agreement pursuant to Rule 11(c)(1)(c), Federal Rules of Criminal Procedure:

DEFENDANT’S AGREEMENT TO PLEAD GUILTY

1. Defendant, being fully cognizant of Defendant’s rights, agrees to plead guilty to a one-count Information that charges Kerry Inc. with a strict liability misdemeanor violation of Title 21, United States Code, Sections 331(a) and 333(a)(1), arising from Defendant’s introduction of adulterated foods into interstate commerce between on or about June 1, 2016 and June 12, 2018.

ELEMENTS OF THE CHARGE

2. The corporate signatory for defendant corporate entity has personally read the charge to which the defendant is pleading guilty, and the charge has been explained to the corporate signatory and other executives of defendant by defendant's attorney. Furthermore, corporate signatory for defendant represents that defendant fully understands the nature and elements of the crime to which it is pleading guilty.

3. The charge of Introduction of Adulterated Food into Interstate Commerce, in violation of Title 21, United States Code, Sections 331(a) and 333(a)(1), has the following elements, each of which the United States must prove beyond a reasonable doubt:

- First, That the substance was an adulterated food; and
- Second, That a person caused the introduction of, or delivered for introduction, into interstate commerce adulterated food.

POTENTIAL PENALTIES

4. Defendant understands, agrees, and has had explained to it by counsel that the charge of Introduction of Adulterated Food into Interstate Commerce, in violation of Title 21, United States Code, Sections 331(a) and 333(a)(1), has the following potential penalties, as applicable:

- a. up to one (1) year imprisonment;
- b. a fine of no more than \$1,000 or an amount not more than the

greater of twice the gross gain or twice the gross loss, *see* 18 U.S.C. § 3571(d);

- c. not more than one (1) year supervised release;
- d. restitution as ordered by the Court;
- e. not less than one (1) year and no more than five (5) years probation, if probation is imposed; and
- f. a special assessment of \$125.

5. The defendant agrees to pay the mandatory special assessment at the time of sentencing in a payment acceptable to the Clerk of the United States District Court, and further understands that the defendant will be required to do so as a condition of this Agreement. Failure to comply with this requirement, however, will not constitute grounds for the defendant to withdraw the defendant's plea of guilty.

PENALTIES AND SENTENCING MATTERS

6. The parties jointly agree that this plea agreement is made pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C), and that the following specific sentence is the appropriate disposition of this case. The parties jointly request that the Court, at a hearing to be scheduled at an agreed-upon time, impose the following specific sentence. Taking into consideration the factors set forth in 18 U.S.C. §§ 3553(a), 3571(d), and 3572, the agreed-upon sentence is as follows:

- a. Defendant agrees to pay a criminal fine of \$10,488,000.00 to the Clerk of the United States District Court within ten business days of the Court's entry of judgment and conviction. The parties agree that the fine

provisions of the United States Sentencing Guidelines (U.S.S.G.) do not apply to organizational defendants for misdemeanor violations of the Food, Drug, and Cosmetic Act, pursuant to U.S.S.G. § 8C2.1.

b. Defendant agrees to forfeit \$8,740,000.00, which it will pay to the United States Marshals Service Asset Deposit Fund, within ten business days of the Court's entry of judgment and conviction. Defendant agrees to sign any documentation necessary to accomplish the forfeiture.

c. Defendant and the government agree that the fine and forfeiture payments represent a fair and just resolution of all issues related to the conduct described in the statement of facts.

d. Consistent with the considerations outlined in U.S.S.G. § 8D1.1, Defendant and the government agree that there shall be no corporate probation in view of the remedial measures taken by Defendant to prevent future distribution of adulterated foods, as outlined below.

e. Defendant agrees to pay the Court's special assessment in the amount of \$125 (*see* 18 U.S.C. § 3013) within five business days of the Court's entry of the judgment and conviction.

DEFENDANT'S ADDITIONAL OBLIGATIONS

7. The government acknowledges that Defendant has fully cooperated with its investigation, and Defendant acknowledges that its prior, ongoing, and

future cooperation is important and a material factor underlying the decision by the government to enter into this plea agreement. Defendant therefore agrees to continue to cooperate fully with the government as may be reasonably requested in relation to the facts described in the plea agreement, subject to any protections afforded by the attorney-client privilege, attorney work product doctrine, and any other applicable legal privilege. That cooperation includes, but is not limited to, the following:

a. Upon request by the government, Defendant shall provide to the government complete and truthful non-privileged information regarding Defendant's knowledge of any and all potential criminal activities of any persons in relation to the facts described in this plea agreement. Cooperation under this Paragraph shall include that upon request of the government, Defendant shall designate knowledgeable employees, agents, or attorneys to provide complete, truthful, and accurate non-privileged information and materials to the government as described in this Paragraph;

b. Upon request by the government, Defendant shall provide all non-privileged documents, records, and other tangible evidence in Kerry Inc.'s possession, custody, or control as may reasonably be requested by the government. Cooperation under this Paragraph shall include identification of all documents known to Defendant that may be material to any and all potential

criminal activities related to the facts described in this plea agreement, including granting permission to access non-privileged materials held by third parties; and

c. Upon request by the government, Defendant shall use best efforts to make available, for interviews or testimony, as requested by the government, present or former officers, directors, employees, agents and consultants of Defendant. This obligation includes, but is not limited to, sworn testimony before a federal grand jury or in federal trials, as well as interviews with the government and law enforcement agents. Cooperation under this Paragraph shall include identification of witnesses who, to the knowledge of Defendant, may have material information regarding any and all potential criminal activities related to the facts described in this plea agreement.

8. In exchange for Defendant's cooperation in the investigation and prosecution of other offenses related to the facts contained in the plea agreement, the government agrees that the government will not use any truthful statements, testimony or information provided by Defendant pursuant to this agreement against Defendant at sentencing or as the basis for further prosecution, except that a) the government may use testimony or information provided by Defendant in prosecutions of Defendant's employees; and b) the government may use testimony or information provided by Defendant for impeachment.

FACTUAL BASIS FOR THE GUILTY PLEA

9. Defendant agrees that the government's evidence at trial would establish the following facts, which are true and correct, proving beyond a reasonable doubt each of the elements of the crime charged:

I. Kerry Inc. Background

a. Kerry Inc. is a manufacturer of, among other things, food ingredients and flavors, headquartered in Beloit, Wisconsin. During the period between June 2016 and June 2018, Kerry Inc. manufactured food products at a processing facility in Gridley, Illinois (the "Gridley Facility") that it owned and operated.

b. In January 2015, Kerry Inc. entered into a co-manufacturing agreement with The Kellogg Company ("Kellogg's") to manufacture cold cereal branded as "Kellogg's Honey Smacks" ("Honey Smacks") under Kellogg's label at the Gridley Facility. During the period between June 2016 and June 2018, the Gridley Facility was the sole manufacturer of Honey Smacks sold in the United States.

c. As a condition of producing food for Kellogg's, Kerry Inc. was required to comply with Kellogg's policies designed to promote "Good Manufacturing Practices" or "GMPs." These requirements obligated Kerry Inc. to, among other things, routinely monitor the Gridley Facility for pathogenic

microorganisms in the environment such as *Salmonella*, document all corrective actions taken in response to an environmental positive pathogen test result, and notify Kellogg's of "adverse events" at the Gridley Facility. An adverse event was a GMP breach including but not limited to roof leaks, drain backups, and instances where the quality and safety of Kellogg's foods may be adversely impacted.

d. The Gridley Facility was an approximately 150,000-square-foot food processing building where Kerry Inc. manufactured various food products as well as Honey Smacks. Honey Smacks cereal was produced on a dedicated "Honey Smacks" processing line, which was separate from the areas of the facility dedicated to producing different products.

II. Gridley Facility Plant Conditions

e. During the period between June 2016 and June 2018, managers and employees at the Gridley Facility did not adhere to appropriate practices to ensure sanitary conditions. Various Kerry Inc. personnel at the Gridley Facility and Kerry Inc.'s former Director of Quality of the Cereal North America business unit overseeing the facility were aware of these conditions.

f. First, during the period between June 2016 and June 2018, on the Honey Smacks line and other lines at the Gridley Facility, it was necessary for employees to use water to clean lines. Certain drains at the Gridley Facility did

not have sufficient capacity, and the slope of the floors near these drains did not allow for proper drainage. As a consequence, drains at the Gridley Facility backed up several times during the time period June 2016 through June 2018. Employees at the Gridley facility took measures to prevent standing water. There were two documented drain backups on the Honey Smacks line between June 2016 and June 2018, but employees at the Gridley Facility notified Kellogg's of a drain backup only once, on or about April 24, 2017.

g. Second, on two documented occasions between June 2016 and June 2018, personnel at the Gridley Facility used a "non-food contact tool" on the Honey Smacks production line to remove Honey Smacks product trapped inside the equipment. A non-food contact tool is an implement designated only for use on areas that do not contact food, such as on the floors, walls, or non-food contact areas of processing equipment. Although corrective actions were taken, employees at the Gridley Facility did not inform Kellogg's of these incidents.

h. Third, on several occasions, the Gridley Facility's routine cleans of the Honey Smacks line left food residue on food-contact surfaces for several hours or more, before re-cleaning occurred.

i. Fourth, during the period between June 2016 and June 2018, Gridley operational staff were allowed to move between the Honey Smacks dedicated line and other food production lines during the manufacturing of these products.

This created a situation that would allow environmental pathogens present on adjacent lines to be transferred via the clothes, shoes, and persons of the staff and cross-contaminate the Honey Smacks production areas.

III. *Salmonella* in the Gridley Facility

j. The bacteria *Salmonella* is an environmental pathogen that can contaminate foods and cause illness (called salmonellosis). Persons who have the greatest risk of experiencing salmonellosis due to consumption of foods tainted with *Salmonella* are pregnant persons and their newborns, the elderly, and persons with weakened immune systems. In light of the public health risk, food processing facilities that identify *Salmonella* in their environment must take steps to remedy the problem to prevent finished food from being contaminated.

k. Finished Honey Smacks produced at the Gridley Facility were not routinely tested for pathogens, and Kellogg's did not require routine finished product testing. The Gridley Facility relied on its environmental monitoring program to control for the presence of pathogens and prevent the contamination of finished food.

l. The Gridley Facility conducted two kinds of environmental monitoring tests: "routine" tests were weekly samples taken in the facility; and "vector" tests were investigative swabs taken after a positive routine test to assess the root cause of a pathogen. Tests performed as part of the Gridley

Facility's environmental monitoring program found numerous instances of *Salmonella* in the environment at the Gridley Facility.

m. For every month between June 2016 and June 2018, routine environmental tests showed at least one positive sample for *Salmonella* at the plant. During that timeframe, routine environmental tests showed approximately 81 positive environmental *Salmonella* samples. From June to September 2016 alone, testing returned approximately 30 positive *Salmonella* environmental results. Between June 2016 and June 2018, the Gridley Facility also had approximately 32 positive *Salmonella* environmental vector results.

IV. Delays to Implement Capital Projects

n. Kerry Inc.'s efforts to eradicate the *Salmonella* contamination at the Gridley Facility during the period between June 2016 and June 2018, including increased cleaning and sanitation, were insufficient and unsuccessful. As testing at the Gridley Facility continued to identify *Salmonella* in the environment, employees within Kerry Inc.'s Cereal North America business unit and North America Quality Group considered measures to address the issue and visited the Gridley Facility several times in 2017 to discuss, among other items, the presence of *Salmonella* in the environment at the facility. The Cereal North America business unit considered and planned several capital improvement projects to ameliorate the risk of pathogenic contamination. However, the capital

improvements identified below were not completed before the Honey Smacks recall in June 2018.

o. Beginning in October 2016 and continuing through 2017, Gridley Facility employees identified the base to the “extruder” equipment on two production lines at the Gridley Facility to be potential harborage points for *Salmonella* due to their design. An extruder is a processing system that heats product using a validated kill step and propels it through a small opening to create a desired shape. The Gridley Facility used extruders to process soy protein isolate, which presents a risk for *Salmonella* contamination. The relative proximity of the extruder bases from other lines to the Honey Smacks line, as well as the fact that Gridley Facility workers moved between production lines, meant that *Salmonella* contamination near the extruder bases posed a risk of contaminating the Honey Smacks production environment. In the summer of 2017, certain North America Quality Group employees supported a recommendation to replace the extruder bases “as soon as possible.” In the fall of 2017, Cereal North America business unit supervisors approved a capital expenditure to replace the extruder bases, and the Gridley Facility purchased the extruder bases and made plans to install them. However, these extruder bases were not installed before June 2018.

p. In 2017, Gridley Facility employees sought to reorganize the plant's operations to consolidate processing of soy protein isolate onto a single line, to make it easier to clean the plant. Cereal North America business unit supervisors approved this project. However, it was not completed before June 2018.

q. In 2016 and 2017, Gridley Facility employees proposed building an attached locker room to replace an external temporary facility that was used for changing, which would better secure the Gridley Facility against the potential introduction of pathogens from the outside environment. In February 2018, Kerry Inc.'s former Director of Global Hygiene in the North America Quality Group noted that the Gridley Facility "lacks facilities to adequately control contaminations from employee and visitor entry" and endorsed the locker room as a solution to stop pathogens "at the entry to the factory envelope." Other North America Quality Group supervisors endorsed the project as well. However, although this project was approved following the 2017 proposal, it was not completed before June 2018.

V. The Gridley Facility's Failure to Accurately Document Corrective and Preventative Actions

r. During the period between June 2016 and June 2018, the Gridley Facility routinely failed to accurately document corrective and preventative action ("CAPA") regarding positive tests from its environmental monitoring program. Properly documenting CAPA is important for tracking positive tests

and mitigating chances of recurrence. A quality employee at the Gridley Facility was responsible for preparing CAPAs called "Environmental Investigation Reports" ("EIRs") after each positive test. However, the EIRs were at times prepared days, weeks, or sometimes months after the positive sample.

Numerous examples of these EIRs contained copied-and-pasted language from previous EIRs information related to the corrective actions taken.

VI. Kerry Inc.'s Reporting of Environmental Results

s. Personnel at the Gridley Facility understood that the Gridley Facility was not required to and did not report to Kellogg's the environmental monitoring data from lines at the Gridley Facility that manufactured products other than Honey Smacks. During the period between June 2016 and June 2018, employees at the Gridley Facility reported to Kellogg's positive environmental results on the Honey Smacks line, which represented approximately 10% of the facility's overall environmental monitoring positives.

t. Kellogg's required that each positive *Salmonella* sample on the Honey Smacks Line at the Gridley Facility be analyzed to determine the species of *Salmonella*. Kerry Inc. conducted this "speciation" as required. The third-party lab that conducted the swab testing for the Gridley Facility "speciated" samples and would generally supply this information to the Gridley Facility within two weeks after the initial positive notification.

u. In July 2017, employees at the Gridley Facility communicated to Kellogg's species identification information for a *Salmonella* positive on a swab taken from the Honey Smacks line; the species was *Salmonella* Mbandaka. In August 2017, the Gridley Facility's swabbing program again found *Salmonella* Mbandaka on the Honey Smacks line, and the Gridley Facility did not share this particular speciation information with Kellogg's until after June 2018. Separately, employees at the Gridley Facility informed Kellogg's that positive *Salmonella* test results were "speciated" to Mbandaka in July 2016 and April 2018.

VII. Recall of Honey Smacks and Subsequent Voluntary Remediation

v. On June 12, 2018, the Centers for Disease Control and Prevention ("CDC") informed Kellogg's of a *Salmonella* outbreak linked to Honey Smacks produced at the Gridley Facility. On June 14, 2018, Kellogg's issued a nationwide recall for all Honey Smacks produced in the previous year. Kerry Inc. immediately ceased all Honey Smacks production at the Gridley Facility on or about June 14, 2018, and closed the entire Gridley Facility by December 2018.

w. The CDC reported that between March 3, 2018 and August 7, 2018, 135 people in 36 states were sickened by *Salmonella* Mbandaka after eating Honey Smacks. The illnesses were epidemiologically traced to the Gridley Facility. The CDC compared the genome sequences of *Salmonella* present in victims against

the *Salmonella* strain identified in the Gridley Facility's environment and determined that the samples demonstrated a "high[] level of relatedness".

x. After the recall, in addition to shutting down the Gridley Facility, Kerry Inc. terminated the employment of a number of Kerry Inc. employees. Kerry Inc. also engaged in a process to compensate, and did compensate, consumers who claimed losses associated with the Honey Smacks recall. Further, Kerry Inc. also engaged in an extensive voluntary assessment of its enterprise-wide food safety and manufacturing processes.

y. Kerry Inc. advises that as part of this process, Kerry Inc. has implemented a wide variety of top-down enhancements to its corporate food safety and compliance program, including:

- Creating a new COO executive leadership role with responsibility for quality, health, safety and environment (QHSE); developing a multi-functional team around the COO structure with responsibility for and governance of food safety programs; implementing real time escalation process of food safety issues, including environmental pathogen positives; upgrading IT systems to support the quality management team; creating a central and independent dedicated food safety audit team; and updating and enhancing its training programs and expanding its food safety team with technical experts,

- including sanitation, microbiology and food safety experts.
- Undertaking steps to improve its current Good Manufacturing Practices (“cGMPs”) and sanitation program, including by launching a program to promote awareness among front-line employees; updating and modifying sanitation standards and policies with an emphasis on food safety; site-specific improvements to hygienic zoning and implementing an annual review process for same; re-organizing the sanitation function at plants to report directly to quality professionals; updating all of the company’s food safety plans; and implementing sanitation preventative control for all ready-to-eat (RTE) production lines with pre-operational and operational inspections of the production environment.
 - With respect to testing practices, implementing an enhanced process to ensure appropriate corrective and preventive actions are taken in response to environmental testing results.

Government’s Agreement

10. In exchange for Defendant’s agreement to plead guilty and to waive the rights listed in this plea agreement, the government agrees it will not further criminally prosecute Defendant or its present or former corporate parents, affiliates, subsidiaries, and directors, including its corporate parents, affiliates,

and subsidiaries as of the date of signing of this agreement by Kerry Inc. for the conduct giving rise to the charge contained in the Information included as Exhibit A to this agreement and based on the facts set forth in this plea agreement.

Defendant's Related Agreement

11. Advice of Trial Rights. Defendant understands that Defendant has the following rights:

- (1) The right to plead not guilty, or having already so pleaded, to persist in that plea;
- (2) The right to a trial by jury;
- (3) The rights at trial to confront and cross-examine adverse witnesses; to be protected from compelled self-incrimination (the right to remain silent); to testify and present evidence; and to compel the attendance of witnesses;
- (4) The right to be represented by counsel - and, if necessary, to have the court appoint counsel at public expense - at trial and at every other stage of the proceeding.

12. Waiver of Trial Rights. Defendant understands that, by pleading guilty, Defendant waives and gives up the following rights: the right to plead not guilty; the right to a jury trial; the right to confront and cross-examine adverse witnesses; the right to remain silent, or to testify; and the rights to present

witnesses and to compel the attendance of witnesses at trial. In addition, the Court may require Defendant to answer truthfully questions about the offenses, and Defendant may be prosecuted if Defendant knowingly makes false statements or gives false answers.

13. Waiver of Additional Rights. In addition to giving up the rights described above, Defendant agrees to give up and waive the following:

(1) Pretrial Motions: Defendant understands that Defendant could raise a number of issues and challenges by pretrial motion, including motions to suppress evidence and to dismiss the charges against Defendant. By entering into this agreement and pleading guilty, Defendant agrees to give up any and all claims Defendant has made or might have made by pretrial motion.

(2) Discovery: In addition to waiving pretrial motions, Defendant agrees to give up and waive any claims Defendant may have now or may acquire later to any information possessed by the prosecution team that might be subject to disclosure under discovery rules, including the Federal Rules of Criminal Procedure, the Jencks Act, local court rules, and Court Orders, including information that might be considered exculpatory or impeaching under *Brady v. Maryland* and *Giglio v. United States*. Defendant waives any continuing discovery request and additional discovery. Defendant also

waives all rights to request from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act (5 U.S.C. § 552) or the Privacy Act (5 U.S.C. § 552a).

(3) Appeal: Except as otherwise specified in this plea agreement, Defendant waives all rights to appeal and/or collaterally attack its conviction and sentence. The term "sentence" means any fine, forfeiture order, and/or restitution order and includes the manner and/or method the district court uses to determine, impose, announce, and/or record the sentence. Defendant's waiver of appeal and collateral attack rights does not apply to a claim that Defendant received ineffective assistance of counsel or a claim of prosecutorial misconduct. If Defendant makes a claim of ineffective assistance of counsel, Defendant will waive any claim of attorney/client privilege arising from counsel's representation. That the Defendant is permitted to raise an excepted claim on appeal and collateral attack does not prevent the Government from raising any applicable defenses to such a claim.

(4) Statute of Limitations: Defendant agrees to waive the statute of limitations, and any other time-related defense, to the extent applicable in

this case to the charges to which it is agreeing to plead guilty under this plea agreement, provided that the guilty plea is accepted by the Court. Defendant understands and agrees that, should it withdraw its plea, if its guilty plea is not accepted by the court for whatever reason, or if its conviction is later vacated for any reason, Defendant will waive, for a period of 90 days thereafter, any statute of limitations defense to a prosecution for any criminal violation related to the conduct described herein for which the statute of limitations had not otherwise expired as of November 29, 2021.

(5) Attorney's Fees: Defendant hereby stipulates and agrees that Defendant is not entitled to and shall not seek from the United States any attorney's fees Defendant incurred in connection with this prosecution.

14. Reservation of Rights Regarding Sentencing. Defendant reserves the right to make arguments at sentencing regarding or to appeal any aspects of the sentence not agreed upon and set out in paragraphs 6a.-e.

CONCLUSION

15. Collateral Consequences. Defendant understands that in addition to the punishment described above, Defendant's guilty plea and conviction may have other or collateral consequences. Defendant has discussed with Defendant's attorney the punishments and consequences of pleading guilty,

understands that not all of the consequences can be predicted or foreseen, and still wants to plead guilty in this case. Notwithstanding this agreement, Defendant may continue to make legal or factual arguments related to the conduct covered in the statement of facts in litigation and other legal proceedings in which DOJ is not a party. Kerry Inc. will not (1) make any public statement or (2) make any statement or take any position in litigation in which any United States department or agency is a party, contradicting any statement contained in the Factual Basis for the Guilty Plea. If Kerry Inc. makes a public statement that in whole or in part contradicts a statement of fact contained in the Factual Basis for the Guilty Plea, Defendant breaches the agreement and all charges may be reinstated fully per paragraph 15, below. Kerry Inc. may avoid being in violation of this Plea Agreement by promptly publicly repudiating such statement. For the purposes of this section, the term "public statement" means any statement made or authorized by Kerry Inc.'s directors, officers, management employees, or attorneys, speaking on behalf of the company and includes, but is not limited to, a statement in (1) a press release, (2) public relations material, (3) Kerry Inc. website, and (4) investor communications. Notwithstanding the above, any Kerry Inc. entity may avail itself of any legal or factual arguments available to it in defending litigation brought by a party other than the United States. This section does not apply to any statement made by any individual in the course of

any actual or contemplated criminal, regulatory, administrative or civil case initiated by any governmental party against such individual.

16. Breach of Agreement. In the event Defendant violates or breaches any of the terms of the plea agreement, including Defendant's agreement to cooperate, the government will be released from its obligations under this agreement and in its sole discretion may do any or all of the following: (1) Move to set aside Defendant's guilty plea and proceed on charges included in the information attached as Exhibit A to this plea agreement and any additional charges; (2) Use against Defendant any witness statements or information Defendant provided during the course of cooperation, at sentencing or in any prosecution; and/or (3) Seek additional charges based on false statements, perjury, obstruction of justice, or any other criminal acts committed by Defendant before or during Defendant's cooperation, including offenses disclosed during Defendant's cooperation.

17. Voluntariness. In entering into this Plea Agreement, agreeing to plead guilty, and waiving the rights set forth above, Defendant understands and affirms the following:

(1) Defendant has discussed with Defendant's attorney the charges, the possible punishment upon conviction, the evidence and any defenses to the charges, and the benefits and risks of going to trial;

(2) Defendant has a right to plead not guilty, and by entering this agreement and pleading guilty, Defendant is waiving or giving up a number of important rights, described above;

(3) Defendant has had sufficient time to discuss the case with Defendant's attorney, and is satisfied with the advice given by counsel;

(4) Defendant's good judgment and ability to understand this plea agreement and its consequences are not impaired or diminished due to the use of alcohol, drugs, or medications, nor to the effect of any physical, mental, or emotional illness, disease, or injury. Defendant understands the significance of the proceedings and the importance of the decision to plead guilty and waive rights;

(5) Defendant enters this agreement and decision to plead guilty voluntarily, and not on account of force, threats, promises or inducements, apart from the promises and inducements set forth in this agreement; and

(6) Defendant agrees to plead guilty because Defendant is guilty of the offense charged.

18. Entire Agreement. This Plea Agreement constitutes the entire agreement between Defendant and the government, and is binding only upon those parties. It does not bind any state or local prosecutor, other United States Attorney's Office or other office or agency of the United States Government,

including, but not limited to, the Tax Division of the United States Department of Justice, or the Internal Revenue Service of the United States Department of the Treasury. The parties have not made any other promises or inducements, or entered into any other agreements. The Court may accept or reject this agreement or defer a decision until after further inquiry. If the Court (1) rejects the agreement, or (2) accepts the agreement but declines to follow the agreed-upon sentence, Defendant will be informed of the Court's decision in open court and may withdraw the plea(s) of guilty entered in accordance with this agreement, or may persist in pleading guilty without a plea agreement.

Respectfully submitted,

Amanda N. Liskamm
Acting Director
Department of Justice
Consumer Protection Branch

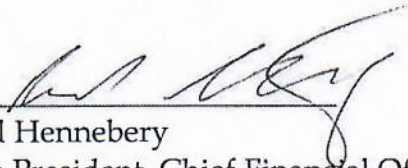
Date: 12/28/2022

By: *Cody Herche*
Cody Matthew Herche
Trial Attorney
James T. Nelson
Senior Trial Attorney
United States Department of Justice
Consumer Protection Branch

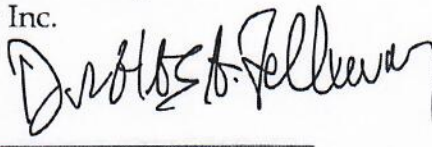
Corporate Acknowledgement of Plea Agreement

I am duly authorized on behalf of Kerry Inc. to execute this Plea Agreement, and to take all such actions as may be necessary to effectuate this Plea Agreement. Kerry Inc., through its duly authorized representatives, has read this Plea Agreement and the attached exhibit in their entirety and has discussed them fully in consultation with Kerry Inc.'s counsel. Kerry Inc. acknowledges that this Plea Agreement fully sets forth Kerry Inc.'s agreement with the United States as it relates to the charges in the Information. Kerry Inc. further states that no additional promises or representations have been made to Kerry Inc. by any official of the United States in connection with the charges in the Information.

Dated: 12/21/2022



Paul Hennebery
Vice President, Chief Financial Officer
and Secretary
Kerry Inc.



Douglas A. Fellman
David Sharfstein
Hogan Lovells US LLP
Attorneys for Defendant Kerry Inc.