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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA

MARTIN ASECIO ROJAS, individually, and
on behalf of other members of the general public
similarly situated,

Plaintiff,

vs.

PULMUONE FOODS USA, INC., an Iowa
corporation; PULMUONE U.S.A., INC., a
California corporation; NASOYA FOODS
USA, LLC, a Delaware limited liability
company; and DOES 1 through 10, inclusive,

Defendants.

Case No.: 21CV376481

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

JOINT STIPULATION OF CLASS ACTION SETTLEMENT AND RELEASE

This Joint Stipulation of Class Action Settlement and Release (“Settlement” or “Settlement Agreement”) is made and entered into by and between Plaintiff Martin Asencio Rojas (“Plaintiff” or “Class Representative”), as an individual and on behalf of all others similarly situated, and Defendants Pulmuone Foods USA, Inc., Nasoya Foods USA, LLC, and Pulmuone U.S.A., Inc. (“Defendants”) (collectively with Plaintiff, the “Parties”).

DEFINITIONS

The following definitions are applicable to this Settlement Agreement. Definitions contained elsewhere in this Settlement Agreement will also be effective:

1. “Action” means *Martin Asencio Rojas v. Pulmuone Foods USA, Inc. et al.*, Case No. 21CV376481 (Santa Clara County Superior Court).
2. “Attorneys’ Fees and Costs” means attorneys’ fees agreed upon by the Parties and approved by the Court for Class Counsel’s litigation and resolution of the Action, and all out-of-pocket costs incurred and to be incurred by Class Counsel in the Action, including but not limited to expert/consultant fees, investigation costs, and costs associated with documenting the Settlement, providing any notices required as part of the Settlement or Court order, securing the Court’s approval of the Settlement, administering the Settlement, and obtaining entry of a Judgment terminating the Action. Class Counsel will request attorneys’ fees not in excess of one-third (1/3) of the Gross Settlement Amount, or One Hundred Sixty Six Thousand Six Hundred Sixty Seven Dollars (\$166,667). The Attorneys’ Fees and Costs will also mean and include the additional reimbursement of any costs and expenses associated with Class Counsel’s litigation and settlement of the Action, up to Fifteen Thousand Dollars (\$15,000), subject to the Court’s approval. Defendants have agreed not to oppose Class Counsel’s request for fees and reimbursement of costs as set forth above.
3. “Class Counsel” means Capstone Law APC and Daily Aljian LLP.
4. “Class List” means a complete list of all Class Members that Defendants will diligently and in good faith compile from their records and provide to the Settlement Administrator and Class Counsel within thirty (30) calendar days after Preliminary Approval of this Settlement. The Class List will be formatted in Microsoft Office Excel and will include each Class Member’s full name; most

recent mailing address and telephone number; Social Security number; dates of employment; the respective number of Workweeks that each Class Member worked during the Class Period; the respective number of Pay Periods that each PAGA Member worked during the PAGA Period; and any other relevant information needed to calculate settlement payments.

5. “Class Member(s)” or “Settlement Class” means all persons who were employed by Defendants in any non-exempt hourly position in the State of California at any time during the period from February 26, 2017 through the date of Preliminary Approval.

6. “Class Period” means the period from February 26, 2017 through the date of Preliminary Approval.

7. “Class Representative Enhancement Payment” means the amount to be paid to Plaintiff in recognition of his effort and work in prosecuting the Action on behalf of Class Members, and for his general release of claims. Subject to the Court granting final approval of this Settlement Agreement and subject to the exhaustion of any and all appeals, Plaintiff will request Court approval of a Class Representative Enhancement Payment of up to Ten Thousand Dollars (\$10,000).

8. “Court” means the Santa Clara County Superior Court.

9. “Defendants” means Defendants Pulmuone Foods USA, Inc., Nasoya Foods USA, LLC, and Pulmuone U.S.A., Inc.

10. “Effective Date” means the later of: (a) when the period for filing any appeal, writ, intervention, or other proceeding opposing the Settlement has elapsed (i.e., 60 days after entry of the Final Order and Judgment) without any appeal, writ, intervention, or other proceeding having been filed; (b) when any appeal, writ, intervention, or other proceeding opposing the Settlement has been dismissed finally and conclusively with no right to pursue further remedies or relief; or (c) when any appeal, writ, intervention, or other proceeding has upheld the Court’s Final Order and Judgment with no right to pursue further remedies or relief.

11. “Final Approval” means the date on which the Court enters an order granting final approval of the Settlement Agreement.

12. “Gross Settlement Amount” means the Gross Settlement Amount of Five Hundred Thousand Dollars (\$500,000), to be paid by Defendants in full satisfaction of all Released Class Claims

1 and Released PAGA Claims, which includes all Individual Settlement Payments, Attorneys' Fees and
2 Costs, the Class Representative Enhancement Payment, the PAGA Settlement Amount, and Settlement
3 Administration Costs. This Gross Settlement Amount has been agreed to by Plaintiff and Defendants
4 based on the aggregation of the agreed-upon settlement value of the individual, class, and PAGA claims.
5 In no event will Defendants be liable for more than the Gross Settlement Amount except as otherwise
6 explicitly set forth herein. There will be no reversion of the Gross Settlement Amount to Defendants.
7 Defendants will be separately responsible for any employer payroll taxes required by law, if applicable,
8 including the employer FICA, FUTA, and SDI contributions, which shall not be paid from the Gross
9 Settlement Amount.

10 13. "Individual Settlement Payment" means each Participating Class Member's and PAGA
11 Member's respective shares of the Net Settlement Fund and PAGA Fund.

12 14. "Net Settlement Fund" means the portion of the Gross Settlement Amount remaining
13 after deducting the Attorneys' Fees and Costs, the Class Representative Enhancement Payment, the
14 PAGA Settlement Amount, and Settlement Administration Costs. The Net Settlement Fund will be
15 distributed to Participating Class Members. There will be no reversion of the Net Settlement Fund to
16 Defendants.

17 15. "Notice of Objection" means a Class Member's valid and timely written objection to the
18 Settlement Agreement. For the Notice of Objection to be valid, it must include: (a) the objector's full
19 name, signature, address, and telephone number, (b) a written statement of all grounds for the objection
20 accompanied by any legal support for such objection; (c) copies of any papers, briefs, or other
21 documents upon which the objection is based; and (d) a statement whether the objector intends to appear
22 at the final fairness hearing.

23 16. "Notice Packet" means the Notice of Class Action Settlement, substantially in the form
24 attached as Exhibit A.

25 17. "PAGA Members" means all persons who were employed by Defendants in any non-
26 exempt hourly position in the State of California at any time during the period from February 26, 2020
27 through the date of Preliminary Approval.

28 18. "PAGA Period" means the period from February 26, 2020 through the date of

1 Preliminary Approval.

2 19. "PAGA Settlement Amount" means the amount that the Parties have agreed to pay to
3 the Labor and Workforce Development Agency ("LWDA") and PAGA Members in connection with
4 Plaintiff's claim under the California Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code
5 §§ 2698, *et seq.*, "PAGA"). The Parties have agreed that Forty Thousand Dollars (\$40,000) of the Gross
6 Settlement Amount will be allocated to the PAGA Settlement Amount. Pursuant to PAGA, Seventy-
7 Five Percent (75%), or Thirty Thousand Dollars (\$30,000), of the PAGA Settlement Amount will be
8 paid to the California Labor and Workforce Development Agency ("Labor and Workforce Development
9 Agency Payment"), and Twenty-Five Percent (25%), or Ten Thousand Dollars (\$10,000) ("PAGA
10 Fund"), of the PAGA Settlement Amount will be disbursed to PAGA Members, and regardless whether
11 they request to be excluded from the Settlement Class.

12 20. "Parties" means Plaintiff and Defendants collectively.

13 21. "Participating Class Members" means all Class Members who do not submit timely and
14 valid Requests for Exclusion.

15 22. "Pay Period(s)" means, consistent with the definition provided by Labor Code section
16 204, the number of pay periods during which each PAGA Member worked during the PAGA Period.
17 All PAGA Members will be credited with at least one Pay Period during the PAGA Period.

18 23. "Plaintiff" means Plaintiff Martin Asencio Rojas.

19 24. "Preliminary Approval" means the date on which the Court enters an order granting
20 preliminary approval of the Settlement Agreement.

21 25. "Released Class Claims" means all claims asserted in the Action by Plaintiff and the
22 Settlement Class or any other claims that could reasonably have been asserted in the Action based on the
23 facts alleged, including but not limited to: (a) failure to pay overtime in violation of Labor Code §§ 510
24 and 1198; (b) failure to pay minimum wages in violation of Labor Code §§ 1182.12, 1194, 1197, 1197.1,
25 and 1198; (c) failure to provide meal periods in violation of Labor Code §§ 226.7, 512(a), 516, and 1198;
26 (d) failure to authorize and permit rest periods in violation of Labor Code §§ 226.7, 516, and 1198; (e)
27 failure to provide compliant wage statements and maintain payroll records in violation of Labor Code §§
28 226(a), 1174(d), and 1198; (f) failure to provide timely wages upon termination in violation of Labor

Code §§ 201 and 202; (g) failure to timely pay wages during employment in violation of Labor Code § 204; (h) failure to reimburse for business expenses in violation of Labor Code § 2802; and (i) a violation of California Business & Professions Code §§ 17200, *et seq.* based on the preceding claims for failure to provide overtime wages, minimum wages, meal and rest periods, accurate and complete wage statements, maintain accurate payroll records, timely pay all wages earned during employment and reimburse for business-related expenses; (j) a violation of California Business & Professions Code §§ 17200, *et seq.* for failure to pay overtime wages, minimum wages, meal and rest period premiums pursuant to Labor Code § 226.7, accurate and complete wage statements, maintain accurate payroll records, timely pay all wages earned during employment, and reimburse for business-related expenses; and (k) civil penalties pursuant to the Private Attorneys General Act of 2004, Labor Code §§2698 *et seq.*

26. “Released PAGA Claims” means all claims for civil penalties under California Labor Code §§ 2698, *et seq.*, that were brought or could reasonably have been brought based on the facts alleged in Plaintiff’s letter to the LWDA and the Released Class Claims during the PAGA Period.

27. “Released Parties” means Defendants, their parents, subsidiaries, affiliates, insurers, related entities and divisions, and its and their respective past or present officers, directors, shareholders, current and former agents, principals, heirs, executors, administrators, employees, founders, members, representatives, accountants, auditors, consultants, insurers and reinsurers, respective successors, assigns, and predecessors in interest, subsidiaries, affiliates, parents and attorneys, if any.

28. “Request for Exclusion” means a timely letter submitted by a Class Member indicating a request to be excluded from the Settlement Class. The Request for Exclusion must: (a) set forth the name, address, telephone number and last four digits of the Social Security Number of the Class Member requesting exclusion; (b) be signed by the Class Member; (c) be returned to the Settlement Administrator; (d) clearly state that the Class Member does not wish to be included in the Settlement; and (e) be faxed or postmarked on or before the Response Deadline.

29. “Response Deadline” means the deadline by which Class Members must postmark or fax to the Settlement Administrator Requests for Exclusion, postmark or fax disputes concerning the calculation of Individual Settlement Payments, or postmark Notices of Objection to the Settlement Administrator. The Response Deadline will be forty-five (45) calendar days from the initial mailing of

the Notice Packet by the Settlement Administrator, unless the forty-fifth (45th) calendar day falls on a Sunday or State holiday, in which case the Response Deadline will be extended to the next day on which the U.S. Postal Service is open.

30. "Settlement Administration Costs" means the costs payable from the Gross Settlement Amount to the Settlement Administrator for administering this Settlement, including, but not limited to, printing, distributing, and tracking documents for this Settlement, tax reporting, distributing the Gross Settlement Amount, and providing necessary reports and declarations, as requested by the Parties. The Settlement Administration Costs will be paid from the Gross Settlement Amount, including, if necessary, any such costs in excess of the amount represented by the Settlement Administrator as being the maximum costs necessary to administer the Settlement. The Settlement Administration Costs are estimated at \$10,000 for approximately Six Hundred (600) Class Members. The difference between any actual costs and the allocated \$10,000 shall be added to the Net Settlement Fund to be distributed to Participating Class Members on a pro rata basis.

31. "Settlement Administrator" means CPT Group, Inc., or any other third-party class action settlement administrator agreed to by the Parties and approved by the Court for the purposes of administering this Settlement. The Parties each represent that they do not have any financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest.

32. "Workweeks" means the number of days of employment for each Class Member during the Class Period, subtracting days on leave of absence (if any), dividing by seven (7), and rounding up to the nearest whole number. All Class Members will be credited with at least one Workweek during the Class Period.

TERMS OF AGREEMENT

Plaintiff, on behalf of himself and the Settlement Class and PAGA Members, and Defendants agree as follows:

33. Second Amended Complaint. As a condition of Settlement, Plaintiff will file a Second Amended Complaint ("SAC") to conform the pleadings with the scope of the Released Class Claims and Released PAGA Claims. These claims shall include: (1) failure to pay minimum wages; (2) failure to

1 pay overtime compensation; (3) failure to provide meal periods; (4) failure to provide rest periods; (5)
2 failure to maintain required records; (6) failure to provide itemized wage statements; (7) failure to timely
3 pay wages; (8) failure to pay all wages owed upon separation; (9) failure to reimburse necessary business
4 expenses, including an allegation for failure to reimburse for COVID-19 testing; (10) unfair business
5 practices; (11) failure to compensate for all hours worked, including an allegation for failure to pay
6 minimum wages for time spent obtaining COVID-19 testing; and (12) civil penalties for claims brought
7 under the California Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698 *et seq.*
8 Defendants will not be required to file an answer or other responsive pleading to the SAC. If, for any
9 reason, the Court does not approve of the Settlement, or if the Settlement does not become final for any
10 reason, then the SAC will be deemed withdrawn and the First Amended Complaint will again become
11 the operative complaint without prejudice to Plaintiff's right to seek leave to file another amended
12 complaint and without prejudice to Defendants' rights to object and/or challenge an amended pleading.
13 Defendants do not impliedly or expressly waive any arguments or defenses to the SAC. Plaintiff shall
14 file an amended PAGA notice letter with the LWDA that includes a claim for failure to reimburse for
15 COVID-19 testing, and failure to pay minimum wages for time spent obtaining COVID-19 testing.

16 34. Funding of the Gross Settlement Amount. Defendants will make a one-time deposit of
17 the Gross Settlement Amount of Five Hundred Thousand Dollars (\$500,000) into a Qualified Settlement
18 Account to be established by the Settlement Administrator. Defendants will pay the employer's share of
19 payroll taxes separately, if applicable. After the Effective Date, the Gross Settlement Amount will be
20 used for: (a) Individual Settlement Payments; (b) the Labor and Workforce Development Agency
21 Payment; (c) the Class Representative Enhancement Payment; (d) Attorneys' Fees and Costs; and (e)
22 Settlement Administration Costs. Defendants will deposit the Gross Settlement Amount and the
23 employer's share of payroll taxes within fifteen (15) calendar days of the Effective Date ("Funding
24 Date").

25 35. Attorneys' Fees and Costs. Defendants agree not to oppose or impede any application or
26 motion by Class Counsel for Attorneys' Fees and Costs of not more than One Hundred Sixty Six
27 Thousand Six Hundred Sixty Seven Dollars (\$166,667), plus the reimbursement of all out-of-pocket
28 costs and expenses associated with Class Counsel's litigation and settlement of the Action (including

expert/consultant fees, investigations costs, etc.), not to exceed Fifteen Thousand Dollars (\$15,000), both of which will be paid from the Gross Settlement Amount. Class Counsel will divide any fee award as follows: Eighty Percent (80%) to Capstone Law APC and Twenty Percent (20%) to Daily Aljian LLP.

36. Class Representative Enhancement Payment. In exchange for a general and full release of Plaintiff's claims pursuant to California Civil Code section 1542, and in recognition of his effort and work in prosecuting the Action on behalf of Class Members, Defendants agree not to oppose or impede any application or motion for a Class Representative Enhancement Payment of up to Ten Thousand Dollars (\$10,000). The Class Representative Enhancement Payment will be paid from the Gross Settlement Amount and will be in addition to Plaintiff's Individual Settlement Payment paid pursuant to the Settlement. Plaintiff will be solely and legally responsible to pay any and all applicable taxes on the Class Representative Enhancement Payment. Plaintiff understands and agrees that this Settlement Agreement shall remain in full force and effect even if the full amount of Class Representative Enhancement Payment sought by Plaintiff is not ultimately awarded by the Court.

37. Settlement Administration Costs. The Settlement Administrator will be paid for the reasonable costs of administration of the Settlement and distribution of payments from the Gross Settlement Amount, which is currently estimated to be Ten Thousand Dollars (\$10,000). These costs, which will be paid from the Gross Settlement Amount, will include, *inter alia*, the required tax reporting on the Individual Settlement Payments, the issuing of 1099 and W-2 IRS Forms, distributing Notice Packets, calculating and distributing the Gross Settlement Amount, and providing necessary reports and declarations.

38. PAGA Settlement Amount. Subject to Court approval, the Parties agree that the amount of Forty Thousand Dollars (\$40,000) from the Gross Settlement Amount will be designated for satisfaction of Plaintiff's PAGA claim. Pursuant to PAGA, Seventy-Five Percent (75%), or Thirty Thousand Dollars (\$30,000), of this sum will be paid to the LWDA and Twenty-Five Percent (25%), or Ten Thousand Dollars (\$10,000), will be paid to PAGA Members in proportion to the number of Pay Periods worked during the PAGA Period.

39. No Right to Exclusion or Objections to the PAGA Settlement. Because this settlement resolves claims and actions brought pursuant to PAGA by Plaintiff acting as a proxy and as a Private

1 Attorney General of, and for, the State of California and the LWDA, the Parties agree that no PAGA
2 Member has the right to exclude himself or herself from the release of the Released PAGA Claims, and
3 all PAGA Members will receive their share of the PAGA Fund. The Parties also agree that no PAGA
4 Member has the right to object to the PAGA Settlement Amount.

5 40. Net Settlement Fund. The entire Net Settlement Fund will be distributed to Participating
6 Class Members. No portion of the Net Settlement Fund will revert to or be retained by Defendants.

7 41. PAGA Fund. The entire PAGA Fund will be distributed to all PAGA Members. No
8 portion of the PAGA Fund will revert to or be retained by Defendants.

9 42. Individual Settlement Payment Calculations. Individual Settlement Payments will be
10 calculated and apportioned from the Net Settlement Fund and PAGA Fund based on the number of
11 Workweeks a Class Member worked during the Class Period, and Pay Periods a PAGA Member
12 worked during the PAGA Period. Specific calculations of Individual Settlement Payments will be made
13 as follows:

14 42(a) Payments from the Net Settlement Fund. Defendants will calculate the total
15 number of Workweeks worked by each Class Member during the Class
16 Period and the aggregate total number of Workweeks worked by all Class
17 Members during the Class Period. To determine each Class Member's share
18 of the Net Settlement Fund, the Settlement Administrator will use the
19 following formula: The Net Settlement Fund will be divided by the
20 aggregate total number of Workweeks, resulting in the "Workweek Value."
21 Each Class Member's "Individual Settlement Payment" will be calculated
22 by multiplying each individual Class Member's total number of Workweeks
23 by the Workweek Value. The Individual Settlement Payment will be
24 reduced by any required deductions for each Participating Class Member as
25 specifically set forth herein, including employee-side tax withholdings or
26 deductions. The entire Net Settlement Fund will be disbursed to all Class
27 Members who do not submit timely and valid Requests for Exclusion. If
28 there are any valid and timely Requests for Exclusion, the Settlement

1 Administrator shall proportionately increase the Individual Settlement
2 Payment for each Participating Class Member according to the number of
3 Workweeks worked, so that the amount actually distributed to the
4 Settlement Class equals 100% of the Net Settlement Fund.

5 42(b) Payments from the PAGA Fund. Defendants will calculate the total number
6 of Pay Periods worked by each PAGA Member during the PAGA Period
7 and the aggregate total number of Pay Periods worked by all PAGA
8 Members during the PAGA Period. To determine each PAGA Member's
9 share of the PAGA Fund, the Settlement Administrator will use the
10 following formula: The PAGA Fund will be divided by the aggregate total
11 number of Pay Periods, resulting in the "PAGA Pay Period Value." Each
12 PAGA Member's "Individual Settlement Payment" will be calculated by
13 multiplying each individual PAGA Member's total number of Pay Periods
14 by the PAGA Pay Period Value. The entire PAGA Fund will be disbursed
15 to all PAGA Members.

16 43. Workweeks. Defendants represent that there are approximately Forty-Two Thousand
17 (42,000) Workweeks worked by the Settlement Class ("Affected Class Workweeks"). If the actual
18 number of Affected Class Workweeks is more than Ten Percent (10%) greater than this number (i.e., if
19 there are more than 46,200 Affected Class Workweeks), Defendants shall at their option either: (a)
20 increase the Gross Settlement in proportion to the increase in Affected Class Workweeks, or (b) cap the
21 Class Period on the date that the 10% is exceeded. Defendants will provide Plaintiff with a declaration
22 that states the number of Class Members and the number of Affected Class Workweeks during the Class
23 Period just before Plaintiff files his Motion for Preliminary Approval of the Settlement. The Affected
24 Class Workweeks include the workweeks worked as alleged employees of Defendants by the following
25 nine (9) overlapping putative class members from *Olga Guerra v. Pulmuone USA, Inc.*, No. 30-2022-
26 01245975 (Orange County Superior Court): Employee ID Nos. 181759, 179734, 184986, 190801,
27 184976, 175441, 179736, 175423, and 184974.

28 44. Pay Periods. Defendants represent that there are approximately Eight Thousand One

Hundred Thirty-One (8,131) Pay Periods worked by the PAGA Members (“Affected PAGA Pay Periods”). If the actual number of Affected PAGA Periods is more than Ten Percent (10%) greater than this number (i.e., if there are more than 8,945 Affected PAGA Pay Periods), Defendants shall at its option either (a) increase the Gross Settlement in proportion to the increase in Affected PAGA Pay Periods, or (b) cap the PAGA Period on the date that the 10% was exceeded. Defendants will provide Plaintiff with a declaration that states the number of PAGA Members and the number of Affected PAGA Pay Periods during the PAGA Period just before Plaintiff files his Motion for Preliminary Approval of the Settlement. The Affected PAGA Pay Periods include the pay periods worked as alleged employees of Defendants by the following eight (8) overlapping aggrieved employees from *Olga Guerra v. Pulmuone USA, Inc.*, No. 30-2022-01245975 (Orange County Superior Court): Employee ID Nos. 181759, 179734, 184986, 190801, 184976, 175441, 179736, and 184974.

45. No Credit Toward Benefit Plans. The Individual Settlement Payments made to Participating Class Members under this Settlement, as well as any other payments made pursuant to this Settlement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties’ intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit plans.

46. Administration Process. The Parties agree to cooperate in the administration of the Settlement and to make all reasonable efforts to control and minimize the costs and expenses incurred in administration of the Settlement.

47. Delivery of the Class List. Within thirty (30) calendar days of Preliminary Approval, Defendants will provide the Class List to the Settlement Administrator.

48. Notice by First-Class U.S. Mail. Within ten (10) calendar days after receiving the Class List from Defendants, the Settlement Administrator will mail a Notice Packet to all Class Members via regular First-Class U.S. Mail, using the most current, known mailing addresses identified in the Class List.

49. Confirmation of Contact Information in the Class Lists. Prior to mailing, the Settlement

1 Administrator will perform a search based on the National Change of Address Database for information
2 to update and correct for any known or identifiable address changes. Any Notice Packets returned to the
3 Settlement Administrator as non-deliverable on or before the Response Deadline will be sent promptly
4 via regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement
5 Administrator will indicate the date of such re-mailing on the Notice Packet. If no forwarding address is
6 provided, the Settlement Administrator will promptly attempt to determine the correct address using a
7 skip-trace, or other search using the name, address and/or Social Security number of the Class Member
8 involved, and will then perform a single re-mailing. Those Class Members who receive a re-mailed
9 Notice Packet, whether by skip-trace or by request, will have either (a) an additional fifteen (15) calendar
10 days or (b) until the Response Deadline, whichever is later, to submit a Request for Exclusion or an
11 objection to the Settlement.

12 50. Notice Packets. All Class Members will be mailed a Notice Packet. Each Notice Packet
13 will provide: (a) information regarding the nature of the Action; (b) a summary of the Settlement's
14 principal terms; (c) the Settlement Class and PAGA Member definitions; (d) the total number of
15 Workweeks each respective Class Member worked for Defendants during the Class Period, and the total
16 number of Pay Periods each PAGA Member worked for Defendants during the PAGA Period; (e) each
17 Class Member's and PAGA Member's estimated Individual Settlement Payment and the formula for
18 calculating Individual Settlement Payments; (f) the dates which comprise the Class Period and PAGA
19 Period; (g) instructions on how to submit Requests for Exclusion or Notices of Objection; (h) the
20 deadlines by which the Class Member must postmark or fax Request for Exclusions, or postmark
21 Notices of Objection to the Settlement; and (i) the claims to be released.

22 51. Disputed Information on Notice Packets. Class Members will have an opportunity to
23 dispute the information provided in their Notice Packets. To the extent Class Members dispute their
24 employment dates or the number of Workweeks on record, Class Members must produce evidence to
25 the Settlement Administrator showing that such information is inaccurate. Defendants' records will be
26 presumed correct, but the Settlement Administrator shall contact the Parties regarding the dispute and the
27 Parties will work in good faith to resolve it. All disputes must be submitted by the Response Deadline,
28 and will be decided within ten (10) business days after the Response Deadline.

52. Defective Submissions. If a Class Member's Request for Exclusion is defective as to the requirements listed herein, that Class Member will be given an opportunity to cure the defect(s). The Settlement Administrator will mail the Class Member a cure letter within three (3) business days of receiving the defective submission to advise the Class Member that his or her submission is defective and that the defect must be cured to render the Request for Exclusion valid. The Class Member will have until (a) the Response Deadline or (b) fifteen (15) calendar days from the date of the cure letter, whichever date is later, to postmark or fax a revised Request for Exclusion. If the revised Request for Exclusion is not postmarked or received by fax within that period, it will be deemed untimely.

53. Request for Exclusion Procedures. Any Class Member wishing to opt-out from the Settlement Agreement must sign and fax or postmark a written Request for Exclusion to the Settlement Administrator within the Response Deadline. In the case of Requests for Exclusion that are mailed to the Settlement Administrator, the postmark date will be the exclusive means to determine whether a Request for Exclusion has been timely submitted.

54. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class Member who does not affirmatively opt-out of the Settlement Agreement by submitting a timely and valid Request for Exclusion will be bound by all of its terms, including those pertaining to the Released Class Claims, as well as any Judgment that may be entered by the Court if it grants final approval to the Settlement.

55. Releases by Participating Class Members. Upon the Funding Date, and except as to such rights or claims as may be created by this Settlement Agreement, each Participating Class Member, together and individually, on their behalf and on behalf of their respective heirs, executors, administrators, agents, and attorneys, shall fully and forever release and discharge all of the Released Parties, or any of them, from each of the Released Class Claims arising during the Class Period. Nothing in this Settlement Agreement shall be deemed to release any claims of employees who were not directly employed or converted to employees of Defendant Pulmuone USA, Inc. or Defendant Pulmuone Foods USA, Inc. but were staffed via a staffing agency. Specifically, the Agreement excludes claims of employees staffed by Beyond Staffing Solutions, Inc., and/or any other agency as may be alleged in the currently pled and pending Orange County Superior Court Case *Guerra v. Pulmuone USA, Inc., et al.*,

Case No. 30-2022-01245975, except for the following nine (9) overlapping putative class members from *Olga Guerra v. Pulmuone USA, Inc.*, No. 30-2022-01245975 (Orange County Superior Court): Employee ID Nos. 181759, 179734, 184986, 190801, 184976, 175441, 179736, 175423, and 184974.

56. Releases by PAGA Members. Upon the Funding Date, and except as to such rights or claims as may be created by this Settlement Agreement, each PAGA Member, together and individually, on their behalf and on behalf of their respective heirs, executors, administrators, agents, and attorneys, shall fully and forever release and discharge all of the Released Parties, or any of them, from each of the Released PAGA Claims during the PAGA Period. Nothing in this Settlement Agreement shall be deemed to release any claims of employees who were not directly employed or converted to employees of Defendant Pulmuone USA, Inc. or Defendant Pulmuone Foods USA, Inc. but were staffed via a staffing agency. Specifically, the Agreement excludes claims of employees staffed by Beyond Staffing Solutions, Inc., and/or any other agency as may be alleged in the currently pled and pending Orange County Superior Court Case *Guerra v. Pulmuone USA, Inc., et al.*, Case No. 30-2022-01245975, except for the following eight (8) overlapping putative class members from *Olga Guerra v. Pulmuone USA, Inc.*, No. 30-2022-01245975 (Orange County Superior Court): Employee ID Nos. 181759, 179734, 184986, 190801, 184976, 175441, 179736, 175423, and 184974.

57. Defendants' Right to Rescind. If Five Percent (5%) or more members of the Settlement Class exercise their rights to exclude themselves and opt out of the resolution, Defendants may, in their sole discretion, unilaterally withdraw from and terminate the Settlement no later than fifteen (15) days after the claim period has closed. In the event of Defendants' withdrawal, no Party may use the fact that the Parties agreed to the resolution for any reason. If Defendants terminate the Settlement, they will be responsible for paying all Settlement Administration Costs incurred to the date of termination.

58. Objection Procedures. To object to the Settlement Agreement, a Class Member may either postmark a valid Notice of Objection to the Settlement Administrator on or before the Response Deadline, or appear in person at the Final Approval Hearing. Class Members who fail to object either by submitting a valid Notice of Objection or appearing in person at the Final Approval Hearing will be deemed to have waived all objections to the Settlement and will be foreclosed from making any objections, whether by appeal or otherwise, to the Settlement Agreement. At no time will any of the

Parties or their counsel seek to solicit or otherwise encourage Class Members to submit written objections to the Settlement Agreement or appeal from the final approval order and judgment. Class Counsel will not represent any Class Members with respect to any such objections to this Settlement. If a Class Member timely submits both a Notice of Objection and a Request for Exclusion, the Request for Exclusion will be given effect and considered valid, the Notice of Objection shall be rejected, and the Class Member shall not participate in or be bound by the Settlement.

59. Certification Reports Regarding Individual Settlement Payment Calculations. The Settlement Administrator will provide Defendants' counsel and Class Counsel a weekly report that certifies the number of Class Members who have submitted valid Requests for Exclusion or objections to the Settlement, and whether any Class Member has submitted a challenge to any information contained in their Notice Packet. Additionally, the Settlement Administrator will provide to counsel for both Parties any updated reports regarding the administration of the Settlement Agreement as needed or requested.

60. Distribution Timing of Individual Settlement Payments. Within ten (10) calendar days of the Funding Date, the Settlement Administrator will issue payments to: (a) Participating Class Members and PAGA Members; (b) the Labor and Workforce Development Agency; (c) Plaintiff; and (d) Class Counsel. The Settlement Administrator will also issue a payment to itself for Court-approved services performed in connection with the Settlement.

61. Un-cashed Settlement Checks. Funds represented by Individual Settlement Payment checks returned as undeliverable and Individual Settlement Payment checks remaining un-cashed for more than one hundred and eighty (180) calendar days after issuance will be tendered to Worksafe. The Parties do not have a connection to or a relationship with Worksafe that could reasonably create the appearance of impropriety as between the selection of Worksafe as the recipient of the unclaimed residuals and the interests of the class.

62. Certification of Completion. Upon completion of administration of the Settlement, the Settlement Administrator will provide a written declaration under oath to certify such completion to the Court and counsel for all Parties.

63. Treatment of Individual Settlement Payments. The PAGA Fund will be allocated as 100% to penalties. The Net Settlement Fund will be allocated as follows (the "Net Settlement

Allocation”): (a) Forty Percent (40%) as penalties; (b) Forty Percent (40%) as interest; and (c) Twenty Percent (20%) as wages. The employer’s portion of the payroll tax, if applicable, is paid on top of the Gross Settlement Amount and not out of the Net Settlement Amount.

64. Administration of Taxes by the Settlement Administrator. The Settlement Administrator will be responsible for issuing to Plaintiff, Participating Class Members, PAGA Members, and Class Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant to this Settlement. The Settlement Administrator will also be responsible for forwarding all payroll taxes and penalties to the appropriate government authorities.

65. Tax Liability. Defendants make no representation as to the tax treatment or legal effect of the payments called for hereunder, and Plaintiff and Participating Class Members are not relying on any statement, representation, or calculation by Defendants or by the Settlement Administrator in this regard.

66. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER, OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE

1 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER
2 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF
3 ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER
4 SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
5 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY
6 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS
7 AGREEMENT.

8 67. No Prior Assignments. The Parties and their counsel represent, covenant, and warrant
9 that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign,
10 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of
11 action or right herein released and discharged.

12 68. Nullification of Settlement Agreement. In the event that: (i) the Court does not finally
13 approve the Settlement as provided herein; or (ii) the Settlement does not become final for any other
14 reason, then this Settlement Agreement, and any documents generated to bring it into effect, will be null
15 and void. Any order or judgment entered by the Court in furtherance of this Settlement Agreement will
16 likewise be treated as void from the beginning.

17 69. Preliminary Approval Hearing. Plaintiff will obtain a hearing before the Court to request
18 the Preliminary Approval of the Settlement Agreement, and the entry of a Preliminary Approval Order
19 for: (i) conditional certification of the Settlement Class for settlement purposes only, (ii) preliminary
20 approval of the proposed Settlement Agreement, (iii) setting a date for a final fairness hearing. The
21 Preliminary Approval Order will provide for the Notice Packet to be sent to all Class Members as
22 specified herein. In conjunction with the Preliminary Approval hearing, Plaintiff will submit this
23 Settlement Agreement, which sets forth the terms of this Settlement, and will include the proposed
24 Notice of Class Action Settlement, attached as Exhibit A. Class Counsel will be responsible for drafting
25 all documents necessary to obtain preliminary approval.

26 70. Final Settlement Approval Hearing and Entry of Judgment. Upon expiration of the
27 deadlines to postmark Requests for Exclusion or objections to the Settlement Agreement, and with the
28 Court's permission, a final fairness hearing will be conducted to determine the Final Approval of the

Settlement Agreement along with the amounts properly payable for: (i) Attorneys' Fees and Costs; (ii) the Class Representative Enhancement Payment; (iii) Individual Settlement Payments; (iv) the Labor and Workforce Development Agency Payment; and (v) all Settlement Administration Costs. The final fairness hearing will not be held earlier than thirty (30) calendar days after the Response Deadline. Class Counsel will be responsible for drafting all documents necessary to obtain final approval. Class Counsel will also be responsible for drafting the attorneys' fees and costs application to be heard at the final approval hearing.

71. Judgment and Continued Jurisdiction. Upon final approval of the Settlement by the Court or after the final fairness hearing, the Parties will present the Judgment to the Court for its approval. After entry of the Judgment, the Court will have continuing jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement, (ii) Settlement administration matters, and (iii) such post-Judgment matters as may be appropriate under court rules or as set forth in this Settlement Agreement.

72. Release by Plaintiff. Upon the Funding Date, in addition to the claims being released by all Participating Class Members, Plaintiff will release and forever discharge the Released Parties, to the fullest extent permitted by law, of and from any and all claims, known and unknown, asserted and not asserted, which Plaintiff has or may have against the Released Parties as of the date of execution of this Settlement Agreement. To the extent the foregoing release is a release to which Section 1542 of the California Civil Code or similar provisions of other applicable law may apply, Plaintiff expressly waives any and all rights and benefits conferred upon him by the provisions of Section 1542 of the California Civil Code or similar provisions of applicable law which are as follows:

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

73. Exhibits Incorporated by Reference. The terms of this Settlement Agreement include the

terms set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth herein. Any Exhibits to this Settlement Agreement are an integral part of the Settlement.

74. Entire Agreement. This Settlement Agreement and any attached Exhibits constitute the entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral agreements may be deemed binding on the Parties. The Parties expressly recognize California Civil Code Section 1625 and California Code of Civil Procedure Section 1856(a), which provide that a written agreement is to be construed according to its terms and may not be varied or contradicted by extrinsic evidence, and the Parties agree that no such extrinsic oral or written representations or terms will modify, vary or contradict the terms of this Settlement Agreement.

75. Amendment or Modification. No amendment, change, or modification to this Settlement Agreement will be valid unless in writing and signed, either by the Parties or their counsel.

76. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

77. Binding on Successors and Assigns. This Settlement Agreement will be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

78. California Law Governs. All terms of this Settlement Agreement and Exhibits hereto will be governed by and interpreted according to the laws of the State of California.

79. Execution and Counterparts. This Settlement Agreement is subject only to the execution of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them, including electronic (e.g., DocuSign), facsimile, and scanned copies of the signature page, will be deemed to be one and the same instrument.

1 80. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this
2 Settlement Agreement is a fair, adequate and reasonable settlement of the Action and have arrived at this
3 Settlement after arm's-length negotiations and in the context of adversarial litigation, taking into account
4 all relevant factors, present and potential. The Parties further acknowledge that they are each represented
5 by competent counsel and that they have had an opportunity to consult with their counsel regarding the
6 fairness and reasonableness of this Settlement.

7 81. Invalidity of Any Provision. Before declaring any provision of this Settlement
8 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent
9 possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement
10 valid and enforceable. If any provisions of this Settlement Agreement should be declared illegal or
11 invalid, the remaining provisions will continue to be binding and enforceable.

12 82. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class
13 certification for purposes of this Settlement only; except, however, that Plaintiff or Class Counsel may
14 appeal any reduction to the Attorneys' Fees and Costs below the amount they request from the Court,
15 and either party may appeal any court order that materially alters the Settlement Agreement's terms.

16 83. Class Action Certification for Settlement Purposes Only. The Parties agree to stipulate to
17 class action certification for purposes of the Settlement only. If, for any reason, the Settlement is not
18 approved, the stipulation to certification will be void. The Parties further agree that certification for
19 purposes of the Settlement is not an admission that class action certification is proper under the standards
20 applied to contested certification motions and that this Settlement Agreement will not be admissible in
21 this or any other proceeding as evidence that either (i) a class action should be certified or (ii) Defendants
22 are liable to Plaintiff or any Class Member or PAGA Member, other than according to the Settlement's
23 terms.

24 84. Non-Admission of Liability. The Parties enter into this Settlement to resolve the dispute
25 that has arisen between them and to avoid the burden, expense and risk of continued litigation. In
26 entering into this Settlement, Defendants do not admit, and specifically deny, that they violated any
27 federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or
28 any other applicable laws, regulations or legal requirements; breached any contract; violated or breached

any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with respect to their employees. Neither this Settlement Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it, will be construed as an admission or concession by Defendants of any such violations or failures to comply with any applicable law. Except as necessary in a proceeding to enforce the terms of this Settlement, this Settlement Agreement and its terms and provisions will not be offered or received as evidence in any action or proceeding to establish any liability or admission on the part of Defendants or to establish the existence of any condition constituting a violation of, or a non-compliance with, federal, state, local or other applicable law.

85. No Public Comment: The Parties and their counsel agree that they will not issue any press releases, initiate any contact with the press, respond to any press inquiry, or have any communication with the press about the fact, amount or terms of the Settlement. Plaintiff and Class Counsel agree that they will not post or report anything regarding the claims of Plaintiff or the Settlement Class or the resolution on their website or any marketing materials, and will not contact any reporters or media regarding the resolution.

86. Waiver. No waiver of any condition or covenant contained in this Settlement Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

87. Enforcement Actions. In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

88. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be construed more strictly against one party than another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arms-length negotiations between the Parties, all Parties have contributed to the preparation of this Settlement Agreement.

89. Representation By Counsel. The Parties acknowledge that they have been represented

by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and that this Settlement Agreement has been executed with the consent and advice of counsel. Further, Plaintiff and Class Counsel warrant and represent that there are no liens on the Settlement Agreement.

90. All Terms Subject to Final Court Approval. All amounts and procedures described in this Settlement Agreement herein will be subject to final Court approval.

91. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement.

92. Binding Agreement. The Parties warrant that they understand and have full authority to enter into this Settlement Agreement, and further intend that this Settlement Agreement will be fully enforceable and binding on all parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

PLAINTIFF

Dated: 10/14/2022

DocuSigned by:

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DEFENDANTS

Dated: _____

Kilsu Cho
 Pulmuone Foods USA, Inc., Nasoya Foods USA,
 LLC, and Pulmuone U.S.A., Inc.

1 by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and
2 that this Settlement Agreement has been executed with the consent and advice of counsel. Further,
3 Plaintiff and Class Counsel warrant and represent that there are no liens on the Settlement Agreement.

4 90. All Terms Subject to Final Court Approval. All amounts and procedures described in
5 this Settlement Agreement herein will be subject to final Court approval.

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10 enter into this Settlement Agreement, and further intend that this Settlement Agreement will be fully
11 enforceable and binding on all parties, and agree that it will be admissible and subject to disclosure in
12 any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that
13 otherwise might apply under federal or state law.

14
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16 **PLAINTIFF**

17
18 Dated: _____

Martin Asencio Rojas

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20 **DEFENDANTS**

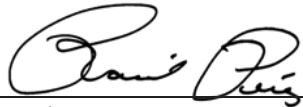
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22 Dated: 10/31/2022

Kilsu Cho
Pulmuone Foods USA, Inc., Nasoya Foods USA,
LLC, and Pulmuone U.S.A., Inc.

APPROVED AS TO FORM

CAPSTONE LAW APC

Dated: October 14, 2022

By: 
Raul Perez

DAILY ALJIAN LLP

Dated: _____

By: _____
Justin E. Daily

FISHER & PHILLIPS LLP

Dated: _____

By: _____
Jason Geller

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APPROVED AS TO FORM

CAPSTONE LAW APC

Dated: _____

By: _____
Raul Perez

DAILY ALJIAN LLP

Dated: 1/23/23

By:  _____
Justin E. Daily

FISHER & PHILLIPS LLP

Dated: November 4, 2022

By:  _____
Jason Geller

Exhibit A

Rojas v. Pulmuone Foods USA, Inc., et al. (Case No. 21CV376481)
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF SANTA CLARA
NOTICE OF CLASS ACTION AND PAGA SETTLEMENT

PLEASE READ THIS NOTICE CAREFULLY. THIS NOTICE RELATES TO A PROPOSED SETTLEMENT OF CLASS ACTION LITIGATION AND POTENTIAL DISBURSEMENT OF SETTLEMENT FUNDS TO YOU. IF YOU ARE A CLASS MEMBER, IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHT TO PARTICIPATE OR TO OPT OUT OF THE SETTLEMENT ACCORDING TO THE PROCEDURES DESCRIBED BELOW.

To: All persons who were employed by Defendants Pulmuone Foods USA, Inc., Nasoya Foods USA, LLC, and Pulmuone U.S.A., Inc. (“Defendants”) in any non-exempt hourly position in the State of California at any time during the period from February 26, 2017 up to [Insert Date of Preliminary Approval] (“Class Members”).

All persons who were employed by Defendants in any non-exempt hourly position in the State of California at any time during the period from February 26, 2020 up to [Insert Date of Preliminary Approval] (“PAGA Members”).

On _____, the Honorable Theodore C. Zayner of the Santa Clara County Superior Court granted preliminary approval of this class action settlement and ordered the litigants to notify all Class Members of the settlement (“Preliminary Approval”). **You have received this notice because Defendants’ records indicate that you fall within the definition of a “Class Member,” and therefore entitled to a payment from the settlement.**

Unless you choose to opt out of the settlement by following the procedures described below, you will be deemed a Class Member and, if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement fund. The Final Fairness Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at ____:00 ____m. on _____, 2023 in Department 19 of the Santa Clara County Superior Court located at 161 N. First Street, San Jose, California 95113.

Please also note that the Final Fairness Hearing may be rescheduled by the Court to another date and/or time. Please visit [settlement website] for any scheduling changes.

If you move, you must send the Settlement Administrator your new address; otherwise, you may never receive your settlement payment. It is your responsibility to keep a current address on file with the Settlement Administrator.

Summary of the Litigation

On [Insert Date of Filing of Second Amended Complaint], Plaintiff Martin Asencio Rojas (“Plaintiff”) filed a Second Amended Complaint against Defendants in the Santa Clara County Superior Court of California on behalf of himself and Class Members and PAGA Members. The term “Action” means this putative class action pending in Santa Clara County Superior Court, Case No. 21CV376481.

In the Action, Plaintiff sought to obtain unpaid wages, interest, statutory penalties, civil penalties, fees, and costs on behalf of himself, Class Members, and PAGA Members. Plaintiff alleged that Defendants 1) failed to pay overtime wages; 2) failed to pay minimum wages; 3) failed to provide meal periods; 4) failed to provide rest periods; 5) failed to provide accurate, itemized wage statements and maintain payroll records; 6) failed to timely pay all final wages; 7) failed to reimburse expenses; 8) engaged in unfair competition; 9) failed to timely pay wages during employment; 10) violations of the California Labor Code Private Attorneys General Act of 2004; and 11) failed to pay meal and rest period premiums.

After the exchange of extensive documentation and information, the parties agreed to enter into settlement negotiations in an attempt to informally resolve the claims in the case. On April 20, 2022, the parties participated in a mediation with Mr. Jeffrey Ross, Esq., an experienced and well-respected class action mediator. With Mr. Ross’ guidance, the parties were able to negotiate a complete settlement of Plaintiff’s claims.

The Court has not determined whether any laws have been violated, nor has it decided in favor of Plaintiff or Defendants. Instead, both sides agreed to resolve the Action with no decision or admission of who is right or wrong. By agreeing to resolve the Action, all parties avoid the risks and cost of a trial.

Counsel for Plaintiff, and the attorneys appointed by the Court to represent the class, Capstone Law APC and Daily Aljian LLP (“Class Counsel”), have investigated and researched the facts and circumstances underlying the issues raised in the case and the applicable law. While Class Counsel believe that the claims alleged in this lawsuit have merit, Class Counsel also recognize that the risk and expense of continued litigation justify settlement. Based on the foregoing, Class Counsel believe the proposed settlement is fair, adequate, reasonable, and in the best interests of Class Members.

Defendants expressly deny that they did anything wrong or that they violated the law, and Defendants further deny any liability whatsoever to Plaintiff, the Class Members, or the PAGA Members. Defendants have agreed to settle the case as part of a compromise with Plaintiff.

Summary of The Proposed Settlement Terms

Plaintiff and Defendants have agreed to settle the underlying claims in exchange for a Gross Settlement Amount of \$500,000.00. This amount is inclusive of: (1) individual settlement payments to all Participating Class Members; (2) a Class Representative Enhancement Payment of \$10,000.00 to Plaintiff for his services on behalf of the class, and for a release of all claims arising out of his employment with Defendants; (3) \$166,667.00 in attorneys’ fees and up to \$15,000.00 in litigation costs and expenses; (4) a \$40,000.00 settlement of claims under the Labor Code Private Attorneys General Act of 2004 (“PAGA”), inclusive of a \$30,000.00 payment to the California Labor and Workforce Development Agency (“LWDA”) in connection with the PAGA, and a \$10,000.00 payment (“PAGA Fund”) to all PAGA Members; and (5) reasonable Settlement Administrator’s fees and expenses currently estimated at \$10,000.00. After deducting the above payments, a total of approximately \$ _ will be allocated to Class Members who do not opt out of the Settlement Class (“Net Settlement Fund”). Additionally, all PAGA Members will receive a proportional share of the \$10,000.00 PAGA Fund, regardless of whether they opt out of the Settlement Class.

Payments from Net Settlement Fund. The Settlement Administrator will calculate the total number of Workweeks worked by each Class Member from February 26, 2017 and the date of Preliminary Approval (“Class Period”) and the aggregate total number of Workweeks worked by all Class Members during the Class Period using Defendants’ records. To determine each Class Member’s estimated share of the Net Settlement Fund, the Settlement Administrator will use the following formula: The Net Settlement Fund will be divided by the aggregate total number of Workweeks, resulting in the “Workweek Value.” Each Class Member’s share of the Net Settlement Fund will be calculated by multiplying each individual Class Member’s total number of Workweeks by the Workweek Value. The Individual Settlement Payment will be reduced by any required deductions for each Class Members as specifically set forth herein, including employee-side tax withholdings or deductions. If there are any valid and timely Requests for Exclusion, the Settlement Administrator shall proportionately increase each Participating Class Member’s share of the Net Settlement Fund according to the number of Workweeks worked, so that the amount actually distributed to the Settlement Class equals 100% of the Net Settlement Fund.

According to Defendants’ records, you worked during the Class Period in a non-exempt position for a total of ____ Workweeks. Accordingly, your estimated payment from the Net Settlement Fund is approximately \$ ____.

Payments from PAGA Fund. The Settlement Administrator will calculate the total number of Pay Periods worked by each PAGA Member from February 26, 2020 and the date of Preliminary Approval (“PAGA Period”) and the aggregate total number of Pay Periods worked by all PAGA Members during the PAGA Period. To determine each PAGA Member’s estimated share of the PAGA Fund, the Settlement Administrator will use the following formula: The PAGA Fund will be divided by the aggregate total number of Pay Periods, resulting in the “PAGA Pay Period Value.” Each PAGA Member’s share of the PAGA Fund will be calculated by multiplying each individual PAGA Member’s total number of Pay Periods by the PAGA Pay Period Value. A Request for Exclusion does not exclude an PAGA Member from the release of claims under California Labor Code §§ 2698, *et seq.* and the PAGA Member will receive their portion of the PAGA fund even if he or she submits a valid Request for Exclusion.

According to Defendants’ records, you worked during the PAGA Period in a non-exempt position for a total of ____ Workweeks. Accordingly, your estimated payment from the PAGA Fund is approximately \$ ____.

Your Estimated Payment: Based on the above, your estimated payment from the settlement is approximately \$ _____. If you believe the Workweek information provided above is incorrect, please contact the Settlement Administrator to dispute the calculation. You must attach all documentation in support of your dispute (such as check stubs, W2s, or letters from HR). All disputes must be postmarked or faxed on or before [insert date of Response Deadline] and must be sent to:

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

Settlement Administrator

c/o _____

Fax No. _____

If you dispute the information stated above, Defendants' records will control unless you are able to provide documentation that establishes otherwise.

Taxes on Settlement Payments. The PAGA Fund will be allocated as 100% to penalties. The Net Settlement Fund will be allocated as follows (the "Net Settlement Allocation"): (a) Forty Percent (40%) as penalties; (b) Forty Percent (40%) as interest; and (c) Twenty Percent (20%) as wages. The employer's portion of the payroll tax, if applicable, is paid on top of the Gross Settlement and not out of the Net Settlement Amount.

Your Options Under the Settlement

Option 1 – Automatically Receive a Payment from the Settlement

If want to receive your payment from the settlement, then no further action is required on your part. You will automatically receive your settlement payment from the Settlement Administrator if and when the Settlement receives final approval by the Court.

If you choose **Option 1**, and if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement funds. In addition, you will be deemed to have released or waived the Released Class Claims and Released PAGA Claims:

Released Class Claims: All claims asserted in the Action by Plaintiff and the Settlement Class or any other claims that could reasonably have been asserted in the Action based on the facts alleged, including but not limited to: (a) failure to pay overtime in violation of Labor Code §§ 510 and 1198; (b) failure to pay minimum wages in violation of Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198; (c) failure to provide meal periods in violation of Labor Code §§ 226.7, 512(a), 516, and 1198; (d) failure to authorize and permit rest periods in violation of Labor Code §§ 226.7, 516, and 1198; (e) failure to provide compliant wage statements and maintain payroll records in violation of Labor Code §§ 226(a), 1174(d), and 1198; (f) failure to provide timely wages upon termination in violation of Labor Code §§ 201 and 202; (g) failure to timely pay wages during employment in violation of Labor Code § 204; (h) failure to reimburse for business expenses in violation of Labor Code § 2802; and (i) a violation of California Business & Professions Code §§ 17200, *et seq.* based on the preceding claims for failure to provide overtime wages, minimum wages, meal and rest periods, accurate and complete wage statements, maintain accurate payroll records, timely pay all wages earned during employment and reimburse for business-related expenses; (j) a violation of California Business & Professions Code §§ 17200, *et seq.* for failure to pay overtime wages, minimum wages, meal and rest period premiums pursuant to Labor Code § 226.7, accurate and complete wage statements, maintain accurate payroll records, timely pay all wages earned during employment, and reimburse for business-related expenses; and (k) civil penalties pursuant to the Private Attorneys General Act of 2004, Labor Code §§2698 *et seq.*

Released PAGA Claims: All claims for civil penalties under California Labor Code §§ 2698, *et seq.*, that were brought or could reasonably have been brought based on the facts alleged in Plaintiff's letter to the LWDA and the Released Class Claims during the PAGA Period.

Released Parties: The individuals released ("Released Parties") include Pulmuone Foods USA, Inc., Nasoya Foods USA, LLC, and Pulmuone U.S.A., Inc., their parents, subsidiaries, affiliates, insurers, related entities and divisions, and its and their respective past or present officers, directors, shareholders, current and former agents, principals, heirs, executors, administrators, employees, founders, members, representatives, accountants, auditors, consultants, insurers and reinsurers, respective successors, assigns, and predecessors in interest, subsidiaries, affiliates, parents and attorneys, if any.

Option 2 – Opt Out of the Settlement

If you do not wish to participate in the settlement, you may exclude yourself from participating by submitting a written request to the Settlement Administrator expressly and clearly indicating that you have received this Notice of Class Action Settlement, decided not to participate in the settlement, and desire to be excluded from the settlement. The written request for exclusion must include your name, signature, address, telephone number, and last four digits of your Social Security Number. Sign, date, and mail the request for exclusion by First Class U.S. Mail or equivalent, to the address below.

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

Settlement Administrator
c/o _____

The Request for Exclusion must be postmarked or faxed not later than _____, 2023. If you submit a Request for Exclusion which is not postmarked or faxed by _____, 2023, your Request for Exclusion will be rejected, and you will be included in the settlement class.

If you choose **Option 2**, you will no longer be a Class Member, and you will:

- Not Receive a Payment from the Net Settlement Fund.
- Not release the Released Class Claims.
- If you are an PAGA Member, you will still release the Released PAGA Claims, and will receive a payment from the PAGA Fund.

Option 3 – Object to the Settlement

If you decide to object to the settlement because you find it unfair or unreasonable, you may submit a written objection stating why you object to the settlement, or you may instead appear at the Final Fairness Hearing to object to the Settlement. Written objections must provide: (1) your full name, signature, address, and telephone number, (2) a written statement of all grounds for the objection accompanied by any legal support for such objection; (3) copies of any papers, briefs, or other documents upon which the objection is based; and (4) a statement about whether you intend to appear at the Fairness Hearing. The objection must be mailed to the administrator at [administrator's address].

All written objections must be received by the administrator by not later than _____ 2023. By submitting an objection, you are not excluding yourself from the settlement. To exclude yourself from the settlement, you must follow the directions described above. Please note that you cannot both object to the settlement and exclude yourself. You must choose one option only.

You may also, if you wish, appear at the Final Fairness Hearing set for _____ at _____ a.m./p.m. in the Superior Court of the State of California, for the County of Santa Clara and discuss your objection with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the hearing.

If you choose **Option 3**, you will still be entitled to the money from the settlement. If the Court overrules your objection, you will be deemed to have released the Released Class Claims and Released PAGA Claims.

Additional Information

This Notice of Class Action Settlement is only a summary of the Action and the settlement. For a more detailed statement of the matters involved in the case and the settlement, you may refer to the pleadings, the settlement agreement, and other papers filed in the case. All inquiries by Class Members regarding this Class Notice and/or the settlement should be directed to the Settlement Administrator or Class Counsel.

Raul Perez
Capstone Law APC
1875 Century Park E., Suite 1000
Los Angeles, CA 90067
Phone: 1 (888) 342-3195

PLEASE DO NOT CONTACT THE CLERK OF THE COURT OR THE JUDGE WITH INQUIRIES.

Questions? Contact the Settlement Administrator toll free at 1-*-***-******