

JOINT STIPULATION OF CLASS ACTION SETTLEMENT AND RELEASE

1. This Joint Stipulation of Class Action Settlement and Release (“Settlement Agreement” or “Settlement”) is reached by and between Plaintiff Ralph Lopez (“Plaintiff”), individually and on behalf of all members of the Settlement Class, defined below, and Defendant BHJ USA, LLC (“Defendant”). Plaintiff and Defendant are referred to herein collectively as the “Parties.” Plaintiff and the Settlement Class are represented by Daniel J. Brown of Stansbury Brown Law, PC (“Class Counsel”). Defendant is represented by Kirstin Muller and Anna Pham of Hirschfeld Kraemer LLP.

2. Plaintiff filed a class action complaint (“Complaint”) against Defendant on December 10, 2021, in Kings County Superior Court, entitled *Ralph Lopez, as an individual, and on behalf of all others similarly situated v. BHJ USA, LLC*, Case No. 21C-0402, which alleges causes of action for: (1) minimum wage violations (2) failure to pay all overtime wages; (3) meal period violations; (4) rest period (5) waiting time penalties; (6) wage statement violations; (7) unfair competition, and (8) failure to reimburse necessary business expenses.

3. Plaintiff filed a First Amended Class and Representative Action Complaint (“FAC”) on February 16, 2022, to add an additional cause of action for civil penalties under the Private Attorneys General Act (“PAGA”) pursuant to Labor Code Sections 2698 *et seq.* The causes of action asserted in the Complaint and FAC are referred to hereinafter as the “Class Claims.” On March 18, 2022, Defendant removed this case to the United States District Court, Eastern District of California, Case No. 1:22-cv-00317-JLT-SKO. The Complaint and FAC are referred to hereinafter as the “Lawsuit”.

4. On September 13, 2022, the Parties attended and participated in good faith, arms’ length settlement discussions at a mediation before an experienced wage and hour mediator, Tripper Ortman, Esq. Prior to mediation, the Parties conducted significant investigation of the facts and law. This included review and analysis of Defendant’s policies and putative class members’ time records and payroll records. Counsel for the Parties have further investigated the applicable law as applied to the facts discovered regarding Plaintiff’s claims, the defenses thereto, and the damages and penalties claimed by Plaintiff in the Lawsuit. As a result of the Parties’ thorough investigation of the allegations and defenses thereto, they were able to accept a mediator’s proposal at the mediation after extensive negotiations.

5. Given the risks and uncertainties of litigation, the Parties have agreed to settle this Lawsuit on the terms set forth herein and subject to the approval of Court. Nothing herein shall be construed as an admission of any wrongdoing or of liability as the Settlement Agreement is intended solely to allow the Parties to buy their peace and resolve the disputed claims asserted in this Lawsuit.

6. It is the intention of the Parties that this Stipulation of Settlement shall constitute a full and complete settlement and release of all Class Claims arising from or related to the allegations of the Lawsuit against Defendant. The Parties acknowledge that this Stipulation of Settlement shall not be construed as an admission of liability whatsoever by any Party, or by any officers, directors, agents, or employees of Defendant.

7. The Parties agree to cooperate and take all steps necessary and appropriate to consummate this Settlement and to dismiss this Lawsuit with prejudice after Settlement sums have been paid out in accordance with this Stipulation of Settlement.

TERMS OF SETTLEMENT

8. **Class Certification for Settlement Purposes.** For the purposes of this Settlement Agreement only, the Parties stipulate to certification of the following “Settlement Class” as defined as “All current and former non-exempt employees of Defendant in California who worked for Defendant (“Settlement Class Members”) at any time during the period of December 10, 2017 through December 19, 2022 (“Class Period”).” The Parties agree that certification for purposes of settlement is not an admission that class certification is proper under Section 382 of the Code of Civil Procedure or Federal Rule of Civil Procedure Rule 23. If for any reason this Settlement Agreement is not approved or is terminated, in whole or in part, this conditional agreement to class certification will be inadmissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement Agreement.

9. **Released Claims.**

A. **Class Release by Settlement Class Members.** All Settlement Class Members who have not opted out will release and discharge Defendant, its past or present officers, directors, shareholders, employees, agents, principals, representatives, accountants, auditors, consultants, insurers and reinsurers, and their respective successors and predecessors in interest, parents and attorneys, if any (“Released Parties”) from all claims that were asserted or could have been asserted based on the factual or legal allegations contained in the FAC, including Defendant’s alleged failure to pay overtime and minimum wages, provide meal and rest periods and associated premium payments, timely pay wages during employment and upon termination, provide compliant wage statements, maintain complete and accurate payroll records, and reimburse necessary business-related expenses, as well as all claims for failure to pay minimum wage, failure to pay overtime wages, failure to provide meal and rest periods, failure to issue accurate itemized wage statements, and Defendant’s alleged unfair business practices under the California Business and Professions Code sections 17200, *et seq.* stemming from these alleged Labor Code violations that arose during the Class Period (“Class Release”).

B. **PAGA Release by Aggrieved Employees.** Plaintiff also releases on behalf of himself, and the representative group of allegedly aggrieved employees composed of all non-exempt employees employed by Defendant in California (“Aggrieved Employees”) at any time from December 10, 2020 through December 19, 2022 (the “PAGA Period”), the Released Parties from all claims and damages arising under the PAGA, as alleged in the FAC, during the PAGA Period (“PAGA Release”). The Class Release and PAGA Release are collectively referred to as “Released Claims.”

C. **Plaintiff's General Release.** As of the Effective Date, and for the duration of the Class Period, in addition to their release as a Class Member, Plaintiff (on his behalf and on behalf of their heirs, executors, administrators, and assigns) knowingly and voluntarily release and forever discharge the Released Parties from any and all claims, known and unknown, asserted and unasserted, that they have or may have had against Defendant or any of the Released Parties. Such claims include, but are not limited to: breach of contract, whether written, oral or implied; violation of public policy; tort claims, including but not limited to intentional infliction of emotional distress, negligent infliction of emotional distress, defamation, misrepresentation, and fraud; retaliation claims; common-law claims; any other claims for damages, costs, fees, or other expenses, including attorney's fees; and any violation of the following statutes, laws, and regulations: Title VII of the Civil Rights Act of 1964, as amended; The Civil Rights Act of 1991; sections 1981 through 1988 of Title 42 of the United States Code, as amended; the Americans with Disabilities Act of 1990, as amended; the Age Discrimination in Employment Act of 1967, as amended; the Older Workers Benefit Protection Act; the Employment Retirement Income Security Act of 1974, as amended; the Occupational Safety and Health Act, as amended; the Sarbanes-Oxley Act of 2002; the Family and Medical leave Act of 1993, as amended; the Fair Labor Standards Act; the California Fair Employment and Housing Act; California Government Code section 12900 *et seq.*; the California Family Rights Act; California Government Code section 12945.2 *et seq.*; the California Unruh Civil Rights Act; California Civil Code section 51 *et seq.*; the California Whistleblower Protection Law; California Labor Code section 1102.5(a) to (c); California Labor Code section 6300 *et seq.*; and any applicable regulations thereunder; the California Labor Code; the Private Attorneys General Act of 2004; California Labor Code section 2698 *et seq.*; California Labor Code section 132a; and any other federal, state, or local civil employment law, statute, regulation, or ordinance capable of being released by Plaintiff, excluding any claims that cannot be released as a matter of law, such as Plaintiff's pending workers' compensation claims.

D. **Plaintiff's Release of Unknown Claims.** Plaintiff has agreed to release, in addition to the Released Claims described above, all claims, whether known or unknown, under federal law or state law against the Released Parties. Plaintiff understands that this release includes unknown claims and that he is, as a result, waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides:

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.

However, to the extent that either Party has claims that cannot be released as a matter of law (i.e., workers' compensation claims), then those claims will not be released.

- E. If Defendant fails to fully fund the Settlement as provided for by this Settlement, then the releases in this Settlement will be null and void.

10. **Remand.** Due to the ongoing judicial emergency in the Eastern District of California, the Parties believe that there will be substantial delays in scheduling the necessary hearings to obtain preliminary and final approval of this Settlement in the Eastern District. *See* Letter regarding Caseload Crisis from the Judges of the Eastern District of California (June 19, 2018), <http://www.caed.uscourts.gov/CAEDnew/index.cfm/news-archive/important-letter-re-caseload-crisis/>. Accordingly, the Parties have worked cooperatively to have this Lawsuit remanded back to Kings County Superior Court for the express purpose of the Kings County Superior Court ruling on preliminary and final approval of the Settlement. In the event the Court denies Final Approval with prejudice or the Settlement is void pursuant to Paragraph 11(E) below, Defendant shall have 30 days from the date of denial with prejudice to remove the matter to federal court, and Plaintiff waives any right to object to that removal on any grounds.

11. **Settlement Payment.** In exchange for the releases set forth in this Settlement Agreement, Defendant agrees to pay a common fund of Four Hundred Twenty-Five Thousand Dollars and Zero Cents (\$425,000.00) (the "Maximum Settlement Amount" or "MSA") in full and complete settlement of this matter, as follows:

- A. The Maximum Settlement Amount shall be deposited with the Settlement Administrator within 14 business days after the Effective Date. The "Effective Date" is defined as follows: the later of (i) the sixty-first (61st) calendar day after Final Approval, provided no appeal has been initiated, whether by an absent Class Member who has timely intervened or moved to vacate the judgment or by a Party or Class Counsel pursuant to California Civil Code section 1542; or (ii) if such an appeal is timely initiated, the date of final resolution of that appeal (including any requests for rehearing and/or petitions for certiorari), resulting in final judicial approval of the Settlement.
- B. This is a non-reversionary settlement. The Maximum Settlement Amount includes:
- (1) All payments to the Settlement Class, including the Settlement Class Members' share of payroll taxes;
 - (2) All fees and expenses of the Settlement Administrator associated with the administration of the settlement, which are anticipated to be no greater than Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00).

- (3) Up to Five Thousand Dollars and Zero Cents (\$5,000.00) for Plaintiff's Enhancement Payment, subject to Court approval, in recognition of Plaintiff's general release of claims, contributions to the Lawsuit, and service to the Settlement Class. In the event that the Court reduces or does not approve the requested Enhancement Payment, the Settlement Agreement remains in full force and effect, Plaintiff shall not have the right to revoke the settlement for that reason, and it shall remain binding;
- (4) Up to one-third of the Maximum Settlement Amount in attorneys' fees, which is currently estimated to be One Hundred Forty-One Thousand Six Hundred Fifty-Two Dollars and Fifty Cents (\$141,652.50), plus up to Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00) in verified litigation costs and expenses related to the Lawsuit as supported by declaration. In the event that the Court reduces or does not approve Class Counsel's requested fees and costs, the Settlement Agreement remains in full force and effect, Plaintiff shall not have the right to revoke the settlement for that reason, and it shall remain binding; and
- (5) Five Thousand Dollars and Zero Cents (\$5,000.00) of the Maximum Settlement Amount has been set aside by the Parties as PAGA civil penalties. Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, Three Thousand Seven Hundred Fifty Dollars and Zero Cents (\$3,750.00) will be payable to the Labor & Workforce Development Agency ("LWDA"), and the remaining twenty-five percent (25%), or One Thousand Two Hundred Fifty Dollars and Zero Cents (\$1,250.00) will be payable to the Aggrieved Employees as the "PAGA Amount."

- C. Defendant's share of payroll taxes shall be paid by Defendant separate and apart from the Maximum Settlement Amount.
- D. **Escalator Clause.** Defendant represents that as of September 13, 2022, 171 Settlement Class Members worked a combined 16,208 pay periods during the Class Period. If the actual number of Settlement Class Members or weekly pay periods worked during the Class Period is ten percent (10%) more than the above numbers, Defendant shall increase the Maximum Settlement Amount on a pro-rata basis equal to the increase in the number of Settlement Class Members or weekly pay periods (e.g., if the number of weekly pay periods or Settlement Class Members increases by 25%, Defendant will increase the Maximum Settlement Amount by 25%).
- E. **Defendant's Right to Void Settlement.** Defendant may void the Settlement if 10% or more of the Settlement Class (i.e., 17 or more Settlement Class Members) opts-out of the Settlement pursuant to

Paragraph 17(E). Neither Party shall encourage or solicit Settlement Class Members to opt-out of this Settlement.

12. **Settlement Award Procedures.** Settlement Class Members are not required to submit a claim form to receive their Individual Settlement Award. Individual Settlement Awards will be determined and paid as follows:

- A. The Settlement Administrator shall first deduct from the Maximum Settlement Amount the amounts approved by the Court for the Settlement Administrator's fees and expenses, Plaintiff's Enhancement Payment, Class Counsel's attorneys' fees, Class Counsel's costs, employee side employment taxes; and the LWDA's 75% share of the PAGA Amount. The remaining amount once these deductions have been made shall be known as the "Net Settlement Fund."
- B. From the Net Settlement Fund, the Settlement Administrator will calculate each Settlement Class Member's Individual Settlement Award and share of payroll taxes.
- C. "Individual Settlement Awards" shall be based on the following formula:
 - i. PAGA Amount: Each Aggrieved Employee who was employed by Defendant at any time during the PAGA Period, shall receive a portion of the One Thousand Two Hundred Fifty Dollars and Zero Cents (\$1,250.00) of the Net Settlement Fund that has been designated as the aggrieved employees' 25% of the "PAGA Amount" proportionate to the number of Eligible Pay Periods (defined below) that they worked during the PAGA Period.
 - ii. The remainder of the Net Settlement Fund shall be distributed to each participating Settlement Class Member based on their proportionate share of Eligible Pay Periods (defined below) during the Class Period, by multiplying the remaining Net Settlement Fund by a fraction, the numerator of which is the participating Settlement Class Member's Eligible Pay Periods during the Class Period, and the denominator of which is the total Eligible Pay Periods of all participating Settlement Class Members during the Class Period.

An "Eligible Pay Period" shall be any pay period in which the Class Member worked at least one day during the pay period based on Defendant's records.
- D. Within ten (10) days following the full funding of the Maximum Settlement Amount with the Settlement Administrator by Defendant, the Settlement Administrator will calculate Individual Settlement Award amounts and share of payroll taxes from the Net Settlement Fund and mail Individual Settlement Awards to participating Settlement Class Members, tax payments to applicable taxing authorities, and transfer to Class Counsel its

attorney's fees and verified costs, Plaintiff's enhancement payment, and the LWDA's 75% share of the PAGA Amount.

- E. For purposes of calculating applicable taxes and withholdings for the Settlement Class Members, one-third (1/3) of each Individual Settlement Award shall be designated as wages subject to W-2 reporting and normal payroll withholdings; one-third (1/3) of each Individual Settlement Award shall be designated as penalties subject to IRS Form 1099 reporting with no withholdings; and one-third (1/3) of each Individual Settlement Award shall be designated as interest subject to IRS Form 1099 reporting with no withholdings. Notwithstanding the treatment of the payments to each Settlement Class Member above, none of the payments called for by this Settlement Agreement, including the wage portion, are to be treated as earnings, wages, pay or compensation for any purpose of any applicable benefit or retirement plan, unless required by such plans. Additionally, 100% of the PAGA Amount paid to Aggrieved Employees shall be designated as penalties and interest subject to IRS Form 1099 reporting with no withholdings.
- F. Each Settlement Class Member who receives an Individual Settlement Award must negotiate the settlement check within one hundred eighty (180) days from the date of issuance. The one hundred eighty (180) day expiration of the settlement checks will be pre-printed on the front of the settlement check. Any funds payable to Settlement Class Members whose checks are not negotiated within one hundred eighty (180) days period will not be reissued and will be transferred by the Settlement Administrator to Central California Legal Services, Inc.
- G. Neither Plaintiff nor Defendant shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by their or its own acts of omission or commission, the same is true for the Settlement Administrator.

13. **Class Counsel's Attorneys' Fees and Litigation Costs.** Defendant will not object to a request for a total award of attorneys' fees to Class Counsel of up to one-third (1/3) of the Maximum Settlement Amount, which is currently estimated to be One Hundred Forty-One Thousand Six Hundred Fifty-Two Dollars and Fifty Cent (\$141,652.50), plus up to Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00) in verified costs and expenses related to the Lawsuit as supported by declaration. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised, responses to any intervenors and any appeals necessitated by those objections or intervenors. Class Counsel will be issued an IRS Form 1099 by the Settlement Administrator when it pays the fee award as approved by the Court.

14. **Plaintiff's Enhancement Payment.** Defendant will not object to a request for a Class Representative Enhancement Payment for Plaintiff of Five Thousand Dollars and Zero Cents (\$5,000.00) in exchange for the general release of his claims, his time and risks in prosecuting this case, and his service to the Settlement Class. This payment will be in addition to Plaintiff's Individual Settlement Award as a Settlement Class Member and shall be reported on an IRS Form 1099 by the Settlement Administrator. It is the intent of the Parties that the Enhancement Payment to Plaintiff is for his services in connection with this Lawsuit and general release and is not wages, therefore the Settlement Administrator shall not withhold any taxes from the Enhancement and shall report it on an IRS Form 1099, which shall be provided to Plaintiff and to the pertinent taxing authorities as required by law. Although it is the contemplation of the Parties that the Enhancement does not represent wages, the Internal Revenue Service, the California Franchise Tax Board, or some other taxing authority may take the position that some or all of the Enhancement Payment constitutes wages for income tax and withholding purposes. Plaintiff agrees to assume all responsibility for remitting to the Internal Revenue Service, the California Franchise Tax Board, and any other relevant taxing authority the amounts required by law, if any, to be withheld by Defendant from the Enhancement paid under this Settlement Agreement, and all liability associated therewith.

15. **Settlement Administrator.** Defendant will not object to the appointment of ILYM Group, Inc. as Settlement Administrator nor to Class Counsel seeking Court approval to pay up to Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) from the Maximum Settlement Amount for its services. The Settlement Administrator shall be responsible for sending all required notices in both English and Spanish, calculating the Net Settlement Fund, calculating each Class Member's Individual Settlement Award amount and employer and employee taxes therein, preparing all checks and mailings, including to taxing authorities, and disbursing all residuals resulting from uncashed settlement checks as set forth in Section 4(E). The Settlement Administrator shall be authorized to pay itself from the Maximum Settlement Amount by Class Counsel only after checks have been mailed to all Settlement Class Members.

16. **Preliminary Approval.** Plaintiff shall apply to the Court for the entry of an Order after providing Defendant's counsel 7 – 10 days for review and acceptance of the same:

- A. Conditionally certifying the Settlement Class for purposes of this Settlement Agreement;
- B. Appointing Daniel J. Brown of Stansbury Brown Law, PC as Class Counsel;
- C. Appointing Ralph Lopez as Class Representative for the Settlement Class;
- D. Approving ILYM Group, Inc. as Settlement Administrator;
- E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
- F. Approving the form and content of the Class Notice Packet (which is comprised of the Class Notice and Request for Exclusion Form), and directing the mailing of same in English and Spanish; and

- G. Scheduling a Final Approval hearing.
- H. Plaintiff shall submit the proposed settlement to the Labor Workforce Development Agency (“LWDA”) pursuant to Labor Code § 2699(1)(2).
- I. If Final Approval is granted, Plaintiff shall submit a copy of the Superior Court’s judgment after entry of the judgment or order, pursuant to Labor Code § 2699(1)(3).

17. **Notice Procedures.** Following preliminary approval, the Settlement Class shall be notified as follows:

- A. Within thirty (30) days after entry of an order preliminarily approving this Settlement Agreement, Defendant will provide the Settlement Administrator with a class list including the names, last known addresses and telephone numbers, and social security numbers (in electronic format) of Settlement Class Members, dates of employment, as well as the total Eligible Pay Periods by each member of the Settlement Class during the Class Period.
- B. Within seven (7) days from receipt of the class list information, the Settlement Administrator shall: (i) run the names of all Settlement Class Members through the National Change of Address (“NCOA”) database to determine any updated addresses for Settlement Class Members; (ii) update the addresses of any Settlement Class Member for whom an updated address was found through the NCOA search; and (iii) mail the Notice Packet to each Settlement Class Member in English and Spanish at their last known address or at the updated address found through the NCOA search, and retain proof of mailing.
- C. The Settlement Administrator shall use its best professional efforts, including utilizing a “skip trace,” to track any Settlement Class Member’s mailing returned as undeliverable, and will re-send the Notice Packet promptly upon identifying updated mailing addresses through such efforts. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class Member.
- D. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline (defined below) shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a “skip trace,” to obtain an updated mailing address within five (5) business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Settlement Class Member immediately, and in any event within three (3) business days of obtaining the updated address.

Settlement Class Members to whom Notice Packets are re-sent after having been returned as undeliverable to the Settlement Administrator shall have twenty (20) days from the date of re-mailing, or until the Response Deadline has expired, whichever is later, to mail a Request for Exclusion, challenge or objection.

- E. **Opt-Out/Request for Exclusion Procedures.** Any Settlement Class Member who wishes to opt-out of the Settlement must complete and mail a Request for Exclusion (defined below) to the Settlement Administrator within sixty (60) days of the date of the initial mailing of the Notice Packets (the "Response Deadline"), unless subject to extension by Paragraph 17(D) above.
- i. The Request for Exclusion Form must: (1) contain the name, address, telephone number of the Settlement Class Member; (2) contain a statement that the Settlement Class Member wishes to be excluded from the class settlement; (3) be signed by the Settlement Class Member; and (4) be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion Form fails to comply with items (1)-(4), it will not be deemed a valid Request for Exclusion from this settlement, except a Request for Exclusion Form not containing a Class Member's telephone number will be deemed valid. The date of the postmark on the Request for Exclusion Form, shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class Member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement and will not be bound by the terms of the settlement (although the PAGA settlement and release provisions will apply to each such individual, and such individual shall be entitled to their share of the PAGA Amount) or have any right to object, intervene, appeal, or comment thereon. Any Settlement Class Member who does not submit a Request for Exclusion Form is automatically deemed a participating Settlement Class Member.
- F. **Objections.** Members of the Settlement Class who do not request exclusion may object to this Settlement Agreement as explained in the Class Notice by filing a written objection with the Settlement Administrator (who shall serve all objections as received on Class Counsel and Defendant's counsel as well as filing them with the Court). Defendant's counsel and Class Counsel shall file any responses to objections no later than the deadline to file the Motion for Final Approval, unless filed within ten (10) days of the Motion for Final Approval filing deadline, in which case Defendant's counsel and Class Counsel shall have ten (10) days to respond. To be valid, any objection must: (1) contain the objecting Settlement Class member's full name and current address; (2) include all objections and the factual and legal bases for same; (3) include any and all supporting papers, briefs,

written evidence, declarations, and/or other evidence; and (4) objections must be postmarked on or before the Response Deadline, unless subject to extension by Paragraph 17(D) above.

- G. **Challenges to Individual Settlement Award Calculations.** Each Notice Packet mailed to a Settlement Class Member shall disclose the amount of the Settlement Class Member's estimated Settlement Award as well as all of the information that was used from Defendant's records in order to calculate the Settlement Award, including the Settlement Class Member's number of Eligible Pay Periods during the Class Period, and during the PAGA Period. Settlement Class Members will have the opportunity, should they disagree with Defendant's records regarding the number of Eligible Pay Periods stated in their Notice Packet to challenge the data provided. In order to challenge Defendant's data, the Settlement Class Member must provide documentation and/or an explanation demonstrating that Defendant's data is incorrect and evidencing the correct number of Eligible Pay Periods that the Settlement Class Member believes they should have been credited with and/or evidence of the correct date their employment ended. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline, unless subject to extension by Paragraph 17(D) above. The Settlement Administrator shall provide a copy of the challenge and any supporting documentation to counsel for the Parties within five (5) days of receipt.
- H. **Dispute Resolution.** The Settlement Administrator shall have the responsibility of resolving all disputes that arise during the settlement administration process, including, without limitation, disputes (if any) regarding the calculation of Settlement Class Member's Individual Settlement Awards, the allocation of W-2 wages, and the number of Eligible Pay Periods. Where the information submitted by Defendant from its records differs from the information submitted by the Settlement Class Member, the Settlement Administrator shall request a conference call between the Settlement Administrator, Class Counsel, and defense counsel to discuss and resolve the dispute. In advance of the conference call, the Settlement Administrator shall email copies of all available information to all counsel. After consulting with the Parties to determine whether an adjustment is warranted, the Settlement Administrator will finally determine the eligibility for and amount of any Settlement Award. Such determination shall be binding upon the Settlement Class Member and the Parties.

18. **Final Approval Process.** Following preliminary approval and the close of Response Deadline or any extension thereto by Paragraph 17(D) above under this Settlement Agreement, Plaintiff shall apply to the Court for entry of an Order after providing Defendant's counsel 7 – 10 days for review and acceptance of the same:

- A. Granting final approval to the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;
- B. Approving Plaintiff's application for Settlement Administrator's fees and expenses, Plaintiff's Enhancement Payment, Class Counsel's attorneys' fees, Class Counsel's costs and expenses, and the LWDA's share of the PAGA payment; and
- C. Entering judgment pursuant to California Rule of Court 3.769.

19. **Non-Admission.** Defendant denies that it engaged in any unlawful activity, that it failed to comply with the law in any respect, that it has any liability to anyone under the claims asserted in the Lawsuit, and that but for this Settlement a class should not be certified in this Lawsuit. Nothing in this Settlement Agreement is intended or shall be construed as an admission of liability or wrongdoing by Defendant. Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this settlement. The Parties have entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected by California Evidence Code Section 1152.

20. **Amendments or Modifications.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.

21. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery or by e-mail at the addresses set forth below, or such other addresses as the Parties may designate in writing from time to time:

if to Defendant:

Kirstin E. Muller, Esq.
Anna Pham, Esq.
HIRSCHFELD KRAEMER LLP
233 Wilshire Boulevard, Suite 600
Santa Monica, CA 90401
kmuller@hkemploymentlaw.com
apham@hkemploymentlaw.com

if to Plaintiff:

Daniel J. Brown, Esq.
STANSBURY BROWN LAW, PC
2610 ½ Abbot Kinney Blvd.
Venice, CA 90291
dbrown@stansburybrownlaw.com

22. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

23. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

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

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

26. **Invalidity of Any Provision.** Before declaring any provision of this Settlement Agreement invalid, the Parties direct the Court to first attempt to construe the provisions as valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement valid and enforceable.

27. **Confidentiality.** Neither the Plaintiff nor Class Counsel will publicize this settlement by Defendant's name, industry, or location (i.e., a poultry and fish manufacturing company located in Fresno, California, or Vernon, California) through a press release, posting on Class Counsel's website, in social media or by any other public means, other than court filings and proceedings associated with the Settlement or other court filings necessary for Plaintiff's counsel to establish adequacy. Nothing in this provision is intended to prohibit (i) Plaintiff from discussing this settlement with his spouse, attorneys, or tax advisors; (ii) Plaintiff from discussing the settlement with other putative class members after the Settlement has been preliminary approved by the Court; or (iii) Class Counsel for communicating with putative class members in this case or with the Court in which the Lawsuit is pending.

28. **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, Plaintiffs and Class Counsel warrant and represent that there are no liens on the Settlement Agreement.

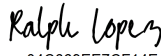
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EXECUTION BY PARTIES AND COUNSEL

Date: 12/7/2022

DocuSigned by:



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Plaintiff Ralph Lopez

Date:

Name: _____
Defendant BHJ USA, LLC

APPROVED AS TO FORM:

DATED:

HIRSCHFELD KRAEMER LLP

By: _____
Kirstine E. Muller
Anna Pham
Attorneys for Defendant

DATED: 12/10/22

STANSBURY BROWN LAW, PC

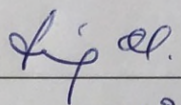
By:  _____
Daniel J. Brown
Attorneys for Plaintiff

EXECUTION BY PARTIES AND COUNSEL

Date:

Plaintiff Ralph Lopez

Date:


Name: THOMAS B. CHRISTENSEN
Defendant BHJ USA, LLC

APPROVED AS TO FORM:

DATED:

HIRSCHFELD KRAEMER LLP

By: _____
Kirstine E. Muller
Anna Pham
Attorneys for Defendant

DATED:

STANSBURY BROWN LAW, PC

By: _____
Daniel J. Brown
Attorneys for Plaintiff

EXECUTION BY PARTIES AND COUNSEL

Date:

Plaintiff Ralph Lopez

Date:

Name: _____
Defendant BHJ USA, LLC

APPROVED AS TO FORM:

DATED:

HIRSCHFELD KRAEMER LLP

By: 

Kirstin E. Muller
Anna Pham
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DATED:

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