

1 HEATHER DAVIS, SBN 239372
heather@protectionlawgroup.com
2 AMIR NAYEBDADASH, SBN 232204
amir@protectionlawgroup.com
3 **PROTECTION LAW GROUP, LLP**
237 California Street
4 El Segundo, California 90245
5 Telephone: (424) 290-3095
Facsimile: (866) 264-7880

6 Attorneys for Plaintiff
7 MELCHOR DIAZ

8 CLINT D. ROBISON, SBN 158834
crobison@ohaganmeyer.com
9 MICHAEL I. KESSLER, SBN 332018
mkessler@ohaganmeyer.com
10 **O'HAGAN MEYER**
21550 Oxnard Street, Suite 1050
11 Woodland Hills, CA, 91367
12 Telephone: (213) 306-1610
13 Facsimile: (213) 306-1615

14 Attorneys for Defendant
HOUSE FOODS AMERICA CORPORATION

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **COUNTY OF ORANGE**

17 MELCHOR DIAZ, individually, on behalf of
18 others similarly situated, and as an aggrieved
19 employee and private attorney general,

20 Plaintiff,

21 vs.

22 HOUSE FOODS AMERICA
CORPORATION, a California corporation;
23 and DOES 1 through 50, inclusive,

24 Defendants.
25
26
27
28

Case No.: 30-2020-01141058-CU-OE-CXC

Hon. Randall J. Sherman
Dept. CX105

CLASS ACTION

**JOINT STIPULATION OF CLASS
ACTION SETTLEMENT AND RELEASE
OF CLAIMS**

Complaint Filed: May 26, 2020
Trial Date: Not set

1 This Joint Stipulation of Class Action Settlement and Release of Claims (“Settlement” or
2 “Agreement”) is made and entered into by and between Plaintiff MELCHOR DIAZ (“Plaintiff” or
3 “Class Representative”), individually and on behalf of all putative class members, and Defendant
4 HOUSE FOODS AMERICA CORPORATION (“Defendant” or “HFAC”). Plaintiff and Defendant
5 are collectively referred to herein as “the Parties.”

6 **I. DEFINITIONS**

7 The following definitions are applicable to this Settlement, in addition to other terms defined
8 elsewhere in this Settlement:

9 1. “Superior Court” shall mean the Superior Court of California for the County of
10 Orange.

11 2. The “Action” shall mean the operative Complaint of the civil action commenced on
12 May 26, 2020, filed and maintained by Plaintiff against Defendant in the Superior Court of California,
13 Orange County, Case No. 30-2020-01141058-CU-OE-CXC.

14 3. The “Class Period” shall mean the period of time from and including May 26, 2016,
15 through December 24, 2021.

16 4. “Class” shall mean all persons employed by House Foods America Corporation, in
17 California, as an hourly-paid non-exempt employee, at any time between May 26, 2016, and
18 December 24, 2021. “Class Member” shall mean an individual who is a member of the Class (or if
19 any such person is incompetent, deceased, or unavailable due to military service, the person’s legal
20 representative or successor in interest evidenced by reasonable verification).

21 5. “Class Counsel” shall mean the attorneys representing Plaintiff in the Action, Heather
22 Davis, Esq. and Amir Nayebdadash, Esq. of Protection Law Group, LLP.

23 6. “Defense Counsel” shall mean the attorneys representing Defendant in the Action,
24 Clint Robison, Esq. and Michael Kessler, Esq. of O’Hagan Meyer.

25 7. “Non-Participating Class Member” shall mean a Class Member who submits a
26 complete, valid, and timely request to be excluded from the Settlement pursuant to the instructions
27 provided in the Class Notice.
28

1 8. The “PAGA Period” shall mean the period of time from and including May 26, 2019
2 through December 24, 2021.

3 9. The “PAGA Group” shall mean all persons employed by House Foods America
4 Corporation, in California, as an hourly-paid non-exempt employee, at any time between May 26,
5 2019, and December 24, 2021. “PAGA Group Member” shall mean an individual who is a member
6 of the PAGA Group (or if any such person is incompetent, deceased, or unavailable due to military
7 service, the person’s legal representative or successor in interest evidenced by reasonable
8 verification).

9 10. “Participating Class Member” shall mean all Class Members who have not submitted
10 a complete, valid, and timely request to be excluded from the Settlement pursuant to the instructions
11 provided in the Class Notice.

12 11. “Preliminary Approval” shall mean the Superior Court’s preliminary approval of the
13 Settlement without material change that the Parties anticipate will be made following submission of
14 this Agreement to the Court. “Preliminary Approval Date” shall mean the date of the Court’s issuance
15 of its Order Granting the application/motion for Preliminary Approval of the Settlement.

16 12. “Settlement Administrator” shall mean ILYM Group, Inc. proposed by the Parties and
17 appointed by the Superior Court to administer the Settlement.

18 13. “Class Counsel Fees Payment” shall mean one-third of the Maximum Settlement
19 Amount (currently estimated to be Eight Hundred and Sixteen Thousand, Six Hundred and Sixty-
20 Seven Dollars and Zero Cents (\$816,667.00) subject to approval by the Superior Court as Class
21 Counsel’s attorneys’ fees incurred in connection with the Action, including fees incurred in pre-filing
22 investigation, filing of the Action, and all related litigation activities, this Settlement, and all post-
23 Settlement compliance procedures.

24 14. “Class Counsel Litigation Expenses Payment” shall mean the actual litigation
25 expenses and/or costs expended by Class Counsel subject to proof and approval by the Superior Court
26 incurred in connection with the Action, including pre-filing investigation, filing of the Action, and all
27 related litigation activities, this Settlement, and all post-Settlement compliance procedures. Class
28

1 Counsel's expenses are not to exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00).

2 15. "Class Representative Payment" shall mean the special payment made to Plaintiff in
3 his capacity as Class Representative to compensate him for prosecuting the Action, and performing
4 work in support of the Action, in the amount of Ten Thousand Dollars and Zero Cents (\$10,000.00),
5 subject to approval by the Superior Court.

6 16. "LWDA Payment" shall mean the payment to the California Labor and Workforce
7 Development Agency ("LWDA") constituting seventy-five percent (75%) of the value assigned to
8 the claim for penalties under the California Labor Code Private Attorneys General Act, California
9 Labor Code Section 2698, *et seq.* ("PAGA"). Specifically, One Hundred and Twelve Thousand Five
10 Hundred Dollars and Zero Cents (\$112,500.00), which shall constitute the LWDA's seventy-five
11 percent (75%) share of One Hundred and Fifty Thousand Dollars and Zero Cents (\$150,000.00) in
12 civil penalties paid under this Settlement. The remaining Thirty-Seven-Thousand Five Hundred
13 Dollars and Zero Cents (\$37,500.00) in civil penalties shall be distributed on a *pro rata* basis based
14 upon the number of pay periods worked by each PAGA Group Member ("PAGA Payment").

15 17. "Settlement Administrator Payment" shall mean the payment to the Settlement
16 Administrator for its fees and expenses in administering this Settlement.

17 18. "Workweek" shall mean any week in which a Class Member actually performed paid
18 work for Defendant during the Class Period as an hourly-paid, non-exempt employee.

19 19. "Individual Workweeks" shall mean the number of Workweeks for an individual
20 Class Member.

21 20. "Pay Period" shall mean any pay period in which a Class Member actually received
22 payment from Defendant as an hourly-paid, non-exempt employee.

23 21. "Individual Pay Periods" shall mean the number of Pay Periods for an individual
24 PAGA Group Member.

25 22. "Settlement Share" shall mean the value of each Participating Class Member's share
26 of the Net Settlement Amount as provided by this Agreement.

27 23. "PAGA Payment Share" shall mean the value of each PAGA Group Member's share
28

1 of the PAGA Payment as provided by this Agreement.

2 24. "Maximum Settlement Amount" shall mean the maximum settlement amount of Two
3 Million Four Hundred and Fifty Thousand Dollars and Zero Cents (\$2,450,000.00) payable by
4 Defendant as provided by this Agreement, unless that amount is increased pursuant to Paragraph 25
5 below, exclusive of the normal employer's share of any payroll taxes attributable to the Settlement
6 Share payments allocated to wages. Defendant's payment of the normal employer's share of payroll
7 taxes will be made separately and shall not come from the Maximum Settlement Amount.

8 25. Defendant represents that as of October 28, 2021, the number of Workweeks in the
9 Class Period is approximately 63,745. Should the number of Workweeks in the Class Period
10 increase by 10% or more (i.e., to more than 70,120 Workweeks), the Maximum Settlement
11 Amount shall increase by the same number of percentage points above 10% as the actual number of
12 Workweeks above 70,120. For example, if the number of Workweeks during the Class Period is in
13 fact 71,394 (i.e., 12% above 63,745), then the Maximum Settlement Amount shall increase by 2%
14 (i.e., to \$2,499,000).

15 26. "Net Settlement Amount" shall mean the Maximum Settlement Amount, less (i) the
16 Class Representative Payment approved by the Superior Court; (ii) the Class Counsel Fees Payment
17 approved by the Superior Court; (iii) the Class Counsel Litigation Expenses Payment approved by
18 the Superior Court; (iv) the LWDA Payment approved by the Superior Court; (v) the PAGA Payment
19 approved by the Superior Court; (vi) the Settlement Administrator Payment approved by the Superior
20 Court; and (vii) any other fees or expenses (other than Class Counsel Fees Payment and Class Counsel
21 Litigation Expenses Payment) incurred in implementing the terms and conditions of this Agreement
22 as approved by the Superior Court.

23 27. "Class Notice" shall mean the Notice of Proposed Settlement, Preliminary Approval
24 of Settlement, and Hearing Date for Final Court Approval, a sample of which is attached hereto as
25 **Exhibit A**. The Class Notice shall further contain (i) a Class Member's first and last name, (ii) last
26 known address, (iii) employee identification number, if applicable, (iv) the Class Member's
27 Individual Workweeks, (v) the PAGA Group Member's Individual Pay Periods, if applicable; (vi) the
28

1 Class Member's estimated amount of the Settlement Share; and (vii) the PAGA Group Member's
2 estimated PAGA Payment Share, if applicable. The Class Notice shall also provide the Class
3 Members with instructions on how to opt-out of and/or object to the Settlement.

4 28. "Effective Date" shall mean the following occurrences: (i) if no Class Member both
5 objects and files either a timely motion to intervene and/or timely motion to vacate the judgment, then
6 the date the Court enters an order granting Final Approval of the Settlement; (ii) if a Class Member
7 both objects and either files a timely motion to intervene or timely motion to vacate the judgment,
8 then sixty-one (61) days following the date the Court enters an order granting final approval, assuming
9 no appeal is filed; or (iii) if a Class Member both objects and also files a timely motion to intervene
10 or files a motion to vacate the Judgment and also files a timely appeal, then the date of final resolution
11 of that appeal (including any requests for rehearing and/or petitions for certiorari), resulting in final
12 and complete judicial approval of the Settlement in its entirety, with no further challenge to the
13 Settlement being possible. The occurrence of the Effective Date is a prerequisite to any obligation of
14 Defendant to pay any funds into the Settlement Account.

15 29. "Final Approval Hearing" shall mean the hearing to be conducted by the Superior
16 Court to determine whether to finally approve and implement the terms of this Settlement.

17 30. "Judgment" shall mean the Order of Final Judgment entered by the Superior Court that
18 the Parties anticipate will be entered following a Final Approval Hearing on the Settlement in this
19 Action.

20 31. "Employer's Payroll Taxes" shall mean Defendant's share of all payroll taxes payable
21 to any and all government agencies incurred for any payments of Settlement Shares to Participating
22 Class Members pursuant to this Settlement.

23 **II. RECITALS**

24 32. On May 12, 2020, Class Counsel on behalf of Plaintiff and the PAGA Group, gave
25 written notice to the Labor Workforce and Development Agency ("LWDA") of the Labor Code
26 violations Defendant is alleged to have violated ("LWDA Exhaustion Letter").

27 33. On May 26, 2020, Plaintiff commenced the Action against Defendant by filing a
28

1 Complaint in the Superior Court. On July 17, 2020, Plaintiff filed his First Amended Complaint. In
2 the First Amended Complaint, Plaintiff, on behalf of himself and all others similarly situated alleged
3 causes of action for: (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime), (2)
4 Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums), (3)
5 Violation of California Labor Code §§ 226.7 (Unpaid Rest Period Premiums), (4) Violation of
6 California Labor Code §§ 1194, 1197 and 1197.1 (Unpaid Minimum Wages), (5) Violation of
7 California Labor Code §§201, 202, and 203 (Final Wages Not Timely Paid), (6) Violation of
8 California Labor Code §204 (Wages Not Timely Paid During Employment), (7) Violation of
9 California Labor Code § 226(a) (Failure to Provide Accurate Wage Statements), (8) Violation of
10 California Labor Code § 1174(d) (Failure to Keep Accurate Payroll Records), (9) Violation of
11 California Business and Professions Code § 17200, et seq., and (10) Violation of California Labor
12 Code § 2699, et seq. (Private Attorneys General Act).

13
14 34. Defendant denies and continues to deny all of Plaintiff's material allegations.
15 Specifically, Defendant contends: (1) it did not fail to pay the Class the minimum wage or overtime
16 compensation; (2) it provided the Class with all meal periods according to law; (3) it provided the
17 Class with all rest periods according to law; (4) it did not fail to timely pay the Class wages due and
18 owing during employment and/or upon separation; (5) it provided the Class with complete, accurate
19 and itemized wage statements, consistent with Labor Code Section 226; (6) it properly maintained all
20 payroll records; (7) it did not improperly withhold compensation or make any unlawful deductions
21 from employees' wages; (8) it did not violate Business & Professions Code Section 17200, *et seq.*;
22 (9) the PAGA Group is not entitled to penalties under PAGA; and (10) Defendant is not liable for
23 damages, including unpaid wages, liquidated damages, premium pay, restitution, statutory or civil
24 penalties, injunctive relief, attorneys' fees, interest, or costs of litigation to the Class.

25 35. In connection with the Action, and in order to work toward a mediated resolution
26 without the time and expense of formal discovery, the Parties produced voluminous documents and
27 data (including, by Defendant, human resources documents and policies, time records, and payroll
28 data during the Class Period) which were reviewed, investigated, and analyzed by Class Counsel.

1 36. On September 7, 2021, the Parties in Action participated in a full day of mediation
2 before an experienced and well-respected employment and class action mediator, Eve Wagner, which
3 eventually (through further mediated negotiations and discussions with Ms. Wagner) resulted in a
4 settlement of the Action (the “Mediation”).

5 37. The Settlement described in this Agreement represents a compromise and settlement
6 of highly disputed claims. Nothing in this Settlement is intended or will be construed as an admission
7 by Defendant that Plaintiff’s claims in the Action have any merit or that it has any liability to Plaintiff,
8 the Class, the PAGA Group or the State on those claims, or as an admission by Plaintiff that
9 Defendant’s defenses in Action have any merit. This Settlement is intended to fully, finally, and
10 forever compromise, release, resolve, discharge, and settle the released claims subject to the terms
11 and conditions set forth in this Settlement.

12 38. Based on its own thorough, independent investigation and evaluation of this case,
13 Class Counsel is of the opinion that the Settlement of this Action with Defendant for the consideration
14 and on the terms set forth in this Settlement is fair, reasonable, adequate, and in the best interest of
15 the Class in light of all known facts and circumstances, including the risk of significant costs and
16 delay, the risk of non-certification of the Class, the defenses asserted by Defendant including the risks
17 of adverse determinations on the merits and numerous potential appellate issues. Although Defendant
18 contends that it has no liability in the Action, Defense Counsel shares Class Counsel’s belief that the
19 Settlement represents a fair and adequate settlement given the respective risks associated with the
20 case.

21 39. Based on the foregoing Recitals, the Parties agree as follows:
22

23 **III. PROCEDURE FOR APPROVING SETTLEMENT**

24 40. **Motion for Preliminary Approval of Settlement by the Superior Court.** Plaintiff
25 will move the Superior Court for an order granting Preliminary Approval of the Settlement, setting a
26 date for the Final Approval Hearing no earlier than 120 days from the date of the order granting
27 Preliminary Approval of the Settlement, and approving the Class Notice (attached as **Exhibit A** to
28 this Stipulation) (“Motion for Preliminary Approval”). Any unresolved disagreement among the

Parties concerning the Class Notice or other documents necessary to implement the Settlement will be referred first to Eve Wagner.

41. At the hearing on the Motion for Preliminary Approval, the Parties anticipate that they will jointly appear, support the granting of the Motion for Preliminary Approval, and obtain an order granting Preliminary Approval, granting approval of the Class Notice, and setting a date for the Final Approval Hearing no earlier than 120 days from the date of the order granting Preliminary Approval.

42. Should the Superior Court require any amendments to this Agreement or the Motion for Preliminary Approval, the Parties agree to work jointly to resolve any issues in order to secure the Superior Court's Preliminary Approval.

43. Should the Superior Court decline to preliminarily approve any material aspects of the Settlement, the Settlement will be null and void and the Parties will have no further obligations under it. In such event, the Parties shall be returned to their respective positions as of the date and time immediately prior to the execution of this Agreement, and the Parties shall proceed in all respects as if this Agreement had not been executed.

44. **Class Notice.** After the Superior Court enters its order granting Preliminary Approval, every Class Member will be provided with the Class Notice (in English and Spanish) which will include the Class Notice completed to reflect the order granting Preliminary Approval of the Settlement and the Class Member's information as follows:

(a) Within twenty-one (21) days after the Preliminary Approval Date, Defendant will provide to the Settlement Administrator the "Class Members' Data," which shall consist of an electronic database containing (i) each Class Member's first and last name, (ii) last known mailing address, (iii) the Class Member's Social Security number or Tax ID, (iv) the Class Member's employee identification number, if applicable, based on Defendant's payroll records, (v) the Class Member's total number of Individual Workweeks, and (vi) the Class/PAGA Group Members' total number of Individual Pay Periods, if applicable. If any or all of the Class Members' Data are unavailable to Defendant, Defendant will so inform Class Counsel prior to the date on which Defendant is required to submit the Class Members' Data to the Settlement Administrator and the

1 Parties will make their best efforts to reconstruct or otherwise agree upon the Class Members' Data
2 prior to when it must be submitted to the Settlement Administrator. If the Parties are unable to agree,
3 the dispute will be resolved by the Settlement Administrator as provided in Paragraph 47. This
4 information will otherwise remain confidential and will not be disclosed to anyone, except as required
5 to applicable taxing authorities, as required to carry out the reasonable efforts to identify Class
6 Member information as described in this Paragraph 44(c), pursuant to Defendant's express written
7 authorization, or by order of the Superior Court.

8 (b) Within seven (7) days after receiving the Class Members' Data, or as soon
9 thereafter as it is able to do so, the Settlement Administrator will mail the Class Notice to all identified
10 Class Members via first-class U.S. Mail using the mailing address information provided by
11 Defendant, unless modified by any updated address information that the Settlement Administrator
12 obtains in the course of administration of the Settlement.

13 (c) If a Class Notice is returned by the U.S. Postal Service because of an incorrect
14 address, the Settlement Administrator will promptly, and not later than five (5) days from receipt of
15 the returned packet, search for a more current address for the Class Member and re-mail the Class
16 Notice to the Class Member. The Settlement Administrator will use the Class Members' Data and
17 otherwise work with Defense Counsel or utilize its own resources such as skip traces to find a more
18 current address. The Settlement Administrator will be responsible for taking reasonable steps,
19 consistent with its agreed-upon job parameters, court orders, and fee, to trace the mailing address of
20 any Class Member for whom a Class Notice is returned by the U.S. Postal Service. These reasonable
21 steps shall include the tracking of all undelivered mail; performing address searches for all mail
22 returned without a forwarding address; and promptly re-mailing to Class Members for whom new
23 addresses are found. Any such Class Members who failed to receive a Class Notice, or who were
24 subject to a re-mailing of the Class Notice as described herein shall be given an additional fourteen
25 (14) days to opt out or object to the Settlement.

26 (d) The Settlement Administrator will inform Class Counsel and Defense Counsel
27 of the number of returned Class Notices it receives and Class Notices re-mailed in a weekly status
28

1 report.

2 (e) Not later than thirty (30) days prior to the Final Approval Hearing, the
3 Settlement Administrator will serve on the Parties a declaration of due diligence setting forth its
4 compliance with its obligations under this Settlement. The declaration will be filed with the papers
5 submitted with the Motion for Final Approval. Prior to the Final Approval Hearing, the Settlement
6 Administrator will supplement its declaration of due diligence if any material changes occur from the
7 date of the filing of its prior declaration.

8
9 **45. Participating Class Members; Requests for Exclusion from Class Settlement; and**
10 **Objections to Settlement.** Class Members may submit requests to be excluded from the effect of
11 the Settlement; or objections to the Settlement, pursuant to the following procedures:

12 (a) **Participating Class Members.** Each Class Member shall be deemed to be a
13 Participating Class Member unless they submit a complete, timely, and valid request to be excluded
14 from the effect of the Settlement as provided below. All Participating Class Members shall be bound
15 by the provisions and releases contained in this Settlement.

16 (b) **Request for Exclusion from Settlement.** Class Members who wish to
17 exclude themselves from the Settlement (“opt out” of the Settlement) must submit to the Settlement
18 Administrator, not later than sixty (60) days after the date that the Settlement Administrator first mails
19 the Class Notices, an Exclusion Request (“the Exclusion Period”). Exclusion Requests may be
20 submitted to the Settlement Administrator via U.S. Mail only. Class Members must complete, sign,
21 date, and timely return an Exclusion Request to the Settlement Administrator to exclude themselves
22 from the Settlement, setting forth their (i) name, (ii) address, (iii) last four digits of their Social
23 Security number, and (iv) the following statement or a similar statement: “I wish to exclude myself
24 from the settlement reached in the matter of *Diaz v. House Foods America Corporation*. I understand
25 that by excluding myself, I will not receive any money from the Class settlement reached in this
26 matter.” A Class Member who does not complete and submit a valid and timely Exclusion Request
27 in the manner and by the deadline specified above will remain a Participating Class Member and, if
28 the Court approves the Settlement, will be bound by all terms and conditions of the Settlement and

1 by the Judgment. A Class Member who timely submits a valid Exclusion Request will not participate
2 in, or be bound by, the Settlement of the Judgment and will not receive any payment pursuant to the
3 Settlement except for a payment from the portion of the PAGA Payment to the PAGA Group if the
4 Class Member is a PAGA Group Member, and will not be bound by the terms of the Settlement,
5 except for the impact of the release of the PAGA Released Claims by Plaintiff as the representative
6 of the California Labor and Workforce Development Agency, the LWDA, and the State of California
7 if the Class Member is a PAGA Group Member, and will not have any right to object, appeal, or
8 comment thereon. To be valid, Exclusion Requests must be completed in full, signed, and returned
9 to the Settlement Administrator before the expiration of the Exclusion Period. Non-Participating
10 Class Members will not be permitted to file objections to the Settlement and/or appear at the Final
11 Approval Hearing to voice any objections to the Settlement. Members of the PAGA Group cannot
12 seek to exclude themselves from the Settlement of the PAGA claim, but retain all rights to exclude
13 themselves from the Class Settlement as delineated herein. The Settlement Administrator will
14 provide Class Counsel, Defense Counsel, and the Superior Court with only the names of the Non-
15 Participating Class Members.

16
17 (c) **Objections to Settlement.** The Class Notice will provide that any Class
18 Member who does not request exclusion from the Settlement and who wishes to object to the
19 Settlement must serve on the Settlement Administrator, not later than sixty (60) days after the
20 Settlement Administrator initially mails the Class Notice, a written objection to the Settlement which
21 sets forth the grounds for the objection and the other information required by Paragraph 45(d).

22 (d) The written objection must state the Class Member's (i) name, (ii) address, and
23 (iii) last four digits of their Social Security number. The written objection must state the case name
24 and case number along with the basis for each objection in clear and concise terms. The written
25 objection shall also state whether the Class Member intends to appear and object at the Final Approval
26 Hearing. A Class Member who does not serve a written objection in the manner and by the deadline
27 specified may still, nonetheless, appear at the Final Approval Hearing to state their objection to the
28 Settlement at that time. If a Class Member fails to submit a written objection or to appear at the Final

1 Approval hearing to make an oral objection, the Class Member will be deemed to have waived all
2 objections and will be foreclosed from making any objections – whether by appeal or otherwise – to
3 the Settlement.

4 (e) If a Class Member submits both a Request for Exclusion and a written
5 objection, the Settlement Administrator shall attempt to contact and determine whether the Class
6 Member would like to withdraw either the Request for Exclusion or the objection. If the Class
7 Member does not withdraw the Request for Exclusion or if the Settlement Administrator cannot
8 contact a Class Member who submits both a Request for Exclusion and an objection, the Request for
9 Exclusion shall be valid and it shall be presumed that the Class Member does not wish to participate
10 in the Settlement.

11 (f) If the Superior Court rejects the Class Member's objection, or if the Superior
12 Court approves the settlement despite any objections, the Class Member will be deemed to be a
13 Participating Class Member and will be bound by the terms of this Settlement.

14 (g) A Class Member who timely submits a valid Exclusion Request will not
15 participate in, or be bound by, the Settlement or the Judgment and will not receive any payment
16 pursuant to the Settlement except for a payment from the portion of the PAGA Payment to the PAGA
17 Group if the Class Member is a PAGA Group Member, and will not be bound by the terms of the
18 Settlement and Judgment, except for the impact of the release of the PAGA Released Claims by
19 Plaintiff as the representative of the California Labor and Workforce Development Agency, the
20 LWDA, and the State of California if the Class Member is a PAGA Group Member, and will not have
21 any right to object, appeal, or comment thereon.

22
23 46. **Report.** Not later than seven (7) days after the deadline for submission of requests to
24 be excluded and/or objections, the Settlement Administrator will provide both Parties with a report
25 identifying the number of Participating Class Members, the number and name of Non-Participating
26 Class Members, the number of PAGA Group members, and the number of Class Members who
27 submitted a valid, timely, and complete objection. The Parties shall also receive a list of the names
28 of the Class Members who object to the Settlement and the materials provided in support of their

1 objection. The address, last four digits of their Social Security number, and any other contact or
2 identifying information shall be redacted from the materials provided in support of the objection by
3 the Settlement Administrator prior to providing the materials in support of the objection to both
4 Parties.

5 **47. Resolution of Class Member and PAGA Group Member Disputes.** If a Class
6 Member and/or PAGA Group Member disputes the number of his or her Individual Workweeks
7 and/or Individual Pay Periods stated in their Class Notice, the Class Member and/or PAGA Group
8 Member must, within sixty (60) days after the Settlement Administrator initially mails the Class
9 Notice, ask the Settlement Administrator to resolve the matter by returning the Class Notice with a
10 statement of the number of Workweeks and/or Pay Periods that he or she contends were worked and
11 include any documentation the Class Member and/or PAGA Group Member has to support their
12 contention. The Settlement Administrator shall notify Defendant of the dispute and provide them
13 with a copy of the Class Notice and any documentation received in support of the dispute within three
14 (3) court days of receipt thereof. Defendant shall review their payroll and personnel records and
15 verify the correct number of Workweeks and/or Pay Periods within five (5) court days of the
16 Settlement Administrator's notification. Defendant's records will have a rebuttable presumption of
17 accuracy. After consultation with Class Counsel, Defense Counsel, and the applicable Class Member
18 and/or PAGA Group Member, the Settlement Administrator will, within three (3) court days of
19 Defendant's verification, make a determination of the Class Member's and/or PAGA Group
20 Member's number of Workweeks and/or Pay Periods and that determination will be final, binding on
21 the Parties and the Class Member and/or PAGA Group Member, and is not appealable.

22 **48. No Solicitation of Objection; Right to Void.** Neither the Parties, nor their respective
23 counsel, will directly or indirectly solicit or otherwise encourage any Class Member to exclude him
24 or herself from the Settlement, object to the Settlement, and/or appeal from the Judgment. If five
25 percent (5%) or more of the number of Class Members submit a complete, valid, and timely request
26 to be excluded from the Settlement and are deemed to be Non-Participating Class Members, then
27 Defendant shall have the unilateral right to void this Settlement. Defendant may do so by giving
28

1 notice to Plaintiff and the Court of its election to void the Settlement not later than fourteen (14) days
2 after the Settlement Administrator issues its report identifying the number of Participating Class
3 Members, the number of Non-Participating Class Members, and the number of Class Members who
4 objected to the settlement as described in Paragraph 45(c). Notwithstanding any other provisions in
5 this Settlement, no sums shall be payable by Defendant in the event that this Settlement is voided as
6 provided for herein.

7 **49. Additional Briefing and Final Approval.**

8 (a) Not later than sixteen (16) court days before the Final Approval Hearing,
9 Plaintiff will file a Motion for Final Approval of the Settlement, including payment of the Settlement
10 Administrator's Payment, the Class Representative Payment, Class Counsel Litigation Expenses
11 Payment, and Class Counsel Fees Payment ("Motion for Final Approval"). Plaintiff will not seek
12 additional fees from Defendant or an increase in the Maximum Settlement Amount as part of the
13 Motion for Final Approval.

14 (b) Not later than five (5) court days before the Final Approval Hearing, the Parties
15 shall be entitled to file and serve a response to any Class Member's objection to the Settlement and/or
16 reply in support of their Motion for Final Approval, to the extent that any opposition to said Motion
17 is filed.

18 (c) If the Superior Court ultimately does not grant final approval of the Settlement
19 or grants final approval conditioned on any material change to the Settlement that is not agreed to by
20 one of the Parties, then either Party will have the right to void the Settlement. If the Settlement is
21 voided in this manner, the Parties will have no further obligations under the Settlement, including any
22 obligation by Defendant to pay any amounts that otherwise would have been payable under this
23 Settlement, except that the voiding Party will pay the Settlement Administrator's reasonable fees and
24 expenses incurred as of the date that the Party exercises the right to void the Settlement under this
25 paragraph. However, an award by the Superior Court of a lesser amount than that sought by Plaintiff
26 and Class Counsel for the Class Representative Payment, the Class Counsel Fees Payment, and/or the
27 Class Counsel Litigation Expenses Payment, will not constitute a material change to the Settlement
28

1 within the meaning of this paragraph.

2 (d) Upon final approval of the Settlement by the Superior Court at or after the Final
3 Approval Hearing, the Parties will present for the Superior Court's approval and entry a Proposed
4 Final Order and Judgment. The entry of the Final Order and Judgment shall include the name of all
5 Non-Participating Class Members and shall permanently bar all Participating Class Members from
6 prosecuting against Defendant any claims or causes of action of any kind during the Class Period,
7 which were alleged in the operative Complaint in the Action or reasonably could have been alleged
8 by reason of or in connection with any matter or fact set forth or referred to in the operative Complaint
9 in the Action as well as all claims set forth in the paragraph 65 of this Agreement.

10 (e) After entry of the Judgment, the Superior Court will have continuing
11 jurisdiction over the Action and the Settlement solely for purposes of (i) enforcing this Settlement,
12 (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as
13 may be appropriate under court rules or applicable law.

14 50. **Waiver of Right to Appeal.** Provided that the Judgment is consistent with the terms
15 and conditions of this Settlement, Plaintiff, Participating Class Members, Defendant, and their
16 respective counsel hereby waive any and all rights to appeal from the Judgment, including all rights
17 to any post-judgment proceeding and appellate proceeding, such as a motion to vacate judgment, a
18 motion for new trial, a motion under Code of Civil Procedure Section 473, and any extraordinary
19 writ, and the Judgment therefore will become non-appealable by them at the time it is entered. The
20 waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceedings,
21 or post-judgment proceedings. If an appeal is taken from the Judgment, the time for consummation
22 of the Settlement (including making payments under the Settlement) will be suspended until such
23 time as the appeal is finally resolved and the Judgment, consistent with the terms of this Settlement,
24 becomes Final.

25 51. **Vacating, Reversal, or Material Modification of Judgment on Appeal or Review.**
26 If, after a notice of appeal, a petition for review, or a petition for *certiorari*, or any other motion,
27 petition, writ, or application, the reviewing court vacates, reverses, or modifies the Judgment such
28

1 that there is a material modification to the Settlement, and that court's decision is not completely
2 reversed and the Judgment is not fully affirmed on review by a higher court, then either Party will
3 have the right to void the Settlement, which the Party must do by giving written notice to the other
4 Parties, the reviewing court, and the Superior Court, not later than fourteen (14) days after the
5 reviewing court's decision vacating, reversing, or materially modifying the Judgment becomes final.
6 A vacation, reversal, or modification of the Superior Court's award of the Class Representative
7 Payment, the Class Counsel Fees Payment, and/or Class Counsel Litigation Expenses Payment will
8 not constitute a vacation, reversal, or material modification of the Judgment within the meaning of
9 this paragraph.

10 **52. Establishment of Settlement Account.** The Settlement Administrator shall establish
11 a Settlement Account within seven (7) days of the Effective Date and notify the Parties when the
12 Settlement Account has been established. The Settlement Administrator shall also provide Defendant
13 with an itemized statement for the total amount to be deposited into the Settlement Account, which
14 shall equal the Maximum Settlement Amount ("Settlement Account Deposit"). Within seven (7) days
15 after receiving notification of the Settlement Account and statement for the Settlement Account
16 Deposit, Defendant shall pay into the Settlement Account an amount equal to the Settlement Account
17 Deposit. Defendant shall have no obligation to pay any additional funds into the Settlement Account.

18 **53. Payment of Settlement Shares and PAGA Payment Shares.** The Settlement
19 Administrator shall pay to each Participating Class Member his or her Settlement Share and to each
20 PAGA Group Member his or her PAGA Payment Share from the Settlement Account. The Settlement
21 Administrator shall pay each Settlement Share by sending a check in the appropriate amount after
22 withholdings to the Participating Class Member at the address indicated in the Class Member's Data.
23 The Settlement Administrator shall pay each PAGA Payment Share by sending a check in the
24 appropriate amount to the PAGA Group Member at the address indicated in the PAGA Group
25 Member's Data. Such payment shall be sent by the Settlement Administrator via U.S. Mail within
26 fourteen (14) days of its receipt of the Settlement Account Deposit from Defendant.

27 **54. Uncashed Settlement Share and PAGA Payment Share Checks.** Any checks paid
28

1 to Participating Class Members and/or PAGA Group Members shall be negotiable for one hundred
2 and eighty (180) calendar days from the date of their issuance. A Participating Class Member must
3 cash his or her Settlement Share check within one hundred and eighty (180) calendar days after it is
4 mailed to him or her. A PAGA Group Member must cash his or her PAGA Payment Share check
5 within one hundred and eighty (180) calendar days after it is mailed to him or her. If a check remains
6 uncashed after one hundred and eighty (180) calendar days from the initial mailing, or if a check is
7 returned to the Settlement Administrator as undeliverable during the one hundred eighty-day period,
8 the Settlement Administrator shall take all reasonable efforts to identify the Participating Class
9 Member's and/or PAGA Group Member's correct address, including the performance of a "skip-
10 trace." If an updated address can be identified, the Settlement Administrator shall issue another check
11 to the Participating Class Member and/or PAGA Group Member and mail it to the Participating Class
12 Member and/or PAGA Group Member at his or her updated address. If an updated address for the
13 Participating Class Member and/or PAGA Group Member cannot be identified, if a reissued check is
14 once again returned to the Settlement Administrator as undeliverable, or if the reissued check remains
15 uncashed after one hundred eighty (180) calendar days, the Settlement Administrator will keep an
16 accounting of such funds and shall give notice to the Parties of the total balance of uncashed
17 Settlement Shares and/or PAGA Payment Shares. A Participating Class Member who fails to
18 negotiate or receive their Settlement Share check despite the procedures described above shall
19 nevertheless remain bound by the Settlement and the releases contained herein. A PAGA Group
20 Member who fails to negotiate or receive their PAGA Payment Share check despite the procedures
21 described above shall nevertheless remain bound by the Settlement and the releases contained herein.

22
23 55. The funds represented by Settlement Share and/or PAGA Payment Share checks
24 remaining uncashed for more than one hundred and eighty (180) calendar days after issuance shall be
25 voided and then shall be transmitted to the Controller of the State of California to be held pursuant to
26 the Unclaimed Property Law, California Civil Code Section 1500, *et seq.*, in the names of those
27 Participating Class Members and/or PAGA Group Members who did not cash their checks until such
28 time they claim their property. The Parties agree that this disposition results in no "unpaid residue"

under California Civil Procedure Code § 384, as the entire Net Settlement Amount will be paid out to Participating Class Members, whether or not they all cash their settlement checks.

56. **Final Report by Settlement Administrator to Superior Court.** Within ten (10) days after final disbursement of all funds from the Settlement Account, the Settlement Administrator will serve on the Parties and file with the Superior Court a declaration providing a final summary report on the disbursements of all funds from the Settlement Account. Within seven (7) days after transmission of any remaining unclaimed funds to Controller of the State of California the Settlement Administrator will serve on the Parties and file with the Superior Court a declaration providing a final summary report on the transmission of any remaining unclaimed funds to Controller of the State of California as outlined Paragraph 55.

IV. **SETTLEMENT TERMS AND CONDITIONS**

57. **Conditional Certification for Settlement Purposes.** Solely for the purposes of effectuating this Settlement, and subject to Court approval, the Parties hereby stipulate to the conditional certification of the following Settlement Class: “all persons employed by House Foods America Corporation, in California, as an hourly-paid non-exempt employee, at any time between May 26, 2016, and December 24, 2021.” The Parties agree that if for any reason the Settlement is not preliminarily and/or finally approved, the conditional certification of the Settlement Class will be of no force or effect, does not constitute an admission by Defendant that class certification is proper, and will not be deemed admissible in this or any other proceeding, and that the Parties will litigate the issue of class certification.

58. **Settlement Shares.** Subject to the terms and conditions of this Settlement, the Settlement Administrator will calculate the Settlement Shares for each Class Member within seven (7) days after Defendant provide the Settlement Administrator with the Class Members’ Data. The Settlement Share for each Class Member will be calculated as follows, understanding that the formulas below do not constitute an admission by either Party, and are intended only to provide a practical means to simplify and administer the claims process:

(a) **Number of Class Members and Workweeks.** Defendant shall determine the

1 total number of Class Members and the aggregate number of Workweeks for those Class Members
2 during the Class Period. This information shall be provided to the Settlement Administrator along
3 with the Class Members' Data as described in Paragraph 44(a) above.

4 (b) **Calculation of the Workweek Value.** The Settlement Administrator shall
5 determine the value of a Workweek ("Workweek Value") by taking the Net Settlement Amount and
6 dividing it by the sum of all Class Members' Workweeks who do not opt out of the Settlement.

7 (c) **Calculation of Settlement Shares.** The Settlement Administrator shall assign
8 to each Participating Class Member a Settlement Share which shall be equal to the Workweek Value
9 multiplied by each Participating Class Member's Individual Workweeks. Upon calculation of the
10 Participating Class Members' Settlement Shares, the Settlement Administrator shall furnish to Class
11 Counsel and Defense Counsel a worksheet containing a list of employee identification numbers for
12 the Class Members with their corresponding Individual Workweeks and Settlement Shares.

13
14 59. **PAGA Payment Shares.** Subject to the terms and conditions of this Settlement, the
15 Settlement Administrator will calculate the PAGA Payment Shares for each PAGA Group Member
16 within seven (7) days after Defendant provide the Settlement Administrator with the PAGA Group
17 Members' Data. The PAGA Payment Share for each PAGA Group Member will be calculated as
18 follows, understanding that the formulas below do not constitute an admission by either Party, and
19 are intended only to provide a practical means to simplify and administer the claims process:

20 (a) **Number of PAGA Group Members and Pay Periods.** Defendant shall
21 determine the total number of PAGA Group Members and the aggregate number of Pay Periods for
22 those PAGA Group Members during the PAGA Period. This information shall be provided to the
23 Settlement Administrator along with the Class Members' Data as described in Paragraph 44(a) above.

24 (b) **Calculation of the Pay Period Value.** The Settlement Administrator shall
25 determine the value of a Pay Period ("Pay Period Value") by taking the PAGA Payment amount and
26 dividing it by the sum of all PAGA Group Members' Pay Periods.

27 (c) **Calculation of PAGA Payment Shares.** The Settlement Administrator shall
28 assign to each PAGA Group Member a PAGA Payment Share which shall be equal to the Pay Period

1 Value multiplied by each PAGA Group Member's Individual Pay Periods. Upon calculation of the
2 PAGA Group Members' PAGA Payment Shares, the Settlement Administrator shall furnish to Class
3 Counsel and Defense Counsel a worksheet containing a list of employee identification numbers for
4 the PAGA Group Members with their corresponding Individual Pay Periods and PAGA Payment
5 Shares.

6 **60. Taxes and Withholdings.** Each Settlement Share is intended to settle the Class
7 Members' claims for unpaid wages and penalties. Accordingly, twenty percent (20%) of each
8 Settlement Share shall represent unpaid wages and the remaining eighty percent (80%) of each
9 Settlement Share shall represent penalties and interest. The portion of the Settlement Share
10 representing unpaid wages shall be paid to each Participating Class Member subject to any applicable
11 employee-side tax withholdings and deductions, and the Settlement Administrator shall issue an IRS
12 Form W-2 to each Participating Class Member for that amount. The portion of the Settlement Share
13 representing penalties shall be paid to the Participating Class Member in full without deductions or
14 withholdings, and the Settlement Administrator shall issue an IRS Form 1099 to each Participating
15 Class Member for that amount. Each Participating Class Member shall be individually responsible
16 for their own share of applicable income tax withholdings and deductions from the Settlement Share
17 attributable to the portion of the settlement for which an IRS Form 1099 will be issued. Defendant
18 shall be responsible for payment of the Employer Payroll Tax attributable to the Settlement Share
19 payments constituting wages. The Employer's Payroll Tax shall not be deducted from the Maximum
20 Settlement Amount and shall not be included in any payments of Settlement Shares. The Parties
21 agree and understand that Defendant have not made any representations regarding the tax obligations
22 or consequences, if any, related to this Settlement. The Parties agree that Defendant and each
23 Participating Class Member are solely responsible for determining the tax consequences of payments
24 made pursuant to this Settlement and for paying taxes, if any, which are determined to be owed by
25 each of them on such payments (including penalties and interest related thereto) by any taxing
26 authority, whether state, local, or federal.
27

28 **61.** Each PAGA Payment Share is intended to settle the PAGA Group Members' claims

1 for civil penalties. Accordingly, one hundred percent (100%) of each PAGA Payment Share shall
2 represent civil penalties. The PAGA Payment Share shall be paid to the PAGA Group Member in
3 full without deductions or withholdings, and the Settlement Administrator shall issue an IRS Form
4 1099 to each PAGA Group Member for that amount, to the extent the PAGA Group Member's PAGA
5 Payment Share is Six Hundred Dollars and Zero Cents (\$600.00) or more. Each PAGA Group
6 Member shall be individually responsible for their own share of applicable income tax withholdings
7 and deductions for his or her PAGA Payment Share.

8
9 62. **Total Payment Amount.** In no event will Defendant be required to pay more than
10 the Maximum Settlement Amount for distribution to the Plaintiff, Class Counsel, Participating Class
11 Members, PAGA Group Members, LWDA, Settlement Administrator, or for any other costs or
12 expenses not otherwise enumerated. However, Defendant shall be responsible for paying any
13 Employer Payroll Taxes for the payment of Settlement Shares attributable to wages, which shall not
14 be paid from the Settlement Account and shall not be included in the Maximum Settlement Amount.

15 63. **Payments to Plaintiff and Class Counsel and Others.** Subject to the terms and
16 conditions of this Settlement, the Settlement Administrator will make the following payments out of
17 the Maximum Settlement Amount as follows:

18 (a) **To Plaintiff:** In addition to his Settlement Share, Plaintiff will apply to the
19 Superior Court for a Class Representative Payment in an amount not to exceed Ten Thousand Dollars
20 and Zero Cents (\$10,000.00). Defendant will not oppose this Class Representative Payment. The
21 Settlement Administrator will pay the Class Representative Payment approved by the Superior Court
22 out of the Maximum Settlement Amount. Payroll tax withholding and deductions will not be taken
23 from the Class Representative Payment and an IRS Form 1099 will be issued to Plaintiff for this
24 payment.

25 (b) **To Class Counsel:** Class Counsel will apply to the Superior Court for the
26 Class Counsel Fees Payment in an amount not to exceed Eight Hundred Sixteen Thousand Six
27 Hundred and Sixty-Seven Dollars and Zero Cents (\$816,667.00), or one-third (1/3) of the Maximum
28 Settlement Amount. Class Counsel will also submit to the Superior Court a memorandum of costs

1 for the Class Counsel Litigation Expenses Payment in an amount not to Twenty Thousand Dollars
2 and Zero Cents (\$20,000.00) as requested reasonable costs of suit to be paid from the Maximum
3 Settlement Amount. Defendant will not oppose these requests. The Settlement Administrator will
4 pay the amounts approved by the Superior Court out of the Maximum Settlement Amount.
5 Withholding and deductions will not be taken from the Class Counsel Fees Payment or Class Counsel
6 Litigation Expenses Payment and one or more IRS Forms 1099 will be issued to Class Counsel with
7 respect to those payments.

8 (c) **To the LWDA:** As part of their Motions for Preliminary and Final Approval,
9 the Parties will jointly apply to the Superior Court for approval of the LWDA Payment in the amount
10 of One Hundred and Twelve Thousand Five Hundred Dollars and Zero Cents (\$112,500.00), which
11 shall constitute the LWDA's seventy-five percent (75%) share of One Hundred and Fifty Thousand
12 Dollars and Zero Cents (\$150,000.00) in civil penalties paid under this Settlement. The remaining
13 Thirty-Seven Thousand Five Hundred Dollars and Zero Cents (\$37,500.00) in civil penalties shall be
14 distributed on a *pro rata* basis based upon the number of pay periods worked by each PAGA Group
15 Member ("PAGA Payment").

16 (d) **To the Settlement Administrator:** The Settlement Administrator will be paid
17 from the Maximum Settlement Amount its reasonable fees and expenses as approved by the Superior
18 Court, which are estimated not to exceed Fifteen Thousand Dollars and Zero Cents (\$15,000.00).

19 64. **Appointment of Settlement Administrator.** The Parties will ask the Superior Court
20 to appoint ILYM Group, Inc., a qualified and experienced administrator based in California where
21 the Action is venued, to serve as the Settlement Administrator, which, as a condition of appointment,
22 will agree to be bound by this Agreement with respect to the performance of its duties and its
23 compensation. The Settlement Administrator's duties will include (i) calculating Settlement and
24 PAGA Payment Shares; (ii) preparing, printing, and mailing the Class Notice to all Class Members;
25 (iii) using reasonable measures to contact all Class Members, including conducting a National Change
26 of Address search on all Class Members before mailing the Class Notice to each Class Member's
27 address; (iv) re-mailing the Class Notice to the Class Member's new address for those Class Members
28

1 whose address had changed; (v) setting up a toll-free telephone number to receive calls from Class
2 Members; (vi) receiving requests for exclusion and objections to the Settlement; (vii) providing the
3 Parties with weekly status reports about the delivery of Class Notices and any requests for exclusion
4 and objections; (viii) issuing the checks to effectuate the payments due under the Settlement; (ix)
5 using reasonable measures to deliver issued checks to Participating Class Members, including use of
6 a “skip-trace” for undeliverable checks; and (x) otherwise administering the Settlement pursuant to
7 this Agreement including paying and reporting the employer’s share of the payroll taxes to the
8 appropriate taxing agency. The Settlement Administrator will have the final authority to resolve all
9 disputes concerning the calculation of a Participating Class Member’s Settlement Share and/or PAGA
10 Group Member’s PAGA Payment Share, subject to the terms set forth in this Agreement. The
11 Settlement Administrator’s reasonable fees and expenses are estimated to not exceed Fifteen
12 Thousand Dollars and Zero Cents (\$15,000.00) and will be paid out of the Maximum Settlement
13 Amount, as set forth herein, subject to Court approval.

14
15 **V. RELEASE OF CLAIMS**

16 **65. Participating Class Members Released Claims.** Upon Defendant’s payment into
17 the Settlement Account the Maximum Settlement Amount, each Participating Class Member, without
18 the need to manually sign a release document, shall release the Released Parties from all causes of
19 action and claims that were alleged in the operative Complaint in the Action or reasonably could have
20 been alleged by reason of or in connection with any matter or fact set forth or referred to in the
21 operative Complaint in the Action, including claims under applicable federal, state, local, and
22 territorial law as well as applicable regulations and wage orders for: (i) Defendant’s alleged failure to
23 pay all regular wages, minimum wages and overtime wages due; (ii) Defendant’s alleged failure to
24 provide compliant meal periods and pay meal period premium pay; (iii) Defendant’s alleged failure
25 to provide compliant rest periods and pay rest period premium pay; (iv) Defendant’s alleged failure
26 to timely pay wages during employment; (v) Defendant’s alleged failure to provide complete,
27 accurate, and itemized wage statements; (vi) Defendant’s alleged failure to maintain accurate and
28 complete payroll records; (vii) Defendant’s alleged failure to pay wages timely at time of termination

1 or resignation; (viii) Defendant's alleged improper withholding of compensation and deduction of
2 wages; (ix) unfair business practices that were premised on allegations in the operative Complaint in
3 the Action or reasonably could have been premised by reason of or in connection with any matter or
4 fact set forth or referred to in the operative Complaint in the Action; (x) damages, including unpaid
5 wages, liquidated damages, premium pay, restitution, statutory or civil penalties, injunctive relief,
6 attorneys' fees, interest, expenses, or costs of litigation, that were premised on allegations in the
7 operative Complaint in the Action or reasonably could have been premised by reason of or in
8 connection with any matter or fact set forth or referred to in the operative Complaint in the Action
9 (collectively, the "Released Claims"). Participating Class Members who cash their checks are
10 deemed to have waived all Released Claims inclusive of claims under the Fair Labor Standards Act.
11 Participating Class Members who do not cash their checks shall be deemed to waive all Released
12 Claims except for a claim under the Fair Labor Standards Act. Released Claims applies to
13 Participating Class Members who worked for Defendant in California during the Class Period and
14 shall release such claims that arose during the Class Period.

15
16 **66. Release of Claims by the LWDA and State of California.** Upon Defendant's
17 payment into the Settlement Account the Maximum Settlement Amount, Plaintiff as the
18 representative of the California Labor and Workforce Development Agency, the LWDA, and the
19 State of California, without the need to manually sign a release document, shall release the Released
20 Parties for claims for civil penalties, costs, and attorneys' fees and expenses pursuant to the California
21 Labor Code Private Attorneys General Act of 2004 based upon all causes of action and claims that
22 were alleged in the operative Complaint in the Action and/or the LWDA Exhaustion Letter or
23 reasonably could have been alleged by reason of or in connection with any matter or fact set forth or
24 referred to in the operative Complaint in the Action and/or the LWDA Exhaustion Letter, including
25 claims under applicable federal, state, local, and territorial law as well as applicable regulations and
26 wage orders for: (i) Defendant's alleged failure to pay all regular wages, minimum wages and
27 overtime wages due; (ii) Defendant's alleged failure to provide compliant meal periods and pay meal
28 period premium pay; (iii) Defendant's alleged failure to provide compliant rest periods and pay rest

1 period premium pay; (iv) Defendant's alleged failure to timely pay wages during employment; (v)
2 Defendant's alleged failure to provide complete, accurate, and itemized wage statements; (vi)
3 Defendant's alleged failure to maintain accurate and complete payroll records; (vii) Defendant's
4 alleged failure to pay wages timely at time of termination or resignation; (viii) improper withholding
5 of compensation and deduction of wages (collectively, the "PAGA Released Claims"). Plaintiff as
6 the representative of the California Labor and Workforce Development Agency, the LWDA, and the
7 State of California shall release the PAGA Released Claims that arose during the PAGA Period. The
8 Parties intend that this Settlement Agreement may be used as an affirmative defense against
9 subsequent PAGA claims for claim preclusion, issue preclusion, or other effects if an aggrieved
10 employee makes a subsequent claim on behalf of the LWDA based on the same factual allegations as
11 the PAGA Released Claims that were at issue in this action on behalf of the LWDA.

12
13 67. Released Parties includes Defendant and its past, present and/or future, direct and/or
14 indirect, officers, directors, members, managers, employees, agents, representatives, attorneys,
15 including but not limited to O'Hagan Meyer, insurers, partners, investors, shareholders,
16 administrators, parent companies, House Foods Holding USA Inc., subsidiaries, affiliates, divisions,
17 predecessors, successors, assigns, and joint venturers.

18 68. In light of the binding nature of a PAGA judgment on non-party employees pursuant
19 to *Arias v. Sup. Ct. (Angelo Dairy)* (2009) 46 Cal.4th 969 and *Cardenas v. McLane Foodservice, Inc.*
20 (2011) 796 F.Supp.2d 1246, individuals otherwise meeting the definition of a Class Member who
21 exclude themselves from the Settlement shall nonetheless receive a payment for the amount of each
22 such individual's estimated share of the PAGA Payment and will be impacted by the release of the
23 PAGA Released Claims as Defendant may use the release of the PAGA Released Claims as an
24 affirmative defense against subsequent PAGA claims by the PAGA Group Members for claim
25 preclusion, issue preclusion, and other effects.

26 69. The Released Claims and PAGA Released Claims described herein expressly exclude
27 all claims made by a Participating Class Member and/or PAGA Group Member for vested benefits,
28 wrongful termination, unemployment insurance, disability, social security, workers' compensation,

1 claims while classified as exempt, and claims outside of the Class Period and/or PAGA Period.

2 70. **Class Counsel.** Upon Defendant's payment into the Settlement Account the
3 Maximum Settlement Amount, and except as otherwise provided by this Settlement, Class Counsel
4 and any counsel associated with Class Counsel waive any further claims to costs and attorneys' fees
5 and expenses against Defendant or the Releasees arising from or related to the Action, including but
6 not limited to claims based on the Labor Code, the Code of Civil Procedure, PAGA, the Fair Labor
7 and Standards Act, the Business and Professions Code, or any other contract, statute or law ("Class
8 Counsel Released Claims").

9 71. **No Effect on Other Benefits.** The payment of Settlement Shares and/or PAGA
10 Payment Shares will not result in any additional employee benefit payments (such as 401(k), vacation,
11 or bonus) and shall not have any effect on the eligibility for, or calculation of, any employee benefit.

12 **VI. DUTIES OF THE PARTIES**

13 72. **Mutual Full Cooperation.** The Parties agree to cooperate fully with one another to
14 accomplish and implement the terms of this Stipulation. Such cooperation shall include, but not be
15 limited to, execution of such other documents and the taking of such other actions as may reasonably
16 be necessary to fulfill the terms of this Settlement unless the Court denies the Settlement with
17 prejudice. The Parties shall use their best efforts, including all efforts contemplated by this Stipulation
18 and any other efforts that may become necessary by court order or otherwise, to effectuate this
19 Stipulation and the terms set forth herein. As soon as practicable after execution of this Stipulation,
20 Class Counsel, with the cooperation of Defendant and Defense Counsel, shall take all necessary and
21 reasonable steps to secure the Court's approval of this Stipulation. The Parties will work together to
22 make any non-material modifications of the Settlement requested by the Court to obtain approval of
23 the Parties' Settlement.

24 73. **Duty to Support and Defend the Class Settlement.** The Parties agree to abide by
25 all of the terms of the Settlement in good faith and to support the Settlement fully and to use their best
26 efforts to defend this Settlement from any legal challenge, whether by appeal or collateral attack.

27 74. **Duties Prior to Court Approval.** Class Counsel shall promptly submit this
28

1 Stipulation to the Court for preliminary approval and determination by the Court as to its fairness,
2 adequacy, and reasonableness. Promptly upon execution of this Stipulation, Class Counsel shall
3 apply to the Court for the entry of a preliminary order, scheduling a hearing on the question of whether
4 the proposed Class Settlement should be approved as fair, reasonable, and adequate as to the Class
5 Members, approving as to form and content the proposed Class Notice attached hereto as **Exhibit A**,
6 respectively, and directing the mailing of the Class Notice to Settlement Class Members.

7
8 75. **Non-Monetary Relief and Catalyzation of Policy Change.** Although Defendant
9 denies any liability of any kind associated with the claims alleged in the Lawsuit, denies any liability
10 or intentional wrongdoing, Defendant revised and updated its meal and rest period policies and
11 practices.

12 **VII. MISCELLANEOUS TERMS**

13 76. **No Admission of Liability.** Defendant denies that it has engaged in any unlawful
14 activity, has failed to comply with the law in any respect, or has any liability to anyone under the
15 claims asserted in the Action. This Settlement is entered into solely for the purpose of compromising
16 highly disputed claims. Nothing in this Settlement is intended or will be construed as an admission
17 of liability or wrongdoing by Defendant, an admission by Plaintiff that any of his claims were non-
18 meritorious, or any defense asserted by Defendant was meritorious. This Settlement and the fact that
19 Plaintiff and Defendant were willing to settle the Action will have no bearing on, and will not be
20 admissible in connection with, any litigation (other than solely in connection with the Settlement).

21 77. The Parties also agree that this release constitutes a resolution of a good faith dispute
22 concerning wages and complies with Labor Code Section 206.5, which reads in part:

23 “Execution of release of claim or right on account of wages due. No
24 employer shall require the execution of any release of any claim or
25 right on account of wages due, or to become due, or made, or made
26 as an advance on wages to be earned, unless payment of those wages
27 has been made.”

28 78. Whether or not the Judgment becomes Final, neither the Settlement, any document,

1 statement, proceeding or conduct related to the Settlement, nor any reports or accounting of those
2 matters, will be (i) construed as, offered or admitted in evidence as, received as, or deemed to be
3 evidence for any purpose adverse to Defendant or any other beneficiary of the releases granted under
4 this Settlement (the "Released Parties"), including, but not limited to, evidence of a presumption,
5 concession, indication or admission by any of the Released Parties of any liability, fault, wrongdoing,
6 omission, concession or damage; or (ii) disclosed, referred to or offered in evidence against any of
7 the Released Parties, or any other civil, criminal or administrative action or proceeding except for
8 purposes of effectuating this Settlement.

9
10 79. Notwithstanding Paragraph 78 of this Settlement, any and all provisions of this
11 Settlement may be admitted in evidence and otherwise used in any and all proceedings to enforce any
12 or all terms of this Settlement, or in defense of any claims released or barred by this Settlement.

13 80. **Non-Disparagement.** Plaintiff and Class Counsel agree not to make any untruthful,
14 malicious, disparaging or defamatory statements, allegations, comments or communications,
15 regardless of form (whether written, oral, electronic, including but not limited to Glassdoor, Yelp, or
16 otherwise), regarding the Released Parties. Plaintiff and Class Counsel further agree not to encourage
17 authorize or permit any such statements, allegations, comments or communications to be made by
18 others on their behalf. To the extent Plaintiff and/or Class Counsel have posted any negative
19 comments about the Released Parties on Glassdoor, Yelp, or other websites, Plaintiff and/or Class
20 Counsel agree to request that these comments be removed and to provide a copy of such request to
21 Defense Counsel within 30 days of the execution of this Agreement.

22 81. **Acknowledgement of Separation of Employment.** Plaintiff is a former employee of
23 Defendant and voluntarily represents and acknowledges that he has no intent to apply and/or re-apply
24 for employment with Defendant or any related, successor, parent, or subsidiary companies. Should
25 Plaintiff apply for employment or re-employment with Defendant or any related, successor, parent,
26 or subsidiary company at a later date, said company is not obligated to hire or rehire Plaintiff provided
27 a legitimate, non-discriminatory, and non-retaliatory reason exists and it is Defendant's position that
28 such legitimate, non-discriminatory, and non-retaliatory reason exists.

1 **82. Integrated Agreement.** After this Settlement is signed and delivered by all Parties
2 and their counsel, this Settlement and its exhibits will constitute the entire agreement between the
3 Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties,
4 covenants, or inducements have been made to any Party concerning this Settlement or its exhibits
5 other than the representations, warranties, covenants, and inducements expressly stated in this
6 Settlement and its exhibits.

7 **83. Attorney Authorization.** Class Counsel and Defense Counsel warrant and represent
8 that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action
9 required or permitted to be taken by such Parties pursuant to this Settlement to effectuate its terms,
10 and to execute any other documents required to effectuate the terms of this Settlement. The Parties
11 and their counsel will cooperate with each other and use their best efforts to affect the implementation
12 of the Settlement. In the event the Parties are unable to reach agreement on the form or content of
13 any document needed to implement the Settlement, or on any supplemental provisions that may
14 become necessary to effectuate the terms of this Settlement, the Parties will first seek the assistance
15 of mediator Eve Wagner, Esq., , and in all cases all such documents, supplemental provisions and
16 assistance of the court will be consistent with this Settlement.

17 **84. Modification of Agreement.** This Agreement, and any and all parts of it, may be
18 amended, modified, changed, or waived only by an express written instrument signed by all Parties,
19 their successors-in-interest, and/or the Parties' respective counsel, as authorized.

20 **85. Settlement Binding on Successors.** This Settlement Agreement will be binding upon,
21 and inure to the benefit of, the successors of each of the Parties.

22 **86. Applicable Law.** All terms and conditions of this Settlement and its exhibits will be
23 governed by and interpreted according to the laws of the State of California, without giving effect to
24 any conflict of law principles or choice of law principles.

25 **87. Cooperation in Drafting.** The Parties have cooperated in the drafting and preparation
26 of this Settlement. This Settlement will not be construed against any Party on the basis that the Party
27 was the drafter or participated in the drafting.
28

1 88. **Fair Settlement.** The Parties and their respective counsel believe and warrant that
2 this Settlement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at
3 this Settlement through arms-length negotiations, taking into account all relevant factors, current and
4 potential.

5 89. **Headings.** The descriptive heading of any section or paragraph of this Settlement is
6 inserted for convenience of reference only and does not constitute a part of this Settlement.

7 90. **Notice.** All notices, demands or other communications given under this Settlement
8 will be in writing and deemed to have been duly given as of the third business day after mailing by
9 U.S. Mail, addressed as follows:

10 *To Class Counsel:*

PROTECTION LAW GROUP, LLP
Heather Davis, Esq.
Amir Nayebdadash, Esq.
237 California Street
El Segundo, California 90245

14 *To Defense Counsel:*

Clint D. Robison, Esq.
Michael I. Kessler, Esq.
O'HAGAN MEYER
21550 Oxnard Street, Suite 1050
Woodland Hills, CA, 91367

18 91. **Execution in Counterpart.** This Settlement may be executed in one or more
19 counterparts. All executed counterparts and each of them will be deemed to be one and the same
20 instrument provided that counsel for the Parties will exchange between themselves original signed
21 counterparts. Facsimile signatures, scanned PDF signatures, and electronic signatures will be
22 presumptive evidence of execution of the original, which shall be produced on reasonable request.
23 Any executed counterpart will be admissible to prove the existence and contents of this Settlement.

24 ///

25 ///

26 ///

27 ///

28 ///

1 DATED: 12/29/2021

MELCHOR DIAZ

DocuSigned by:
Mel D
C20923C8679C4C5...

5 DATED: _____

HOUSE FOODS AMERICA CORPORATION

7 By: _____

8 Its: _____

10 DATED: December 30, 2021

PROTECTION LAW GROUP, LLP

12 By:  _____

Heather Davis, Esq.
Amir Nayebdadash, Esq.

Attorneys for Plaintiff
MELCHOR DIAZ

17 DATED: _____

O'HAGAN MEYER

19 By: _____

Clint D. Robison, Esq.
Michael I. Kessler, Esq.

Attorneys for Defendant
HOUSE FOODS AMERICA CORPORATION

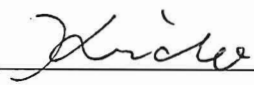
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: _____

MELCHOR DIAZ

DATED: 12- 28-2021

HOUSE FOODS AMERICA CORPORATION

By:  Tsuyoshi Kido

Its: President

DATED: _____

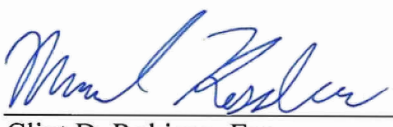
PROTECTION LAW GROUP, LLP

By: _____
Heather Davis, Esq.
Amir Nayebdadash, Esq.

Attorneys for Plaintiff
MELCHOR DIAZ

DATED: December 30, 2021

O'HAGAN MEYER

By: 

Clint D. Robison, Esq.
Michael I. Kessler, Esq.

Attorneys for Defendant
HOUSE FOODS AMERICA CORPORATION

Exhibit A

Melchor Diaz v. House Foods America Corporation
Orange County Superior Court Case No. 30-2020-01141058-CU-OE-CXC

|||||
<<PSA ID>>

<<First Last>>

<<Address>>

<<City, State, Zip, Country>>

Name/Address Changes (if any):

NOTICE OF CLASS ACTION SETTLEMENT

If you are or were a person employed by House Foods America Corporation, in California, as an hourly-paid non-exempt employee, at any time between May 26, 2016, and December 24, 2021, you may be entitled to receive money from a Class Action Settlement.

A court approved this notice. This is not a solicitation from a lawyer. You are not being sued.

PLEASE READ THIS NOTICE.

Your legal rights are affected whether you act or don't act. Your legal rights and options—and the deadlines to use them—are explained in this notice.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING AND RECEIVE SETTLEMENT PAYMENT	You are not required to take action to receive a payment. If you do nothing, you will automatically receive a payment if the Court provides final approval of the Settlement. In exchange, you will be bound by the Settlement including the release of all claims covered by the Settlement.
REQUEST EXCLUSION	Request to be excluded and receive no benefits from the Settlement. If you submit a Request for Exclusion, you will not receive a settlement payment and may be able to keep the right to sue or continue to sue Defendant with respect to the Released Claims.
OBJECT	If you wish to object to the Settlement, you may submit a written objection and supporting papers to the Settlement Administrator. Any written objections will be provided to the Court. You may also offer your oral comments at the Final Approval Hearing, even if you do not submit a written objection. In order to object, you must not have excluded yourself from the Settlement.

1. Why should you read this notice?

A proposed settlement (the "Settlement") has been reached in a class action lawsuit entitled *Melchor Diaz v. House Foods America Corporation*, Orange County Superior Court Case No. 30-2020-01141058-CU-OE-CXC (the "Action" or "Lawsuit"). The Defendant in the Action is House Foods America Corporation (referred in this Notice as "Defendant.")

The Court has granted preliminary approval of a "Class" defined as follows:

All persons employed by House Foods America Corporation, in California, as an hourly-paid non-exempt employee, at any time between May 26, 2016, and December 24, 2021.

The Court has also granted preliminary approval of a “PAGA Group” defined as follows:

All persons employed by House Foods America Corporation, in California, as an hourly-paid non-exempt employee, at any time between May 26, 2019, and December 24, 2021.

Defendant’s employment records indicate that you meet one or both of these definitions, which makes you a member of the Class (referred to in this Notice as a “Class Member”) and possibly a member of the PAGA Group (referred to in this Notice as a “PAGA Group Member”). The Court directed that this Notice be sent to all Class Members and PAGA Group Members to inform you about the case and your rights and options before the Court decides to approve the Settlement. If the Court approves the Settlement, and after any appeals are resolved, payments will be made to Class Members who have not opted out of the Settlement and all PAGA Group Members.

This Notice explains the Lawsuit, the Settlement, your legal rights and options, what benefits are available and how to get them.

2. What is this Lawsuit about?

On July 17, 2020, Plaintiff Melchor Diaz (referred to in this Notice as “Plaintiff” or “Class Representative”) filed the operative class action complaint (the “Complaint”) against the Defendant alleging several violations of California wage and hour laws. Plaintiff filed the Action on behalf of himself and all current and former non-exempt, hourly-paid employees. The Complaint alleges that the Defendant: (1) failed to pay overtime wages; (2) failed to provide compliant meal periods; (3) failed to provide compliant rest periods; (4) failed to pay at least the minimum wage for all hours worked; (5) failed to timely pay wages at separation; (6) failed to timely pay wages during employment; (7) failed to provide accurate itemized wage statements; (8) failed to maintain required payroll records; (9) violated California’s Unfair Competition Law; and (10) owed civil penalties under California’s Private Attorneys General Act of 2004, California Labor Code §§ 2698-2699.5 (“PAGA”). Defendant vigorously denies all the claims and contentions made in the Lawsuit and maintains it has fully complied with the law. However, Defendant has agreed to settle the Lawsuit to avoid the expense of litigation.

3. Why is there a Settlement?

The Court did not decide in favor of Plaintiff or Defendant. Instead, both sides agreed to a Settlement. This allows the Parties to avoid the risk and uncertainty of trial and any subsequent appeal, and all affected employees who have not opted out of the Settlement will receive compensation. The Settlement is not an admission of liability by Defendant. The Class Representative and the attorneys believe the Settlement is fair, reasonable and adequate, and in the best interests of all Class Members.

4. What are the terms of the Settlement?

Defendant will pay Two Million Four Hundred and Fifty Thousand Dollars and Zero Cents (\$2,450,000.00) to settle the Action (the “Maximum Settlement Amount”). The Maximum Settlement Amount includes: (a) all Settlement Payments to Participating Class Members; (b) the Service Award to the Class Representative; (c) the Class Counsel’s attorneys’ fees and costs; (d) a payment to the California Labor and Workforce Development Agency for civil penalties brought under PAGA; (e) all PAGA Payments to the PAGA Group Members; and (f) the reasonable fees and costs of the Settlement Administrator. Defendant will pay its portion of all payroll taxes resulting from the Settlement in addition to the Maximum Settlement Amount.

The Court has preliminarily approved the following payments from the Maximum Settlement Amount. Class Counsel will request that the Court award Class Counsel up to one-third (1/3) of the Maximum Settlement Amount or up to Eight Hundred and Sixteen Thousand, Six Hundred and Sixty-Seven Dollars and Zero Cents (\$816,667.00) in attorneys' fees and up to Twenty Thousand Dollars and Zero Cents (\$20,000.00) in out-of-pocket litigation costs, up to Fifteen Thousand Dollars and Zero Cents (\$15,000.00) for Settlement Administration Costs for the third-party Settlement Administrator, and up to Ten Thousand Dollars and Zero Cents (\$10,000.00) for the Service Award for the Class Representative in recognition of his time and service to the Class in pursuing the Action and in fulfilling his obligations as the Class Representative. Additionally, the Settlement provides for a payment of One Hundred and Fifty Thousand Dollars and Zero Cents (\$150,000.00) (the "LWDA Payment") to resolve PAGA Group Members' claims under PAGA, of which Thirty-Seven-Thousand Five Hundred Dollars and Zero Cents (\$37,500.00) will be distributed to the PAGA Group Members and One Hundred and Twelve Thousand Five Hundred Dollars and Zero Cents (\$112,500.00) will be paid to the California Labor and Workforce Development Agency ("LWDA"). This allocation of the PAGA Payment is required by California law. The final amounts of these various payments are all subject to Court approval.

After deductions of the preceding Court-approved payments, the remaining amount—the "Net Settlement Amount"—will be distributed to those Class Members who have not opted out of the Settlement (the "Participating Class Members"). No portion of the Maximum Settlement Amount will be returned to Defendant.

5. How much can I expect to receive?

Each Participating Class Member will receive a *pro rata* share of the Net Settlement Amount based on the number of workweeks the person worked for Defendant as a non-exempt, hourly-paid employee during the Class Period, defined as the period of time from and including May 26, 2016 through December 24, 2021. Any workweek in which a Class Member worked at least one day shall be counted as a workweek.

To calculate a Class Member's Individual Settlement Payment, the Net Settlement Amount will be divided by the aggregate total number of workweeks of all Participating Class Members, resulting in the "Workweek Value." Each Participating Class Member's Individual Settlement Payment will be calculated by multiplying each individual Participating Class Member's total number of workweeks by the Workweek Value.

Your Compensable Workweeks are: <<Workweeks>>

Your Estimated Individual Settlement Payment is: \$<<Est.SettlementAmt>>

All settlement payments are subject to taxation. Each Individual Settlement Payment will be allocated as follows: (a) 20% as wages that will be subject to deductions and withholdings for the employee's share of state and federal payroll taxes; and (b) 80% as penalties and interest that will not be subject to deductions and withholdings. Each Participating Class Member will receive an IRS Form W-2 with respect to the portion of the Settlement Payment allocated to wages and an IRS Form-1099 with respect to the portion of the Settlement Payment allocated to penalties and interest, unless the Settlement Payment is less than or equal to \$600.00. Prior to mailing Settlement checks, the Settlement Administrator will calculate and deduct the employee's required withholdings and payroll taxes from the "wage" portion of the Settlement payment. Defendant will separately pay the employer's share of payroll taxes with respect to the "wage" portion of each Settlement payment.

Please note that each Participating Class Members will be responsible for his/her share of taxes attributable to the receipt of an Individual Settlement Payment. The Parties and their attorneys cannot provide and will not provide any advice regarding tax obligations. Class Members should consult with their tax advisors concerning the tax consequences of the payments they receive under the Settlement.

Each PAGA Group Member will receive a *pro rata* share of the PAGA Payment based on the number of pay periods the person worked for Defendant as a non-exempt, hourly employee during the PAGA Period, defined as the period of time from and including May 26, 2019 through December 24, 2021. Any pay period in which a Class Member worked at least one day shall be counted as a pay period.

To calculate a PAGA Group Member's Individual PAGA Payment, the PAGA Payment will be divided by the aggregate total number of pay periods of all PAGA Group Members, resulting in the "Pay Period Value." Each PAGA Group Member's Individual Settlement Payment will be calculated by multiplying each individual PAGA Group Member's total number of pay periods by the Pay Period Value.

Your Compensable Pay Periods are: <<PayPeriods>>

Your Estimated Individual PAGA Payment is: \$<<Est.PAGAPaymentAmt>>

All settlement payments are subject to taxation. Each Individual PAGA Payment will be allocated as follows: 100% as penalties that will not be subject to deductions and withholdings. Each PAGA Group Member will receive an IRS Form-1099 for his or her Individual PAGA Payment, unless said payment is less than or equal to \$600.00.

Please note that each PAGA Group Member will be responsible for his/her share of taxes attributable to the receipt of an Individual PAGA Payment. The Parties and their attorneys cannot provide and will not provide any advice regarding tax obligations. PAGA Group Members should consult with their tax advisors concerning the tax consequences of the payments they receive under the Settlement.

6. What if I disagree with the number of workweeks and/or pay periods credited to me in this Notice?

The information concerning the number of workweeks and/or pay periods you worked as an hourly, non-exempt employee during the Class Period and/or PAGA Period is based on Defendant's records. To dispute the number of workweeks and/or pay periods credited to you, you must send written notice to the Settlement Administrator. Your written dispute must identify how many workweeks or pay periods you believe you worked as an hourly, non-exempt employee for Defendant during the Class Period and/or PAGA Period, and provide evidence in support of your claims including any supporting documentation (e.g., copies of your pay stubs). To be timely, your written dispute of workweeks and/or pay periods worked must be mailed by first-class U.S. Mail, or the equivalent, to the Settlement Administrator *at the address provided below*, and be postmarked on or before _____, 2022.

The Parties and the Settlement Administrator will promptly evaluate the evidence submitted and discuss in good faith how many workweeks and/or pay periods should be credited to the Class Member and/or PAGA Group Member. The Settlement Administrator will make the final decision as to how many workweeks and/or pay periods should be credited to the Class Member and/or PAGA Group Member and report the outcome to the Class Member and/or PAGA Group Member.

7. How and when will I get a payment? How do I update my address?

How do I receive money from the Settlement? You do not need to do anything to receive your Individual Settlement Payment and/or Individual PAGA Payment. Just watch your mail for a check and cash it when you get it. If you do not exclude yourself from the Settlement, you will automatically receive money from the Settlement. You do not need to make a claim or take any other action to receive your share of the Settlement.

When will I receive my Settlement payment? Class Members who do not opt out of the Settlement will receive their payments only after the Court grants final approval of the Settlement and after any appeals are resolved. PAGA Group

Members will receive their payments only after the Court grants final approval of the Settlement and after any appeals are resolved. If there are appeals, resolving them can take time. Please be patient.

Settlement payment checks must be cashed soon after receipt. The Settlement checks will be able to be cashed for 180 days after they are issued. After 180 days, the Settlement checks will no longer be able to be cashed. Any funds represented by Settlement checks remaining uncashed for more than 180 days after issuance shall be transmitted to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Code of Civil Procedure Section 1500, *et seq.* in the names of those Participating Class Members and/or PAGA Group Members who did not cash their checks until such time they claim their property.

Change of address. It is your responsibility to keep a current address on file with the Settlement Administrator to ensure that you receive your Settlement payment. If you change your address, or if this notice was not mailed to your correct address, you should immediately provide your current address to the Settlement Administrator. The Settlement Administrator can be reached at (800) ###-####, or at the address provided below.

8. What claims are being released by the Settlement?

If the Settlement is approved by the Court, a Judgment will be entered by the Court. Upon Defendant's payment into the Settlement Account the Maximum Settlement Amount, all Participating Class Members shall release the Released Parties from the Released Claims that arose during the Class Period.

The Released Claims are defined as all causes of action and claims that were alleged in the operative Complaint in the Action or reasonably could have been alleged by reason of or in connection with any matter or fact set forth or referred to in the operative Complaint in the Action, including claims under applicable federal, state, local, and territorial law as well as applicable regulations and wage orders for: (i) Defendant's alleged failure to pay all regular wages, minimum wages and overtime wages due; (ii) Defendant's alleged failure to provide compliant meal periods and pay meal period premium pay; (iii) Defendant's alleged failure to provide compliant rest periods and pay rest period premium pay; (iv) Defendant's alleged failure to timely pay wages during employment; (v) Defendant's alleged failure to provide complete, accurate, and itemized wage statements; (vi) Defendant's alleged failure to maintain accurate and complete payroll records; (vii) Defendant's alleged failure to pay wages timely at time of termination or resignation; (viii) Defendant's alleged improper withholding of compensation and deduction of wages; (ix) unfair business practices that were premised on allegations in the operative Complaint in the Action or reasonably could have been premised by reason of or in connection with any matter or fact set forth or referred to in the operative Complaint in the Action; (x) damages, including unpaid wages, liquidated damages, premium pay, restitution, statutory or civil penalties, injunctive relief, attorneys' fees, interest, expenses, or costs of litigation, that were premised on allegations in the operative Complaint in the Action or reasonably could have been premised by reason of or in connection with any matter or fact set forth or referred to in the operative Complaint in the Action (collectively, the "Released Claims"). The Participating Class Members who cash their Settlement checks are deemed to have waived all Released Claims inclusive of claims under the Fair Labor Standards Act. The Participating Class Members who do not cash their Settlement checks are deemed to have waived all Released Claims except for a claim under the Fair Labor Standards Act. Other than for Plaintiff, claims of Participating Class Members, if any, for vested benefits, wrongful termination, unemployment insurance, disability benefits, social security, workers' compensation, claims while classified as exempt, and claims outside of the Class Period are not encompassed within the definition of "Released Claims." The Released Parties include Defendant and its past, present and/or future, direct and/or indirect, officers, directors, members, managers, employees, agents, representatives, attorneys, including but not limited to O'Hagan Meyer, insurers, partners, investors, shareholders, administrators, parent companies, House Foods Holding USA Inc., subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers.

Any Class Member who does not request exclusion by the applicable deadline will be considered to have accepted the release and to have waived any and all of the Released Claims against the Released Parties.

If the Settlement is approved by the Court, a Judgment will be entered by the Court. Upon Defendant's payment into the Settlement Account the Maximum Settlement Amount, Plaintiff as the representative of the California Labor and Workforce Development Agency, the LWDA, and the State of California shall release the Released Parties from the PAGA Released Claims that arose during the PAGA Period.

The PAGA Released Claims are defined as claims for civil penalties, costs, and attorneys' fees and expenses pursuant to the California Labor Code Private Attorneys General Act of 2004 based upon all causes of action and claims that were alleged in the operative Complaint in the Action and/or the LWDA Exhaustion Letter or reasonably could have been alleged by reason of or in connection with any matter or fact set forth or referred to in the operative Complaint in the Action and/or the LWDA Exhaustion Letter, including claims under applicable federal, state, local, and territorial law as well as applicable regulations and wage orders for: (i) Defendant's alleged failure to pay all regular wages, minimum wages and overtime wages due; (ii) Defendant's alleged failure to provide compliant meal periods and pay meal period premium pay; (iii) Defendant's alleged failure to provide compliant rest periods and pay rest period premium pay; (iv) Defendant's alleged failure to timely pay wages during employment; (v) Defendant's alleged failure to provide complete, accurate, and itemized wage statements; (vi) Defendant's alleged failure to maintain accurate and complete payroll records; (vii) Defendant's alleged failure to pay wages timely at time of termination or resignation; (viii) improper withholding of compensation and deduction of wages (collectively, the "PAGA Released Claims"). Other than for Plaintiff, claims of PAGA Group Members, if any, for vested benefits, wrongful termination, unemployment insurance, disability benefits, social security, workers' compensation, claims while classified as exempt, and claims outside of the PAGA Period are not encompassed within the definition of "PAGA Released Claims." The Released Parties include Defendant and its past, present and/or future, direct and/or indirect, officers, directors, members, managers, employees, agents, representatives, attorneys, including but not limited to O'Hagan Meyer, insurers, partners, investors, shareholders, administrators, parent companies, House Foods Holding USA Inc., subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers.

PAGA Group Members cannot opt out of or object to the foregoing PAGA Release.

9. What are my options?

a. **Participate in the Settlement and Receive a Settlement Payment.** If you want to participate in the Settlement, you do not have to do anything. You will receive your Individual Settlement Payment automatically if the Settlement is finally approved by the Court. If applicable, you will receive your Individual PAGA Payment automatically if the Settlement is finally approved by the Court.

b. **Exclude yourself from the Settlement.** If you do not want to be part of the Settlement, you can request to be excluded from the Settlement by mailing a written Request for Exclusion to the Settlement Administrator. If you exclude yourself, you will not receive your Individual Settlement Payment, you will not be subject to the terms of the Settlement, and you will retain whatever rights you may currently have. To be valid, your Request for Exclusion must include: (1) your full name, address, and last four digits of the your Social Security number; (2) the following statement or a similar statement: "I wish to exclude myself from the settlement reached in the matter of *Diaz v. House Foods America Corporation*. I understand that by excluding myself, I will not receive any money from the Class settlement reached in this matter."; (3) the date; and (4) your signature. To be timely, a Request for Exclusion must be mailed by first-class U.S. Mail, or the equivalent, to the Settlement Administrator at the address provided below and be postmarked on or before , 2022.

If you qualify as a PAGA Group Member, you may not exclude yourself from the PAGA Group and will be bound by the PAGA Released Claims.

c. **Object to the Settlement.** If you're a Class Member, you can object to the Settlement if you don't like any part of it. You can give reasons why you think the Court should not approve the Settlement. The Court will consider

your views. If the Court rejects your objection and finally approves the Settlement, you will still be bound by the terms of the Settlement, but you will also receive a monetary award.

To object, you may submit a written objection stating why you object to the Settlement, or you may simply appear at the Final Approval Hearing set for [REDACTED], 2022 at [REDACTED] a.m. in Department CX105 of the Orange County Superior Court Civil Complex Center located at 751 West Santa Ana Blvd, Santa Ana, CA 92701 and discuss your objection with the Court and the Parties at your own expense. Written objections must include: (i) your full name, current address, and last four digits of your Social Security number; (ii) the case name and number (*Melchor Diaz v. House Foods America Corporation*, Orange County Superior Court Case No. 30-2020-01141058-CU-OE-CXC); (iii) a written statement of all grounds for the objection accompanied by any legal support for such objection; (iv) your signature; and (v) a statement of whether you intend to appear at the Final Approval Hearing, either in person or by counsel. To be timely, a written objection must be mailed by first-class U.S. Mail to the Settlement Administrator at the address provided below and be postmarked on or before [REDACTED], 2022.

Please note that you cannot both exclude yourself and object to the Settlement. In order for you to object to this Settlement, or any term of it, you may not submit a Request for Exclusion.

10. Who are the attorneys representing the Plaintiff and the Class and the PAGA Group?

The Court has appointed the following lawyers as “Class Counsel” to represent all Class Members and PAGA Group Members:

PROTECTION LAW GROUP, LLP
Heather Davis, Esq.
Amir Nayebdadash, Esq.
237 California Street
El Segundo, California 90245
Telephone: (424) 290-3095

You will not be charged for these lawyers.

11. How will the attorneys for the Class and the PAGA Group be paid?

All payments for Class Counsel’s attorneys’ fees and costs will be made from the Maximum Settlement Amount. Class Counsel intends to request an award of attorneys’ fees of up to one-third (1/3) of the Maximum Settlement Amount, or up to Eight Hundred and Sixteen Thousand, Six Hundred and Sixty-Seven Dollars and Zero Cents (\$816,667.00), plus reimbursement of reasonable, actual out-of-pocket costs incurred in the litigation, up to Twenty Thousand Dollars and Zero Cents (\$20,000.00). Class Counsel has been prosecuting this Action on behalf of Plaintiff, the Class, and PAGA Group on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs. The Court will decide the amount of fees and expenses to award at the Final Approval Hearing.

12. When and where will the Court decide to approve the Settlement?

The Court has preliminarily approved the settlement and will hold a hearing, called a Final Approval Hearing, to decide whether to give final approval to the Settlement. The Court will hold the Final Approval Hearing on [REDACTED], 2022, at [REDACTED] a.m., in Department CX105 of the Orange County Superior Court Civil Complex Center located at 751 West Santa Ana Blvd, Santa Ana, CA 92701, before the Honorable Randall J. Sherman. At the Final Approval Hearing, the Court will rule on Class Counsel’s request for attorneys’ fees and litigation costs, the Class Representative Service Award, and the Settlement Administration Costs.

You are not required to attend the Final Approval Hearing, although any Class Member is welcome to attend the hearing. If you did not submit a Request for Exclusion, you or your attorney may appear at the hearing at your own expense and request to be heard. The Final Approval Hearing may be postponed without further notice.

13. Will I be subject to discipline if I participate in the Settlement?

No. Defendant approved the Settlement and will not retaliate in any way against any Class Member for participating in the Settlement. Your decision to participate, not participate, or object to this Settlement will not affect your employment with Defendant or Defendant's treatment of you as a former employee.

14. What is the Settlement Administrator's address?

Any Request for Exclusion, Notice of Objection, address change request, and all other correspondence intended for the Settlement Administrator must be mailed to the Settlement Administrator at the following address:

Melchor Diaz v. House Foods America Corporation

c/o

Telephone:

15. How Can I Get Additional Information?

If you have questions, you can call the Settlement Administrator at [REDACTED] and/or Class Counsel at (424) 290-3095.

PLEASE DO NOT TELEPHONE THE COURT OR DEFENDANT'S MANAGERS, SUPERVISORS,
OR ATTORNEYS ABOUT THIS SETTLEMENT
They will not be able to assist you.