
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d)
of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): June 28, 2021

TREEHOUSE FOODS, INC.
(Exact Name of Registrant as Specified in Charter)

Commission File Number: 001-32504

Delaware
(State or Other Jurisdiction
of Incorporation)

20-2311383
(IRS Employer
Identification No.)

2021 Spring Road
Suite 600
(Address of Principal Executive Offices)

Oak Brook IL

60523
(Zip Code)

Registrant's telephone number, including area code: (708) 483-1300

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to section 12(b) of the Act:

Title of each class
Common Stock, \$0.01 par value

Trading Symbol(s)
THS

Name of each exchange on which registered
NYSE

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers

On June 28, 2021, TreeHouse Foods, Inc. (“TreeHouse” or the “Company”) announced that Mr. O’Neill’s employment with the Company and service as General Counsel, Chief Administrative Officer and Corporate Secretary of the Company will terminate effective June 30, 2021. The Company has entered into an Agreement with Mr. O’Neill which provides separation benefits consistent with a termination without cause under his employment agreement.

On June 29, 2021, TreeHouse appointed Kristy N. Waterman, age 41, as its General Counsel and Corporate Secretary, effective July 1, 2021. Prior to joining TreeHouse, Ms. Waterman served as Senior Vice President, Strategy and Chief Administrative Officer of DFA Dairy Brands, the division of Dairy Farmers of America that acquired a substantial portion of Dean Foods Company. Prior to DFA Dairy Brands, Ms. Waterman served as Senior Vice President, General Counsel, Corporate Secretary and Government Affairs of Dean Foods Company and had responsibility for all legal and regulatory matters. She joined Dean Foods in 2014 and held positions of increasing responsibility within the legal department. Ms. Waterman began her career in the Dallas offices of Gardere, Wynne, Sewell and Norton Rose Fulbright, where she practiced general and corporate law, with a focus on mergers, acquisitions, transactions, securities, corporate governance and reporting and filing obligations. Ms. Waterman holds an undergraduate degree in Mathematics and Economics from The University of Texas at Austin and a Juris Doctorate from St. Mary’s University School of Law.

The Company has entered into an Advisory Agreement with Mr. O’Neill for a period of time following his termination date (the “Advisory Agreement”). During the term of the Advisory Agreement, Mr. O’Neill will act as an advisor for the ongoing Keurig Green Mountain litigation in exchange for an annual fee of \$200,000 and a contingent fee based on a percentage of any final settlement for the litigation, which will range from 0.8% to 1.2% of the gross proceeds.

The foregoing descriptions of the Agreement and Advisory Agreement are qualified in their entirety by the terms of the Agreement and Advisory Agreement respectively, copies of which are filed as Exhibit 10.1 and Exhibit 10.2 to this Current Report on Form 8-K and which is incorporated herein by reference.

A copy of the press release related to Mr. O’Neill’s departure and Ms. Waterman’s appointment as General Counsel and Corporate Secretary is filed as Exhibit 99.1 to this Current Report on Form 8-K and is incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits

(d) Exhibits:

Exhibit Number	Exhibit Description
10.1	Agreement, dated June 28, 2021, by and between Thomas E. O'Neill and TreeHouse Foods, Inc.
10.2	Advisory Agreement, dated June 28, 2021, by and between Thomas E. O'Neill and TreeHouse Foods, Inc.
99.1	Press Release, dated June 29, 2021
104	Cover Page Interactive Data File (formatted as Inline XBRL)

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date:	<u>June 29, 2021</u>	By:	<u>/s/ William J. Kelley Jr.</u> William J. Kelley Jr. Executive Vice President & Chief Financial Officer and officer duly authorized to sign on behalf of the registrant
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AGREEMENT

THIS AGREEMENT (this “Agreement”) is dated as of June 28, 2021, by and between Thomas E. O’Neill (“Executive”), and TreeHouse Foods, Inc., a Delaware corporation (together with any successor, the “Company”).

RECITALS

WHEREAS, Executive has been employed by the Company as its Executive Vice President, General Counsel, Chief Administrative Officer and Corporate Secretary pursuant to that certain Amended and Restated Employment Agreement, dated as of February 20, 2018, by and between the Company and Executive (the “Employment Agreement”);

WHEREAS, Executive’s service as an officer of the Company will terminate as of June 30, 2021 (the “Transition Date”);

WHEREAS, this Agreement is intended to govern the benefits and obligations associated with the Executive’s termination of employment with the Company; and

WHEREAS, Executive and the Company intend to enter into an advisory agreement that will govern the terms of Executive’s service to the Company after the Transition Date (the “Advisory Agreement”).

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby expressly acknowledged, the parties agree as follows:

AGREEMENT

1. Transition to Special Advisor Status

(a) Transition. Upon the Transition Date, Executive’s service as an officer of the Company and its affiliates shall terminate. After the Transition Date, the Executive’s services pursuant to the Advisory Agreement shall not exceed 20% of the average level of services performed by Executive over the 36-month period ending on the Transition Date and thus Executive will experience a “separation from service” as defined in Section 409A of the Code as of the Transition Date. Executive and the Company agree that such termination will constitute a “Termination without Cause” as defined in the Employment Agreement. Executive agrees to execute such instruments, including resignation letters, as may be requested by the Company in order to give effect to the foregoing. The Transition Date shall be the last day of Executive’s employment for purposes of active participation in the Company’s group health plans.

(b) Vested Benefits and Earned Compensation. Regardless of whether Executive enters into this Agreement, the Company will pay Executive the Vested Benefits and Earned Compensation (each as defined in the Employment Agreement), in accordance with the timing set forth in the Employment Agreement.

(c) Severance Benefits. As consideration for Executive's promises, covenants and agreements in this Agreement, and provided that Executive does not revoke the release set forth in Section 2 below, the Company will pay or provide Executive with the benefits and payments set forth in Sections 6(e)(ii) and 6(e)(iv) of the Employment Agreement related to a Termination without Cause (such benefits and payments, the "Severance Benefits"). Except as specifically set forth in this Agreement, Executive acknowledges and agrees that he is not entitled to receive any other payment or benefit from the Company in connection with or as a result of his employment with the Company or the termination thereof.

(d) Equity Awards. As of and following the Transition Date, Executive's outstanding awards (the "Awards") under the TreeHouse Foods, Inc. Equity and Incentive Plan, as amended (the "Plan"), shall be treated in accordance with the terms of the Plan and the applicable equity award agreements governing such Awards (the "Award Agreements"); provided, however, that notwithstanding anything in the Plan or the Award Agreements to the contrary, (i) Executive's provision of services pursuant to the Advisory Agreement will not constitute "Service" (as defined in the Plan) for purposes of the Awards, (ii) Executive's Service shall be deemed to have terminated on the Separation Date, and (iii) Executive shall cease vesting in the Awards as of the Separation Date.

2. Release of Claims

(a) The parties agree that the Severance Benefits are in full, final and complete settlement of all claims Executive may have against the Company, its past and present affiliates, and the respective officers, directors, owners, members, employees, agents, advisors, Executives, insurers, attorneys, successors and/or assigns of each of the foregoing (collectively, the "Releasees").

(b) Executive, on behalf of himself and his heirs, executors, successors and assigns, knowingly and voluntarily covenants not to sue, and fully and forever releases and discharges the Company and all other Releasees from any and all legally waivable claims, liabilities, damages, demands, and causes of action or liabilities of any nature or kind, whether now known or unknown, arising out of or in any way connected with Executive's employment with the Company or any of its affiliates or the termination of such employment. This release includes but is not limited to claims arising under federal, state or local laws concerning employment discrimination, termination, retaliation and equal opportunity, including but not limited to Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1967, as amended (the "ADEA"), the Equal Pay Act of 1963, the Americans with Disabilities Act of 1990, as amended, the Worker Adjustment and Retraining Notification Act of 1988, as amended, the Employee Retirement Income Security Act of 1974, as amended (including but not limited to fiduciary claims), claims for attorneys' fees or costs, any and all statutory or common law provisions relating to or affecting Executive's employment with the Company or its affiliates, and any and all claims in contract, tort, or premised on any other legal theory. Executive acknowledges that he is releasing claims based on age, race, color, sex, sexual orientation or preference, marital status, religion, national origin, citizenship, veteran status, disability and other legally protected categories. This provision is intended to constitute a general release of all of Executive's presently existing covered claims against the Releasees arising out of or in any way connected with Executive's employment with the Company or any of its affiliates or the termination of such employment, to the maximum extent permitted by law.

(c) Nothing in this Agreement shall be construed to: (i) waive any rights or claims of Executive that arise after Executive signs this Agreement; (ii) waive any rights or claims of Executive to enforce the terms of this Agreement; (iii) waive or affect any claim that cannot be released by an agreement voluntarily entered into between private parties; (iv) limit Executive's ability to file a charge or complaint with the Equal Employment Opportunity Commission ("EEOC"), the National Labor Relations Board, the Occupational Safety and Health Administration, the Securities and Exchange Commission or any other federal, state or local governmental agency or commission ("Government Agencies"); (v) limit Executive's ability to communicate with any Government Agencies or otherwise participate in any investigation or proceeding that may be conducted by any Government Agency, including providing documents or other information, without notice to the Company; or (vi) release any existing rights that Executive may have, if any, to indemnification pursuant to the Company's governing documents and/or any directors' and officers' insurance policy of the Company for acts committed during the course of Executive's employment. Executive expressly waives and agrees to waive any right to recover monetary damages for personal injuries in any charge, complaint or lawsuit filed by Executive or anyone else on behalf of Executive for any released claims. This Agreement does not limit Executive's right to receive an award for information provided to any Government Agencies.

(d) Nothing in this Agreement shall be construed as an admission of liability by the Company or any other Releasee, and the Company specifically disclaims liability to or wrongful treatment of Executive on the part of itself and all other Releasees.

(e) To the extent permitted by applicable law, Executive agrees that he will not encourage or assist any person to litigate claims or file administrative charges against the Company or any other Releasee, unless required to provide testimony or documents pursuant to a lawful subpoena or other compulsory legal process, in which case he agrees to notify the Company immediately of his receipt of such subpoena so that the Company has the opportunity to contest the same. If any court has or assumes jurisdiction of any action against the Company or any of its affiliates on behalf of Executive, Executive will request that court to withdraw from or dismiss the matter with prejudice. Executive further represents that he has reported to the Company in writing any and all work-related injuries that he has suffered or sustained during his employment with the Company or its affiliates.

(f) Executive represents that he has not filed any complaints or charges against the Company or any of its affiliates with the EEOC, or with any other Government Agency or court, and covenants that he will not seek to recover on any claim released in this Agreement.

(g) Executive acknowledges that (i) he has been given at least twenty-one (21) calendar days to consider this Agreement and that modifications hereof which are mutually agreed upon by the parties hereto, whether material or immaterial, do not restart the twenty-one day period; (ii) he has seven (7) calendar days from the date he executes this Agreement in which to revoke it; and (iii) this Agreement will not be effective or enforceable unless the seven-day revocation period ends without revocation by Executive. Revocation can be made by delivery and receipt of a written notice of revocation to the General Counsel of the Company, by midnight on or before the seventh calendar day after Executive signs this Agreement. Unless timely revoked in accordance with this Section 2(g), this Agreement shall become effective on the eighth calendar day following the date Executive executes this Agreement (the "Effective Date").

(h) Executive acknowledges that he has been advised and has had the opportunity to consult with an attorney of his choice with regard to this Agreement. Executive hereby acknowledges that he understands the significance of this Agreement, and represents that the terms of this Agreement are fully understood and voluntarily accepted by him.

(i) In the event of any lawsuit against the Company or any of its affiliates that relates to alleged acts or omissions by Executive during his employment with the Company or its affiliates, Executive agrees to cooperate with the Company or its affiliates by voluntarily providing truthful and full information as reasonably necessary for the Company or its affiliates to defend against such lawsuit, provided that the Company shall reimburse Executive's reasonable expenses incurred in providing such assistance subject to Executive's delivery of written notice to the Company prior to the time such expenses are incurred.

3. Acknowledgment of Restrictive Covenants. By executing this Agreement, Executive acknowledges and agrees that (a) as further set forth in the Advisory Agreement, he is and shall remain subject to Section 7 of the Employment Agreement (the "Restrictive Covenants"), (b) a breach of the Restrictive Covenants shall constitute a breach by Executive of this Agreement and the Advisory Agreement, and (c) the Company would not have entered into this Agreement but for Executive's promises and covenants in this Agreement, including, but not limited to, the Restrictive Covenants.

4. Cooperation. During the term of the Advisory Agreement and thereafter, Executive agrees to make himself reasonably available to the Company to respond to periodic requests for information relating to the Company or Executive's employment which may be within Executive's knowledge. Executive further agrees to cooperate fully with the Company in connection with any and all existing or future depositions, litigation, or investigations brought by or against the Company, any entity related to the Company, or any of its (their) agents, officers, directors or employees, whether administrative, civil or criminal in nature, in which and to the extent the Company deems Executive's cooperation necessary, other than the pending antitrust litigation against Keurig Dr. Pepper Inc. (the "Keurig Litigation"), which will be exclusively governed by the Advisory Agreement, and no cooperation with respect to the Keurig Litigation will be required if the Advisory Agreement is no longer in effect. Any such cooperation required by the Company hereunder will, to the extent practicable, be scheduled around Executive's other personal and professional commitments. In addition, if Executive's cooperation is sought after the end of the term of the Advisory Agreement for matters other than the Keurig Litigation (which shall be governed solely by the Advisory Agreement), the Company agrees to pay Executive an hourly fee of \$700 for Executive's services hereunder and to reimburse Executive for any expenses reasonably incurred by him in providing such services. Such fee will not be required for Executive's services in connection with any litigation pending as of the date hereof (other than the Keurig Litigation, which will be exclusively governed by the Advisory Agreement). In the event that Executive is subpoenaed in connection with any litigation or investigation, Executive will immediately notify the Company.

5. Non-Disparagement. Executive shall not disparage, slander or injure the business reputation or goodwill of the Company (or any subsidiary) in any material way, including, by way of illustration, through any contact with vendors, suppliers, employees or agents of the Company (or any subsidiary) which could materially harm the business reputation or goodwill of

the Company (or any subsidiary). The Company agrees and covenants that it shall direct its officers and directors to refrain from making any defamatory or disparaging remarks, comments, or statements concerning Executive to any third parties.

6. Section 409A. This Agreement is intended to comply with the requirements of Section 409A of the Internal Revenue Code of 1986, as amended (the “Code”), and shall be interpreted and construed consistently with such intent. The payments to Executive pursuant to this Agreement and the Employment Agreement are also intended to be exempt from Section 409A of the Code to the maximum extent possible, under either the separation pay exemption pursuant to Treasury regulation §1.409A-1(b)(9)(iii) or as short-term deferrals pursuant to Treasury regulation §1.409A-1(b)(4), and for this purpose each payment shall constitute a “separately identified” amount within the meaning of Treasury Regulation §1.409A-2(b)(2). In the event the terms of this Agreement would subject Executive to taxes or penalties under Section 409A of the Code (“409A Penalties”), the Company and Executive shall cooperate diligently to amend the terms of this Agreement to avoid such 409A Penalties, to the extent possible; provided that in no event shall the Company be responsible for any 409A Penalties that arise in connection with any amounts payable under this Agreement. To the extent any amounts payable under this Agreement are subject to Section 409A of the Code and are payable by reference to Executive’s “termination of employment,” such term shall be deemed to refer to Executive’s “separation from service,” within the meaning of Section 409A of the Code. Any reimbursement or advancement payable to Executive pursuant to this Agreement or otherwise shall be conditioned on the submission by Executive of all expense reports reasonably required by the Company under any applicable expense reimbursement policy, and shall be paid to the Executive within 30 days following receipt of such expense reports, but in no event later than the last day of the calendar year following the calendar year in which Executive incurred the reimbursable expense. Any amount of expenses eligible for reimbursement, or in-kind benefit provided, during a calendar year shall not affect the amount of expenses eligible for reimbursement, or in-kind benefit to be provided, during any other calendar year. The right to any reimbursement or in-kind benefit pursuant to this Agreement or otherwise shall not be subject to liquidation or exchange for any other benefit.

7. Assignment. This Agreement is for the sole benefit of the parties and their respective heirs, representatives, successors and permitted assigns, and shall run to the benefit of the Releasees and each of them and to their respective heirs, representatives, successors and permitted assigns, and nothing herein, express or implied, is intended to or shall confer upon any other person any legal or equitable right, benefit, or remedy of any nature whatsoever. Notwithstanding the foregoing, this Agreement may be assigned by the Company and shall be binding and inure to the benefit of the Company, its successors and assigns. Any affiliate or subsidiary of the Company may (a) enforce the Company’s rights under this Agreement, (b) take advantage of the benefits conferred upon the Company by this Agreement, (c) rely on the representations, warranties and covenants given by Executive under this Agreement, and (d) rely on the exclusions and limitations of liability benefiting the Company under this Agreement. Executive may not assign, delegate, subcontract or license this Agreement, including, without limitation, any of Executive’s rights, duties and obligations hereunder. Any attempted assignment, delegation, subcontract or licensing of this Agreement or of such rights, duties or obligations shall be void and of no effect.

8. Interpretation and Construction. The parties hereto acknowledge that each party is represented by counsel or has been advised to obtain and has declined to obtain counsel. The parties intend that any rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto. Any captions or headings used in this Agreement are for convenience only and do not define or limit the scope of this Agreement.

9. Notices. Any notice required or desired to be delivered under this Agreement shall be in writing and shall be delivered personally, by courier service, by registered mail, return receipt requested, or by telecopy and shall be effective upon actual receipt when delivered or sent by telecopy and upon mailing when sent by registered mail, and shall be addressed as follows (or to such other address as the party entitled to notice shall hereafter designate in accordance with the terms hereof):

If to the Company:

TreeHouse Foods, Inc. 2021 Spring Road
Suite 600
Oak Brook, IL 60523
Attention: General Counsel

If to Executive:

To Executive's address on file with the Company

10. Applicable Law. This Agreement is entered into under, and shall be governed for all purposes by, the laws of the State of Delaware, without giving effect to any choice of law principles.

11. Resolution of Disputes. Any disputes arising under or in connection with this Agreement shall, at the election of Executive or the Company, be resolved by binding arbitration, to be held in Chicago, Illinois in accordance with the rules and procedures of the American Arbitration Association. Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Costs of the arbitration shall be borne by the Company. Unless the arbitrator determines that Executive did not have a reasonable basis for asserting his position with respect to the dispute in question, the Company shall also reimburse Executive for his reasonable attorneys' fees incurred with respect to any arbitration. Pending the resolution of any arbitration or court proceeding, the Company shall continue payment of all amounts due Executive under this Agreement and all benefits to which Executive is entitled at the time the dispute arises (other than the amounts which are the subject of such dispute).

12. Entire Agreement. This Agreement, the Advisory Agreement and the Employment Agreement together set forth the entire agreement between Executive and the Company, and fully supersede any and all prior agreements or understandings between them regarding its subject matter; provided, however, that nothing in this Agreement is intended to or shall be construed to limit, impair or terminate any obligation of Executive pursuant to any non-competition, non-solicitation, confidentiality or intellectual property agreements that have been signed by Executive where such agreements by their terms continue after Executive's

employment with the Company terminates (including, but not limited to, the Restrictive Covenants).

13. Amendments. This Agreement may not be altered, modified or amended except by a written instrument signed by each of the parties hereto.

14. Severability. Any term or provision of this Agreement which is invalid or unenforceable in any jurisdiction will, as to that jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction. If any provision of this Agreement is so broad as to be unenforceable, the provision will be interpreted to be only as broad as is enforceable.

15. Waiver. Any waiver of any provision or of any breach of this Agreement shall be in writing and signed by the party waiving said provision or breach. No waiver of any breach of any agreement or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof or of any other agreement or provision herein contained. No extension of time for performance of any obligations or acts shall be deemed an extension of the time for performance of any other obligations or acts.

16. Counterparts. This Agreement may be executed in counterparts, and when executed and delivered by all parties in person, by facsimile or email pdf, shall become one (1) integrated agreement enforceable on its terms.

[Signature Page Follows]

IN WITNESS WHEREOF, the Company and Executive have executed this Agreement as of the date first written above.

COMPANY

TreeHouse Foods, Inc.

By: /s/ Steven Oakland
Name: Steven Oakland
Title: Chief Executive Officer

By signing below, Executive acknowledges that he understands he has the right to revoke his signature within seven (7) days from the execution thereof, and that if he does so, this Agreement and the Advisory Agreement shall be null and void and of no force or effect.

EXECUTIVE

/s/ Thomas E. O'Neill
Thomas E. O'Neill

Certain information has been excluded from this exhibit because it is both not material and is of the type that the registrant treats as private or confidential. Redacted information is indicated by brackets.

ADVISORY AGREEMENT

This Advisory Agreement (this “Agreement”) is entered into this 28th day of June, 2021 (the “Effective Date”) by and between TreeHouse Foods, Inc., a Delaware corporation (together with any successor, the “Company”), and Thomas E. O’Neill (“Advisor”).

RECITALS

WHEREAS, Advisor and the Company previously entered into an agreement, dated June 28, 2021 (the “Transition Agreement”) that provides, among other things, that Advisor will cease to be an officer of the Company, effective June 30, 2021 (the “Transition Date”);

WHEREAS, the Company and Advisor have mutually agreed that Advisor will continue to provide services to the Company as an independent contractor and Special Advisor for a period of time after the Transition Date; and

WHEREAS, the Company and Advisor desire to set forth herein their mutual agreement with respect to all matters relating to Advisor’s services during the Term (as defined below).

NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein, the adequacy and sufficiency of which are hereby acknowledged, the Company and Advisor agree as follows:

AGREEMENT

1. Engagement as Advisor.

- (a) Ongoing Services. The Company engages Advisor, and Advisor agrees to make himself available as a non-employee consultant to provide ongoing services (the “Ongoing Services”) relating to (i) on-boarding a successor and (ii) assisting the Company with the pending antitrust litigation against Keurig Dr. Pepper Inc. (the “Keurig Litigation”). Regarding the Keurig Litigation, consistent with the time commitment limitations set forth in Section 9(b) below, Advisor shall perform services that are generally consistent with the services that he performed while serving as the Company’s General Counsel and shall provide such other assistance as shall be reasonably requested by Winston & Strawn LLP (“Winston”), the lead trial counsel, or the Company’s General Counsel or Chief Executive Officer, including performing the general services outlined on a communication from the Company to Advisor, dated June 12, 2021. The Company and Advisor acknowledge and agree that final decision-making authority with respect to any matter that the Advisor works on as part of the
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Ongoing Services, including the Keurig Litigation and management of the Company's advisors with respect to such litigation (including Winston), will rest not with Advisor but rather with the Company's General Counsel, its Chief Executive Officer and the Board. The Company agrees that, during the Term (as defined below), it shall keep Advisor fully informed regarding the Keurig Litigation.

- (b) Advisory Term. The term of this Agreement (the "Term") will begin on the Transition Date and will, unless earlier terminated pursuant to Section 3, end upon the conclusion of the Keurig Litigation for any reason, including: (i) the parties to the litigation entering into a settlement and the Company's collection of all proceeds owed to it as a result of such settlement, (ii) the rendering of a verdict, the exhaustion of all appeals and the Company's collection of all proceeds owed to it as a result of such verdict or (iii) a dismissal of the case for any reason and the final resolution of all appeals related to such dismissal, resulting in no fees owed to the Company (each, a "Resolution").

2. Advisor's Compensation. Advisor will receive the following compensation from the Company during the Term (collectively, the "Advisory Compensation"):

- (a) Annual Fee. The Company will pay Advisor an annual fee of \$200,000, payable monthly in arrears and pro-rated for any partial months (the "Advisory Fee").
- (b) Contingency Fee. The Company will pay Advisor a lump sum payment that will vary based on the outcome of the Keurig Litigation (the "Contingency Fee"). The Contingency Fee will be paid as soon as administratively practicable following a Resolution, but in no event later than March 15 of the year following the Resolution. The Contingency Fee will be determined as set forth on Exhibit A.
- (c) Equity Awards. Advisor shall not receive any equity awards during the Term.

3. Termination of the Advisory Period.

- (a) Voluntary Termination by Advisor or Termination by the Company for Cause: If, during the Term, Advisor's services are terminated either (i) voluntarily by Advisor for any reason or (ii) by the Company for Cause, Advisor shall cease to have any rights under this Agreement (including, for the avoidance of doubt, any right to the payment of the Contingency Fee) other than those accrued prior to the termination date. For the purposes of this Agreement, "Cause" shall mean:
 - (i) Advisor's conviction of a felony or the entering by Advisor of a plea of nolo contendere to a felony charge;
 - (ii) Advisor's material breach of this Agreement; or
 - (iii) Advisor's material breach of Section 7 of the Amended and Restated Employment Agreement, dated as of February 20, 2018 by and between Advisor and the Company (the "Employment Agreement").

Provided, however, that no act or omission shall constitute Cause for purposes of this Agreement unless the Board provides Advisor, within ninety (90) days of the Board learning of such act or acts or failure or failures to act:

- (i) written notice of the intention to terminate him for Cause, which notice states in detail clearly and fully the particular act or acts or failure or failures to act that constitute the grounds on which the Board reasonably believes in good faith constitutes Cause; and
 - (ii) an opportunity, within thirty (30) days following Advisor's receipt of such notice, to meet in person with the Board to explain or defend the alleged act or acts or failure or failures to act relied upon by the Board and, to the extent such cure is possible, to cure such act or acts or failure or failures to act. If such conduct is cured to the reasonable satisfaction of the Board, such notice of termination shall be revoked.
- (b) Termination by the Company without Cause: If, during the Term, Advisor's services are terminated by the Company without Cause, Advisor will be entitled to the Contingency Fee. For the avoidance of doubt, Advisor will have no further entitlement to the Advisory Fee following a termination by the Company without Cause. The Company agrees that following any such termination it shall provide, either directly or through its attorneys, updates to Advisor on material developments regarding the Keurig Litigation, provided that (i) there shall be no obligation for the Company to provide an update on any matter if its attorneys reasonably believe that doing so will jeopardize the availability of the attorney-client privilege or attorney work product protection with respect to such information and (ii) Advisor agrees that he shall keep any such information provided to him pursuant to this Agreement confidential and shall not use it for trading or any other purpose.
- (c) Termination due to Death or Disability: If, during the Term, Advisor's services are terminated due to Advisor's death or Disability, Advisor or Advisor's estate, as applicable, will be entitled to the following benefits:
- (i) If Advisor's death or Disability occurs during the first 12 months of the Term, Advisor (or Advisor's estate, if applicable), will be entitled to any portion of the Annual Fee accrued but unpaid through the date of termination and no other benefits.
 - (ii) If Advisor's death or Disability occurs following the first 12 months of the Term, Advisor (or Advisor's estate, if applicable) will be entitled to the Contingency Fee, paid at the same time and on the same terms as contemplated under Section 2(b).

For the purpose of this Agreement, "Disability" shall mean Advisor's inability, regardless of any reasonable accommodation by the Company, to substantially fulfill the position, duties,

responsibilities and obligations set forth in this Agreement because of physical, mental or emotional incapacity resulting from injury sickness or disease for a period of more than:

- (iii) Four (4) consecutive months; or
- (iv) An aggregate of six (6) months in any twelve (12) month period.

Any question as to the existence or extent of Advisor's disability upon which Advisor and the Company cannot agree shall be determined by a qualified, independent physician jointly selected by the Company and Advisor. If the Company and Advisor cannot agree on the physician to make the determination, then the Company and Advisor shall each select a physician and those physicians shall jointly select a third physician, who shall make the determination. The determination of any such physician shall be final and conclusive for all purposes of this Agreement. Advisor or his legal representative or any adult member of his immediate family shall have the right to present to such physician such information and arguments as to Advisor's disability as he, she or they deem appropriate, including the opinion of Advisor's personal physician. The Company agrees that following any termination for Disability, it shall provide, either directly or through its attorneys, updates to Advisor on material developments regarding the Keurig Litigation, provided that (i) there shall be no obligation for the Company to provide an update on any matter if its attorneys reasonably believe that doing so will jeopardize the availability of the attorney-client privilege or attorney work product protection with respect to such information and (ii) Advisor agrees that he shall keep any such information provided to him pursuant to this Agreement confidential and shall not use it for trading or any other purpose.

- (d) Release of Claims. Any payment of the Contingency Fee under any provision of this Agreement is subject to Advisor's (or Advisor's estate's) execution and non-revocation of a release of claims in a form reasonably acceptable to the Company.

4. Advisor Role. Advisor understands that he will have no authority to bind the Company in any contract or act as the Company's agent, including, for the avoidance of doubt, with respect to the Keurig Litigation. Advisor further understands that, notwithstanding any rights the Advisor may have with respect to a fee based on the Non-Monetary Recovery (as described on Exhibit A), the Company shall have complete discretion to make all decisions regarding its businesses, including all decisions regarding whether and how to market the sale of coffee pods to the commercial/office market.

5. Independent Contractor Status. Nothing herein shall be construed to create a joint venture or partnership between the parties or an employer/employee relationship. Advisor understands and agrees that, except as otherwise provided herein, the manner in which he performs the Consulting Services is in his own discretion and control, and the Company shall not supervise or direct Advisor's performance of those Consulting Services. The Company shall issue an IRS Form 1099 to Advisor in connection with the Consulting Fee hereunder in accordance with applicable law. Accordingly, Advisor will have no authority to bind the Company in any contract or act as the Company's agent, including, for the avoidance of doubt, with respect to the Keurig Litigation. Advisor will secure all licenses or permits required by law and shall comply with all ordinances, laws, orders, rules and regulations pertaining to the Consulting Services. Advisor will be responsible for the payment of all taxes imposed in

connection with, or as a result of, his engagement. Advisor shall indemnify the Company against any liabilities or debts it may incur or suffer arising out of Advisor's failure to properly withhold or pay any applicable taxes. At no time will Advisor be considered an employee of the Company for any purpose, including (but not limited to): (i) coverage under the Federal Insurance Contribution Act, the Federal Unemployment Tax Act and the State Social Security and Unemployment Compensation Acts; and (ii) the collection of income tax at the source of wages. As an independent contractor, Advisor shall not be subject to any employment rules, regulations or policies of the Company. If Advisor is subsequently classified by the Internal Revenue Service as a common law employee, Advisor expressly waives his rights to any benefits to which he was, or might have become, entitled. No workers' compensation insurance shall be obtained by the Company related to his engagement. Advisor will comply with the workers' compensation laws related to his Consulting Services.

6. Indemnification and Insurance.

- (a) The Company agrees that if Advisor is made a party, or is threatened to be made a party, to any action, suit or proceeding, whether civil, criminal, administrative or investigative (a "Proceeding"), by reason of the fact that he is or was a director, officer, employee or advisor of the Company or any subsidiary or affiliate thereof, or is or was serving at the request of the Company as a director, officer, member, employee, agent or advisor of another corporation, partnership, joint venture, trust or other enterprise, including, in each case, service with respect to employee benefit plans, whether or not the basis of such Proceeding is Advisor's alleged action in an official capacity while serving as a director, officer, member, employee, agent or advisor, Advisor shall be indemnified and held harmless by the Company to the fullest extent legally permitted or authorized by the Company's certificate of incorporation or by-laws or resolutions of the Board or, if greater, by the laws of the State of Delaware, against all cost, expense, liability and loss (including, without limitation, attorney's fees, judgments, fines or penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by Advisor in connection therewith, and such indemnification shall continue as to Advisor even if he has ceased to be a director, officer, member, employee, agent or advisor of the Company or other entity and shall inure to the benefit of Advisor's heirs, executors and administrators. If Advisor serves as a director, officer, member, partner, employee, agent or advisor of another corporation, partnership, joint venture, limited liability company, trust or other enterprise (including, in each case, service with respect to employee benefit plans) which is a subsidiary or affiliate of the Company, it shall be presumed for purposes of this Section 6 that Advisor serves or served in such capacity at the request of the Company. The Company shall advance to Advisor all reasonable costs and expenses incurred by him in connection with a Proceeding within thirty (30) days after receipt by the Company of a written request for such advance. Such request shall include an undertaking by Advisor to repay the amount of such advance, if it shall ultimately be determined that he is not entitled to be indemnified against such costs and expenses.

- (b) The Company agrees to continue and maintain a directors' and officers' liability insurance policy covering Advisor to the extent the Company provides such coverage for its executive officers or directors.

7. Restrictive Covenants. Advisor and the Company agree that the restrictive covenants set forth in Section 7 of the Employment Agreement shall continue to apply during the Term. Notwithstanding anything in the Employment Agreement to the contrary, the Company and Advisor acknowledge and agree that the "Date of Termination" for the purposes of such restrictive covenants shall mean the date of the termination of this Agreement.

8. Legal Fees Incurred in Negotiating this Agreement. The Company shall reimburse Advisor for Advisor's reasonable legal fees incurred in negotiating and drafting this Agreement, the Transition Agreement, and any related agreements, up to a maximum amount of \$20,000, provided that, any such payment shall be made on or before March 15 of the calendar year immediately following the Effective Date.

9. Section 409A.

- (a) This Agreement is intended to comply with the requirements of Section 409A of the Internal Revenue Code of 1986, as amended (the "Code"), and shall be interpreted and construed consistently with such intent. The payments to Advisor pursuant to this Agreement are also intended to be exempt from Section 409A of the Code to the maximum extent possible, under either the separation pay exemption pursuant to Treasury regulation §1.409A-1(b)(9)(iii) or as short-term deferrals pursuant to Treasury regulation §1.409A-1(b)(4), and for this purpose each payment shall constitute a "separately identified" amount within the meaning of Treasury Regulation §1.409A-2(b)(2). In the event the terms of this Agreement would subject Advisor to taxes or penalties under Section 409A of the Code ("409A Penalties"), the Company and Advisor shall cooperate diligently to amend the terms of this Agreement to avoid such 409A Penalties, to the extent possible; provided that in no event shall the Company be responsible for any 409A Penalties that arise in connection with any amounts payable under this Agreement. To the extent any amounts payable under this Agreement are subject to Section 409A of the Code and are payable by reference to Advisor's "termination of service," such term shall be deemed to refer to Advisor's "separation from service," within the meaning of Section 409A of the Code. Any reimbursement or advancement payable to Advisor pursuant to this Agreement or otherwise shall be conditioned on the submission by Advisor of all expense reports reasonably required by the Company under any applicable expense reimbursement policy, and shall be paid to the Advisor within 30 days following receipt of such expense reports, but in no event later than the last day of the calendar year following the calendar year in which Advisor incurred the reimbursable expense. Any amount of expenses eligible for reimbursement, or in-kind benefit provided, during a calendar year shall not affect the amount of expenses eligible for reimbursement, or in-kind benefit to be provided, during any other calendar year. The right to any reimbursement or in-kind benefit pursuant to this Agreement or otherwise shall not be subject to liquidation or exchange for any other benefit.

- (b) During the Term, the Advisor's services shall not exceed 20% of the average level of services performed by Advisor over the 36-month period ending on the Transition Date and thus Advisor will experience a "separation from service" as defined in Section 409A of the Code as of the Transition Date.

10. Enforceability. If a court of competent jurisdiction or an arbitrator determines that any provision of this Agreement is invalid or unenforceable, then the invalidity or unenforceability of that provision shall not affect the validity or enforceability of any other provision of this Agreement, and all other provisions shall remain in full force and effect and such invalid or unenforceable provision shall be reformulated by such court to preserve the intent of the parties hereto.

11. Successors and Assigns. This Agreement shall inure to the benefit of and be enforceable by Advisor and by Advisor's personal or legal representatives, executors and administrators and by the Company and its successors. The Company may assign this Agreement to Bay Valley Foods, Inc., Sturm Foods, Inc., or to any other subsidiary that has a significant financial interest in the Keurig Litigation, the financial capability to satisfy the Advisory Agreement, and that expressly assumes the Advisory Agreement. For the avoidance of doubt, any spin-off, split-off, or other reorganization of the Company or the creation of a contingent right regarding the Keurig Litigation shall not affect the Advisor's rights to the Contingency Fee. Also for the avoidance of doubt, Advisor may not assign the performance of his duties under this Agreement to any other person. In the event of the death of Advisor while any amounts are payable to Advisor hereunder, all such amounts, unless otherwise provided herein, shall be paid in accordance with the terms of this Agreement to Advisor's estate.

12. Notices. All notices and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given by a party hereto when delivered personally or by overnight courier that guarantees next day delivery or five days after deposit in the United States mail, postage prepaid to the following address of the other party hereto (or to such other address of such other party as shall be furnished in accordance herewith) if to the Company, to TreeHouse Foods, Inc., Attention: General Counsel, 2021 Spring Road, Suite 600, Oak Brook, IL 60523, and if to Advisor, to the last known address of Advisor in the records of the Company, which Advisor may update from time to time by way of the notice procedure set forth in this Section 10.

13. Entire Agreement. Except as otherwise specifically provided herein, this Agreement, the Transition Agreement, and Section 7 of the Employment Agreement, constitutes the entire agreement and understanding of the parties with respect to the subject matter hereof and with respect to Advisor's engagement by the Company and supersedes all prior employment or severance or other agreements between Advisor and the Company and its subsidiaries, whether written or oral, or any of its predecessors or affiliates. Except as otherwise provided herein, Advisor acknowledges that no representation, inducement, promise, or agreement, oral or written, has been made by either party, or by anyone acting on behalf of either party, which is not embodied herein, and that no agreement, statement, or promise relating to Advisor's separation from the Company and its subsidiaries and affiliates that is not contained in this Agreement or the Transition Agreement shall be valid or binding. Advisor represents and acknowledges that in executing this Agreement, he does not rely, and has not relied, upon any representation(s) by the

Company or its agents except as expressly contained in this Agreement. Any modification of this Agreement will be effective only if it is in writing and signed by both parties.

14. Waivers. No failure by either party hereto at any time to give notice of any breach by the other party of, or to require compliance with, any condition or provision of this Agreement shall (i) be deemed a waiver of similar or dissimilar provisions or conditions at the same or at any prior or subsequent time or (ii) preclude insistence upon strict compliance in the future.

15. Applicable Law. This Agreement is entered into under, and shall be governed for all purposes by, the laws of the State of Delaware, without giving effect to any choice of law principles.

16. Dispute Resolution. Any disputes arising under or in connection with this Agreement shall, at the election of Advisor or the Company, be resolved by binding arbitration, to be held in Chicago, Illinois in accordance with the rules and procedures of the American Arbitration Association. Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Costs of the arbitration shall be borne by the Company. Unless the arbitrator determines that Advisor did not have a reasonable basis for asserting his position with respect to the dispute in question, the Company shall also reimburse Advisor for his reasonable attorneys' fees incurred with respect to any arbitration. Pending the resolution of any arbitration or court proceeding, the Company shall continue payment of all amounts due Advisor under this Agreement and all benefits to which Advisor is entitled at the time the dispute arises (other than the amounts which are the subject of such dispute).

17. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

[Signature Page to Follow]

WHEREFORE, the Company and Advisor, by their signatures below, evidence their agreement to the provisions stated above.

TREEHOUSE
FOODS, INC.

By: /s/ Steven
Oakland
Steven Oakland
Chief Executive
Officer

Date: June 28, 2021

ADVISOR

/s/Thomas E.
O'Neill
Thomas E. O'Neill

Date: June 28, 2021

Exhibit A
Contingency Fee

Advisor's Contingency Fee shall equal the sum of any (i) Monetary Recovery Fee plus (ii) any Non-Monetary Recovery Fee (in aggregate the Contingency Fee).

Advisor's Monetary Recovery Fee shall equal (A) 1.2% of the gross cash proceeds of the Keurig Litigation up to and including \$[_____] and (B) 0.8% of the gross cash proceed of the Keurig Litigation for all amounts in excess of \$[_____].

Advisor's Non-Monetary Recovery Fee shall equal 1.2% of the Non-Monetary Recovery, if the gross cash proceeds related to the Keurig Litigation are less than \$[_____] until the sum of the gross cash proceeds related to the Keurig Litigation and the Non-Monetary Recovery equals \$[_____] and .8% of the Non-Monetary Recovery thereafter. The Non-Monetary Recovery shall be calculated and paid consistent with a letter from the Company to a third party defining Non-Monetary Recovery dated June 13, 2018.



NEWS RELEASE

TreeHouse Foods Appoints Kristy N. Waterman Executive Vice President, General Counsel and Corporate Secretary

OAK BROOK, Ill., June 29, 2021 – TreeHouse Foods, Inc. (NYSE: THS) today announced that Kristy N. Waterman will join the Company as Executive Vice President, General Counsel and Corporate Secretary, effective July 1, 2021. Ms. Waterman will have responsibility for TreeHouse’s legal, compliance and ethics organization and will also serve as corporate secretary. She will report directly to Steve Oakland, CEO and President of TreeHouse.

Ms. Waterman most recently served as Senior Vice President, Strategy and Chief Administrative Officer of DFA Dairy Brands, the division of Dairy Farmers of America that acquired a substantial portion of Dean Foods Company. She succeeds Tom O’Neill, who will become a consultant focused on the ongoing litigation with Keurig Green Mountain and provide a smooth transition of his responsibilities.

“I am delighted to welcome Kristy to TreeHouse,” said Mr. Oakland. “She is a results-driven leader and brings a wealth of experience across securities, capital markets and mergers and acquisitions. Kristy is an excellent fit for the organization, and we look forward to her strong contributions as TreeHouse continues our strategic journey to build a company with long-term sustainable growth and create value for our customers and our shareholders.”

“I also want to express my deep gratitude to Tom for his many contributions to TreeHouse throughout his tenure,” continued Mr. Oakland. “Tom has been instrumental in growing and evolving TreeHouse into the organization it is today. He guided TreeHouse in developing a first-class food safety, regulatory and compliance culture, and is responsible for establishing our code of ethics, both of which now serve as foundational elements of our great company.”

Prior to DFA Dairy Brands, Ms. Waterman served as Senior Vice President, General Counsel, Corporate Secretary and Government Affairs of Dean Foods Company and had responsibility for all legal and regulatory matters. She joined Dean Foods in 2014 and held positions of increasing responsibility within the legal department. Ms. Waterman began her career in the Dallas offices of Gardere, Wynne, Sewell and Norton Rose Fulbright, where she practiced general and corporate law, with a focus on mergers, acquisitions, transactions, securities, corporate governance and reporting and filing obligations. Ms. Waterman received her undergraduate degree from University of Texas at Austin and earned her law degree from St. Mary’s University School of Law.

About TreeHouse Foods

TreeHouse Foods, Inc. is a leading manufacturer and distributor of private label packaged foods and beverages in North America. We have approximately 40 production facilities across North America and Italy, and our vision is to be the undisputed solutions leader for custom brands for our customers. Our extensive product portfolio includes snacking, beverages, and meal preparation products, available in shelf stable, refrigerated, frozen, and fresh formats. We have a comprehensive offering of packaging formats and flavor profiles, and we also offer clean label, organic, and preservative-free ingredients across almost our entire portfolio. Our purpose is to make high quality food and beverages affordable to all.

Additional information, including TreeHouse's most recent Forms 10-Q and 10-K, may be found at TreeHouse's website, <http://www.treehousefoods.com>.

Forward-Looking Statements

This press release contains "forward-looking" statements within the meaning of the Private Securities Litigation Reform Act of 1995. These forward-looking statements and other information are based on our beliefs, as well as assumptions made by us, using information currently available. The words "anticipate," "believe," "estimate," "project," "expect," "intend," "plan," "should," and similar expressions, as they relate to us, are intended to identify forward-looking statements. Such statements reflect our current views with respect to future events and are subject to certain risks, uncertainties, and assumptions. Should one or more of these risks or uncertainties materialize, or should underlying assumptions prove incorrect, actual results may vary materially from those described herein as anticipated, believed, estimated, expected, or intended. We do not intend to update these forward-looking statements following the date of this press release. Such forward-looking statements, because they relate to future events, are by their very nature subject to many important factors that could cause actual results to differ materially from those contemplated by the forward-looking statements contained in this press release and other public statements we make. Such factors include, but are not limited to: risks related to the impact of the ongoing COVID-19 outbreak on our business, suppliers, consumers, customers and employees; the success of our growth, reinvestment, and restructuring programs, our level of indebtedness and related obligations; disruptions in the financial markets; interest rates; changes in foreign currency exchange rates; customer concentration and consolidation; raw material and commodity costs; competition; disruptions or inefficiencies in our supply chain and/or operations, including from the ongoing COVID-19 outbreak; our ability to continue to make acquisitions in accordance with our business strategy or effectively manage the growth from acquisitions; changes and developments affecting our industry, including consumer preferences; the outcome of litigation and regulatory proceedings to which we may be a party; product recalls; changes in laws and regulations applicable to us; disruptions in or failures of our information technology systems; costs associated with shareholder activism, labor strikes or work stoppages; and other risks that are set forth in the Risk Factors section, the Legal Proceedings section, the Management's Discussion and Analysis of Financial Condition and Results of Operations section, and other sections of our Annual Report on Form 10-K for the year ended December 31, 2020, and from time to time in our filings with the Securities and Exchange Commission ("SEC"). You are cautioned not to unduly rely on such forward-looking statements, which speak only as of the date made when evaluating the information presented in this press release. TreeHouse expressly disclaims any obligation or undertaking to disseminate any updates or revisions to any forward-looking statement contained herein, to reflect any change in its expectations with regard thereto, or any other change in events, conditions or circumstances on which any statement is based.

Investor Contact

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