

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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Frank Pompilio, Rita Torres, Samantha Chuskas,	:	
Sheryl Gatoff, and Robby Harper, individually and	:	
on behalf of all others similarly situated,	:	Case No. 7:24-cv-08220
	:	
Plaintiff,	:	Hon. Philip M. Halpern
v.	:	
	:	
	:	
Boar’s Head Provisions Co. Inc.,	:	
	:	
Defendant.	:	
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**DECLARATION OF JASON SULTZER IN SUPPORT OF PLAINTIFFS’
UNOPPOSED MOTION FOR FINAL APPROVAL OF CLASS ACTION
SETTLEMENT**

I. INTRODUCTION

I, Jason P. Sultzer, submit this Declaration in support of Plaintiffs’ Motion for Final Approval of Class Action Settlement, and affirm that the following is truthful and accurate:

1. I am one of the attorneys principally responsible for the handling of this case. I am personally familiar with the facts set forth in this declaration. If called as a witness, I could and would competently testify to the matters stated herein.

2. Attached as **Exhibit 1** is the Settlement Agreement with exhibits in this action.

3. This proposed class action settlement would resolve the claims of purchasers of Defendant Boar’s Head Provisions Co. Inc (“Boar’s Head” or “Defendant”) food products (“Covered Products”).

4. Plaintiffs seek to represent a nationwide class of consumers who purchased the Covered Products. Plaintiffs’ Counsel has substantial experience in prosecuting class actions and,

in particular, actions that involve contamination of consumer products. *See, e.g. Swetz v. The Clorox Company*, No. 7:22-cv-9374 (S.D.N.Y.) (Halpern, J.); *Clinger v. Edgewell Personal Care Brands, LLC*, 3:21-cv-01040-JAM (D. Conn); *Bangoura v. Beiersdorf, Inc. et al*, 1:22-cv-00291-BMC (E.D.N.Y.) (Cogan, J.); *Catalano v. Lyons Magnus, LLC*, Case No. 7:22-cv-06867 (S.D.N.Y. April 10, 2024) (Karas, J); *Patora v. Colgate-Palmolive Co.*, No. 7:23-cv-01118-VB (S.D.N.Y.) (Bricetti, J.) .

5. On January 31, 2025, the Court granted Plaintiffs' Motion for Preliminary Approval of the Class Action Settlement in this action and granted related relief. ECF No. 19 (Preliminary Approval Order). In that Order, the Court conditionally designated me and six other lawyers as Class Counsel for the Settlement Class. ECF No. 19 at ¶ 6. Those lawyers are: Jeremy Francis of Sultzter & Lipari, PLLC, Michael Reese of Reese LLP, Nick Suciu of Milberg Coleman Bryson Phillips Grossman, PLLC, Charles Schaffer of Levin Sedran & Berman LLP, Jeffrey K. Brown of Leeds Brown Law, P.C., and Paul Doolittle of Poulin, Willey, Anastopoulo, LLC. (collectively, "Class Counsel"). *Id.*

6. Per the terms of the Settlement Agreement, the Settlement Fund means a total payment by Defendant in the amount of \$3,100,000. *See* Ex. 1. Assuming the Court grants the Attorneys' Fees in the amount of \$1,033,333.33, attorneys' costs and expenses in the amount of \$38,060.33, the Incentive Awards to the Class Representatives in the total amount of \$5,000.00, and the estimated costs of the notice and administrative costs in the amount of \$300,000, the estimated Available Settlement Funds amount to \$1,723,606.34.

7. The reaction to the Settlement has been overwhelmingly favorable. Zero objections have been filed as to the Settlement and three valid requests for exclusion have been received by the Claim Administrator.

8. As a result of the robust Notice Program, the Claim Administrator has received

approximately 66,000 Valid Claim forms.

9. The average estimated recovery for Class Members who made claims is significantly greater than the estimated average price of the products, \$9.75. The average estimated recovery for those that submitted a Valid Claim, with Proof of Purchase, is \$58.61. The average estimated recovery for those who submitted a Valid Claim without Proof of Purchase, is \$27.73.

10. Another significant factor supporting final approval is the social benefit for consumers and society as a whole. Because settlements like these require companies to pay millions of dollars that ultimately impacts profitability, it deters corporations from allowing potentially harmful product contaminations from entering the stream of commerce and encourages stricter testing protocols and to maintain cleaner facilities. Here, Plaintiffs obtained significant non-monetary relief. Specifically, in part, as a result of the Litigation, Boar's Head made modifications to its practices and procedures regarding bacterial contamination, including implementing more frequent inspections and improved employee training.

II. BACKGROUND, PROCEDURAL HISTORY, AND SETTLEMENT

12. Before commencing the Litigation, Class Counsel discussed the case with hundreds of potential named plaintiffs and extensively investigated and analyzed, among other things, Defendant's marketing campaign, the relevant regulatory guidelines concerning labeling and advertising disclosure requirements for food products, regulatory guidelines regarding the presence of Listeria in food products, the scientific research concerning the dangers of Listeria, and research regarding how Defendant should have known the Products contained or were at risk of containing Listeria. Class Counsel also conducted extensive testing of the Products to determine the actual contamination rate.

13. On or about August 1, 2024, Plaintiff Torres filed a recall-related putative

nationwide class action lawsuit against Boar's Head, captioned *Rita Torres v. Boar's Head Provisions Co., Inc.*, 1:24-cv-05405 (E.D.N.Y.), asserting claims for violations of N.Y. GBL §§349 & 350 in connection with her alleged purchase of one or more recalled products (the "*Torres Action*").

14. On or about August 16, 2024, Plaintiff Chuskas filed a recall-related putative nationwide class action lawsuit against Boar's Head, captioned *Samantha Chuskas v. Boar's Head Provisions Co., Inc.*, 1:24-cv-07343 (N.D. Ill.), asserting claims for violation of Illinois consumer protection laws, strict liability, negligence, breach of warranty, fraudulent concealment, and unjust enrichment in connection with her alleged purchase of one or more recalled products (the "*Chuskas Action*").

15. On or about August 26, 2024, Plaintiff Gatoff filed a recall-related putative nationwide class action lawsuit against Boar's Head, captioned *Sheryl Gatoff v. Boar's Head Provisions Co., Inc.*, 8:24-cv-01868 (C.D. Cal.), asserting claims for violation of California consumer protection laws and unjust enrichment in connection with her alleged purchase of one or more recalled products (the "*Gatoff Action*").

16. On or about October 21, 2024, Plaintiff Robby Harper filed a recall-related putative nationwide class action lawsuit against Boar's Head, captioned *Robby Harper v. Boar's Head Provisions Co., Inc.*, 2:24-cv-02910-DC-DMC (E.D. Cal.), asserting claims for violation of California consumer protection laws and fraud by omission in connection with his alleged purchase of one or more recalled products (the "*Harper Action*").

17. Finally, on or about October 29, 2024, Plaintiff Frank Pompilio filed the instant recall-related putative nationwide class action lawsuit against Boar's Head, captioned *Frank Pompilio v. Boar's Head Provisions Co., Inc.*, 7:24-cv-08220 (S.D.N.Y.), asserting claims for violations of N.Y. GBL §§349 & 350 in connection with his alleged purchase of one or more

recalled products (the “*Pompilio* Action”).

18. Class Counsel took it upon themselves to self-organize and coordinate the actions so that all the cases would proceed before this Court, eliminating duplication for the parties and the Courts and limiting the expense to both sides. This coordination also avoided a potentially lengthy leadership fight among counsel for Plaintiffs in the five actions.

19. Class Counsel worked together to thoroughly analyze the legal landscape, including conducting research into the various state consumer protection laws and available remedies, Article III standing, preemption and evaluating matters relating to class certification, in order to fully evaluate the risks and benefits to a potential early resolution.

20. Based on the Parties’ exchange of information and their respective investigations into the claims and defenses asserted in the actions, the Parties agreed to proceed to private mediation with the Honorable Steven M. Gold (Ret.). In advance of the mediation, the Parties exchanged discovery relevant to their claims and defenses. This included discovery related to Plaintiffs’ claims, including extensive sales, distribution and marketing information regarding the Covered Products, and the technical scientific information pertaining to the manufacturing process and suppliers regarding the sources and reasons for the *Listeria* contamination, as well as the protocols put in place by Defendant to ensure that such a contamination does not reoccur. This is largely the same information that would have been produced had the case proceeded to formal discovery. Accordingly, the Parties were sufficiently informed at the time of the mediation of the strengths and weaknesses of their respective positions, the size of the putative class, and the damages at issue to negotiate a reasonable settlement.

21. In addition, Class Counsel conducted significant legal research and an investigation into industry reports, scientific literature, and the Covered Products’ market segment as follows:

- a. Class Counsel thoroughly analyzed the legal landscape and evaluated the risks and benefits of prosecuting the Litigation and an early resolution, including research

into the various state consumer protection laws and available remedies, and evaluating class certification issues.

- b. Class Counsel extensively analyzed the claims alleged in the complaints, Defendant's advertising campaigns, the relevant regulations and guidelines concerning labeling and advertising disclosure requirements for consumer products such as the contaminated Boar's Head products, regulations and guidelines regarding the presence of hazardous and dangerous substances such as bacteria in consumer products, the scientific research and literature concerning the dangers of bacteria (including *Listeria*), and research regarding how Defendant should have known the Products contained or were at risk of containing bacteria.
 - c. Class Counsel investigated and consulted with industry experts regarding inter alia the presence of bacteria in beverage and nutrition products, regulations governing bacteria in consumer products, potential sources and elimination of that source of bacteria in consumer products, and testing and screening for bacteria in consumer products.
 - d. Class Counsel analyzed the chain of distribution of the Covered Products and pricing per unit to help support and determine Plaintiffs' damages model, as well as the exact scope of the recall.
 - e. Class Counsel investigated and consulted with experts regarding damages models for consumers purchasing an adulterated and or misbranded product contaminated with bacteria.
 - f. Class Counsel conducted research into the market segment related to the Covered Products to understand the potential scope of this matter, economic losses to Class Members, and marketing and sales trends, practices, and patterns.
22. Class Counsel also conducted testing of the products to determine the scope of potential contamination
23. On October 18, 2024, the Parties attended a full-day mediation with Judge Gold.
24. At the mediation, the experienced counsel on both sides engaged in extensive arm's-length negotiations and were able to reach an agreement in principle to settle the economic claims on a class-wide basis by creating a non-reversionary \$3,100,000 common fund.
25. Before and during these settlement discussions and mediation, the Parties had an arm's-length exchange of sufficient information to permit Plaintiffs and their counsel to evaluate the claims and potential defenses and to meaningfully conduct informed settlement discussions.
26. The Parties did not discuss Attorneys' Fees and Costs or any potential Incentive

Award until they first agreed on the substantive terms of this settlement.

27. On November 15, 2024, the Parties informed the Court that they had reached a resolution of the matters and requested permission to file a consolidated amended complaint and a motion for preliminary approval, which the Court granted. ECF Nos. 8, 9. On December 16, 2024, Plaintiffs filed a consolidated amended complaint for the purposes of settlement. ECF No. 10. The consolidated amended complaint alleges violations of New York, and California consumer protection laws and claims for breach of express and implied warranties, fraud, and negligent misrepresentation and unjust enrichment. *Id.*

28. On or about January 14, 2025, the Parties executed the Settlement Agreement, and Plaintiffs moved for preliminary approval of the class action settlement. (ECF No. 13).

29. With respect to selecting a settlement administrator, before selecting Angeion, Plaintiffs sought multiple bids from claims administrators and interviewed and vetted Angeion and its proposed notice plan for this settlement.

30. The parties selected Angeion based on its reputation for excellent work and breadth of experience administering other similar consumer class actions and the state-of-the-art fraud detection system (an issue that has become more prevalent in the digital age). For example, Angeion has administered very similar settlements regarding contamination of consumer products. See *Bangoura v. Beiersdorf, Inc. et al*, 1:22-cv-00291-BMC (E.D.N.Y.); *Catalano v. Lyons Magnus, LLC*, No. 7:22-cv-06867 (S.D.N.Y.); *Swetz v. The Clorox Company*, No. 7:22-cv-9374 (S.D.N.Y.); *Patora v. Colgate-Palmolive Co.*, No. 7:23-cv-01118-VB (S.D.N.Y.). See also *In re Novartis*, 2024 U.S. Dist. LEXIS 132677, *15 (S.D.N.Y. Jul. 26, 2024) (finding that “Angeion's fraud detection system is robust and appropriately designed to weed out fraudulent claims.”).

31. On January 31, 2025, the Court granted Plaintiffs’ Motion for Preliminary Approval of the Class Action Settlement, Preliminary Certification of Settlement Class and Approval of

Notice Plan and scheduled a Final Approval hearing for August 13, 2025 (ECF No. 19).

SUMMARY OF SETTLEMENT BENEFITS AND RISKS OF CONTINUED LITIGATION

32. As stated above, Class Counsel has substantial experience in prosecuting class actions of a similar size, scope, and complexity; and in particular actions that involve contamination of consumer products. *See, e.g. Swetz v. The Clorox Company*, No. 7:22-cv-9374 (S.D.N.Y.) (Halpern, J.); *Clinger v. Edgewell Personal Care Brands, LLC*, 3:21-cv-01040-JAM (D. Conn) (Meyer, J.); *Bangoura v. Beiersdorf, Inc. et al*, 1:22-cv-00291-BMC (E.D.N.Y.) (Cogan, J.); *Catalano v. Lyons Magnus, LLC*, Case No. 7:22-cv-06867) (S.D.N.Y. April 10, 2024) (Karas, J.); *Patora v. Colgate-Palmolive Co.*, No. 7:23-cv-01118-VB (S.D.N.Y.) (Briccetti, J.).

33. Class Counsel has made \$3.1 million in valuable benefits available to Class Members, which will be exhausted to pay all Approved Claims, as well as any attorneys' Fee Award, Service Awards, and Notice and Other Administrative Costs that the Court approves. § 1.32 And, Specifically, in part as a result of the Litigation, Boar's Head made modifications to its practices and procedures regarding bacterial contamination. Class Members who submit a Valid Claim that is not accompanied by Proof of Purchase shall receive the total of the average retail price for up to two (2) Covered Products claimed per household, with Boar's Head to provide sufficient data to show the average retail prices of the Covered Products. §4.4.2. Class Members who submit a Valid Claim that is accompanied by Proof of Purchase of a Class Product shall be entitled to receive a full refund of the amount of money he or she spent on the Class Products that is documented by Proof of Purchase, inclusive of taxes. §4.4.1. If a Settlement Class Member or any person in that Settlement Class Member's Household received Recall Reimbursement from Defendant, as reflected on the Settlement Class Member's Claim Form or in the records of Defendant, the amount of that Settlement Class Member's payment shall be reduced by the amount of Recall Reimbursement that Settlement Class Member or persons in that Settlement Class

Member's Household have received (provided that the payment shall not be reduced below \$0.00).

§4.4.3. Each Settlement Class Member's payment shall be increased or decreased on a *pro rata* basis such that the total amount paid to all Settlement Class Members equals the Available Settlement Funds. §4.4.4.

34. The Settlement achieved by Class Counsel benefits individual Class Members who submitted claims in a number of ways. First, besides putting significant money directly in their pocket well above the average purchase price, it has significantly expanded the scope of Defendant's recall/refund program by providing monetary relief to Class Members who did not receive a refund through the Recall. In addition, the comprehensive notice plan initiated by Class Counsel reached a far greater number of consumers, resulting in approximately 66,000 claims, while only approximately \$394,000 in refund claims were made as part of Defendant's recall program.

35. Second, the settlement benefits the entire Class as a whole, whether class members submitted a claim or not, by providing a high percentage of the total possible recovery in this litigation in the event the case was successfully tried to conclusion. Defendant estimates that the total value of the Covered Products that reached consumers was approximately \$10-11 million, meaning that the \$3.1 million settlement fund is between 28% and 31% of damages under a total disgorgement theory. This alone is a very significant outcome in cases like these, especially considering the risks of losing before or at trial, and how efficiently it was done. However, the full disgorgement theory would have been challenged by Defendant at trial and may not have succeeded because Defendant would argue that even contaminated products are not completely worthless.

36. As a result, Plaintiffs' damages theory likely to succeed here would have been based on the premium class members paid over what they would have paid had they known about the

contamination or risk of contamination. This kind of “price-premium” damages analysis is widely accepted in consumer deception cases in this Circuit. See e.g. (See *Shaya Eidelman v. Sun Prods. Corp.*, 2022 U.S. App. LEXIS 15480, *1 (2d Cir. 2022) (“One method of demonstrating actual injury in the consumable goods context is by showing that the plaintiff paid a price premium”)).

37. Based on Class Counsels’ experience in these kinds of consumer product contamination cases, as well as discussions with an economic expert who frequently uses conjoint analysis to calculate damages in similar cases, the best-case, price-premium scenario for products like this is generally around 30% of the purchase price. Here, the Settlement Class’s best day under a 30% price premium model, would be between \$3.33 and \$3.66 million dollars, and the Settlement Agreement provides between 85% and 93% of this value. Thus, the class here is recovering somewhere between approximately 28-31% of the full disgorgement damages Plaintiffs might have recovered at trial and 85-93% of the price premium. Even on the low end, this is a significant recovery.

38. Moreover, the Settlement provides significant non-monetary relief to the class as well. Specifically, in part as a result of the Litigation, Boar’s Head made modifications to its practices and procedures regarding bacterial contamination, including increased employee training and more frequent inspections. These modifications significantly benefit consumers, including Settlement Class Members who wish to purchase Defendant’s products in the future.

39. The Settlement Agreement mitigates risks and costs by providing an immediate and certain substantial monetary recovery and alleviates the risk of continued litigation.

40. While Plaintiffs believe in the viability of their claims, Defendant’s anticipated defenses posed a significant risk that the case would be dismissed and Plaintiffs and the Settlement Class would receive nothing. The next steps in the litigation would have been resolution by the Court of Defendant’s anticipated motion to dismiss, Plaintiffs’ forthcoming motion for class

certification, and Defendant's forthcoming motion for summary judgment. At minimum, these efforts would be costly and time-consuming for the Parties and the Court, and create the risk that a litigation class would not be certified and/or that the Settlement Class Members would recover nothing at all.

41. Further, Defendant is represented by one of the best defense firms in the country, which is well-versed in class action litigation, and Defendant has indicated that it would continue to assert numerous defenses on the merits.

42. If litigation proceeds, Defendant's arguments could completely defeat, or significantly narrow, the scope of the Litigation, claims, and damages through, inter alia, successful dispositive motions or opposition to class certification.

43. In addition, if the litigation proceeded to trial, both sides would offer expert testimony on liability and damages.

44. Plaintiffs would undoubtedly face a challenge to their class-wide damages expert who would proffer a methodology for calculating aggregate class-wide economic injury. Such an expert undertaking is costly, and Plaintiff expects Defendant would challenge Plaintiffs' ability to calculate a price premium class wide.

45. Plaintiffs acknowledge the complexity in the resolution of whether advertising claims deceive reasonable consumers. A rigorous battle of the experts would include survey analyses and disputed damages analyses.

46. There is a substantial risk that a jury may accept Defendant's experts' testimony and damages arguments or award far less than the settlement amount or nothing at all.

47. While confident in their claims, Plaintiffs nonetheless face significant risks in establishing liability.

48. If litigation continues, Plaintiffs and Class Counsel are also aware that Defendant

would oppose class certification vigorously, and that Defendant would prepare a competent defense at trial. And while Plaintiffs and Class Counsel were confident in the claims alleged, it is entirely possible that the Court could have sided with Defendant, leaving Plaintiffs and Class Members empty-handed.

49. The outcome of these proceedings cannot be certain, and if the litigation proceeds to trial, it will be a lengthy and complex affair with appeals likely to follow.

50. Even if Plaintiffs could have defeated a motion to dismiss, obtained a class certification order and proceeded to trial, victory before the trier of fact would have been uncertain. Such uncertainty, moreover, was compounded by the appeals virtually certain to have followed any verdict. In short, while Class Counsel believes that the claims are viable and strong, there can be no denying the array of serious class-wide risks, any one of which could have precluded the Class and its counsel from recovering anything at all.

51. Consistent with Second Circuit jurisprudence, in settling the litigation, Plaintiff accounted for the estimated damages, the benefits and risks of continuing litigation against Defendant, and the range of possible outcomes should the litigation continue.

52. The settlement also will provide an immediate and certain benefit to the Settlement Class and will avoid the substantial burdens and costs that continued and uncertain litigation would impose on the parties, non-party witnesses, and the courts. Furthermore, there are many steps between here and any potential verdict.

53. Even assuming, *arguendo*, that continued litigation might result in a larger recovery than the settlement, it would occur only after the expenditure of hundreds of thousands of dollars in costs and expenses (at best) that would consume much of any increased recovery.

54. Moreover, the reaction of the Class Members to the Settlement has been overwhelmingly positive. Class Notice has been provided to the Settlement Class Members in

accordance with the requirements of Rule 23(c)(2)(B) and the Preliminary Approval Order. Zero Class Members objected to the Settlement, and only three submitted valid opt outs.

55. By any standard, this Settlement constitutes a favorable result made possible by the dedication and skill of Class Counsel under very difficult circumstances.

56. In addition, Class Counsel are qualified, experienced, and able to conduct the Litigation. Class Counsel have invested considerable time and resources into the prosecution of the Litigation and possess a long and proven track record of the successful prosecution of class actions, including false advertising cases, and numerous appointments as class counsel

57. No other agreements between the Parties exist other than the Settlement Agreement.

58. Sultzer & Lipari's firm resume can be found at ECF Doc. 18-3.

59. Levin Sedran & Berman LLP's firm resume can be found at ECF Doc. 18-4.

60. Milberg Coleman Bryson Phillips Grossman, PLLC's firm resume can be found at ECF Doc. 18-5.

61. Poulin, Willey, Anastapoulo, LLC's firm resume can be found at ECF Doc. 18-6

62. Reese LLP's firm resume can be found at ECF Doc. 18-7

63. Leeds Brown Law P.C.'s firm resume can be found at ECF Doc. 18-8.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 1st day of August, 2025 in Poughkeepsie, New York.

/s/ Jason Sultzer

Jason Sultzer

EXHIBIT 1

CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

This Class Action Settlement Agreement and Release (“**Agreement**”) is made and entered into between Plaintiffs Rita Torres, Samantha Chuskas, Sheryl Gatoff, Frank Pompilio and Robby Harper (the “**Named Plaintiffs**” or “**Class Representatives**”), individually and as representatives of the Settlement Class as defined below, and Defendant Boar’s Head Provisions Co., Inc. (“**Defendant**” or “**Boar’s Head**”). Named Plaintiffs and Defendant collectively are referred to herein as the “**Parties**,” or, individually, as a “**Party**.”

RECITALS

WHEREAS, on July 25, 2024, and as expanded on July 29, 2024, in coordination with the United States Food and Drug Administration, Boar’s Head initiated a voluntary recall of certain food products that it determined had the potential to be contaminated with *Listeria monocytogenes* (the “**Recall**”). In connection with the Recall, Boar’s Head offered reimbursement to consumers who had purchased products covered by the Recall, and to date has provided over Three Hundred Ninety-Four Thousand, One Hundred Forty-One Dollars and Eighty-Seven Cents (\$394,141.87) in reimbursement to consumers (the “**Recall Reimbursement**”).

WHEREAS, on or about August 1, 2024, Plaintiff Torres filed a Recall-related putative nationwide class action lawsuit against Boar’s Head, captioned *Rita Torres v. Boar’s Head Provisions Co., Inc.*, 1:24-cv-05405 (E.D.N.Y.), though her counsel Sultzer & Lipari, PLLC, Reese LLP, Milberg Coleman Bryson Phillips Grossman, PLLC, Levin Sedran & Berman LLP, and Leeds Brown Law, P.C., which, in sum, asserts claims for violations of N.Y. GBL §§ 349 & 350 in connection with her alleged purchase of one or more recalled products (the “**Torres Action**”).

WHEREAS, on or about August 16, 2024, Plaintiff Chuskas filed a Recall-related putative nationwide class action lawsuit against Boar’s Head, captioned *Samantha Chuskas v. Boar’s Head Provisions Co., Inc.*, 1:24-cv-07343 (N.D. Ill.), through her counsel Poulin Willey Anastopoulo, LLC, which, in sum, asserts claims for violation of Illinois consumer protection laws, strict liability, negligence, breach of warranty, fraudulent concealment, and unjust enrichment in connection with her alleged purchase of one or more recalled products (the “**Chuskas Action**”).

WHEREAS, on or about August 26, 2024, Plaintiff Gatoff filed a Recall-related putative nationwide class action lawsuit against Boar’s Head, captioned *Sheryl Gatoff v. Boar’s Head Provisions Co., Inc.*, 8:24-cv-01868 (C.D. Cal.), through her counsel Sultzer & Lipari, PLLC, Reese LLP, Milberg Coleman Bryson Phillips Grossman, PLLC, Levin Sedran & Berman LLP, and Leeds Brown Law, P.C., which, in sum, asserts claims for violation of California consumer protection laws and unjust enrichment in connection with her alleged purchase of one or more recalled products (the “**Gatoff Action**”).

WHEREAS, on or about October 29, 2024, Plaintiff Pompilio filed a Recall-related putative nationwide class action lawsuit against Boar’s Head, captioned *Frank Pompilio v.*

Boar's Head Provisions Co., Inc., 7:24-cv-08220 (S.D.N.Y.), through his counsel Sultzer & Lipari, PLLC, which, in sum, asserts claims for violations of N.Y. GBL §§ 349 & 350 in connection with his alleged purchase of one or more recalled products (the “**Pompilio Action**”).

WHEREAS, on or about October 21, 2024, Plaintiff Robby Harper filed a Recall-related putative nationwide class action lawsuit against Boar’s Head, captioned *Robby Harper v. Boar's Head Provisions Co., Inc.*, 2:24-cv-02910-DC-DMC (E.D. Cal.), through his counsel Morgan & Morgan, which, in sum, asserts claims for violation of California consumer protection laws and fraud by omission in connection with his alleged purchase of one or more recalled products (the “**Harper Action**”). (The *Torres Action*, the *Chuskas Action*, the *Gatoff Action*, the *Pompilio Action* and the *Harper Action* are collectively referred to herein as the “**Litigation.**”)

WHEREAS, Torres, Chuskas, Gatoff, Pompilio and Boar’s Head, along with their counsel, engaged in extensive arm’s-length settlement negotiations, including a full-day mediation before a respected and experienced mediator, the Honorable Judge Steven M. Gold (Ret.). Before and during these settlement discussions and mediation, the Parties had arm’s-length exchanges of sufficient information to permit Named Plaintiffs and Class Counsel to evaluate the claims and potential defenses and to meaningfully conduct informed settlement discussions. The Parties did not discuss any potential award of attorneys’ fees or expenses or service awards until they first agreed on the substantive terms of this settlement. Harper and his counsel have also agreed to the substantive terms of this settlement.

WHEREAS, following the execution of this Agreement, the Named Plaintiffs will file a consolidated amended class action complaint for settlement purposes in the *Pompilio Action* (the “**Consolidated Complaint**”).

WHEREAS, Named Plaintiffs, as class representatives, and their counsel believe that the claims they have asserted in the Litigation and/or the Consolidated Complaint have merit, but they and their counsel recognize and acknowledge the risks, uncertainty, and expense of continued proceedings necessary to prosecute the claims through trial and appeal.

WHEREAS, Class Counsel have conducted a thorough investigation into the facts of the Litigation, including formal and informal exchanges of information and review of data, documents, and records. Class Counsel are knowledgeable about and have done extensive research with respect to the applicable law and potential defenses to the claims in the Litigation. Class Counsel have diligently pursued an investigation of the Settlement Class Members’ claims against Defendant. Class Counsel have analyzed and evaluated the merits of all Parties’ contentions and this settlement as it affects all Parties and the Settlement Class Members. Among the risks of continued litigation are the possibility that Named Plaintiffs will be unable to prove liability, damages, or entitlement to injunctive relief at trial on a class-wide or individual basis. In addition to taking into account the uncertain outcome and risk of the Litigation, Class Counsel have considered the difficulties and delay inherent in such litigation.

WHEREAS, based on the documents and information provided by Defendant, and their

own independent investigation, Class Counsel are of the opinion that this Settlement with Defendant for the consideration and on the terms set forth in this Agreement is fair, reasonable, and adequate, and is in the best interest of the Settlement Class in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation, various defenses asserted by Defendant, and numerous potential appellate issues relating to legal issues that are currently unsettled.

WHEREAS, Defendant denies all of Named Plaintiffs' allegations and all charges of wrongdoing or liability against it arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged against it, in the Litigation and/or the Consolidated Complaint, or that relates to or arises out of the Recall. Defendant does not waive and expressly reserves all rights to challenge such claims and allegations upon all legal, procedural, and factual grounds in the event the Settlement does not become effective. Defendant also denies that Named Plaintiffs, the Settlement Class, or any member of the Settlement Class have suffered damage or harm by reason of any alleged conduct, statement, act, or omission of Defendant. Defendant further denies that the Litigation and/or the Consolidated Complaint meets the requisites for certification as a class action under Rule 23 of the Federal Rules of Civil Procedure, except for purposes of settlement, or that the evidence is sufficient to support a finding of liability on any of the Named Plaintiffs' claims in the Litigation and/or the Consolidated Complaint. Defendant has substantial legal and factual defenses against all of the Named Plaintiffs' claims. However, Defendant considers it desirable to resolve the Litigation and/or Consolidated Complaint pursuant to this Agreement in order to avoid any further burden, expense, business interruption, and inconvenience resulting from ongoing lawsuits and accordingly has determined that this Agreement is in Defendant's best interests.

WHEREAS, the Parties desire to settle the Litigation and/or the Consolidated Complaint in their entirety as to the Named Plaintiffs, the Settlement Class and Defendant with respect to all claims arising out of or relating to the Recall or that were asserted or could have been asserted in the Litigation and/or the Consolidated Complaint, and intend this Agreement to bind Named Plaintiffs (both as class representatives and individually), Defendant and Settlement Class Members.

WHEREAS, the Parties desire and intend to seek Court review and approval of the Settlement Agreement, and, upon preliminary approval by the court, the Parties intend to seek a Final Order and Judgment from the Court dismissing with prejudice the Litigation and/or the Consolidated Complaint and ordering dismissal with prejudice of all claims alleged by the Named Plaintiffs, both individually and on behalf of the Settlement Class Members.

WHEREAS, this Settlement Agreement shall not be construed as evidence of, or as an admission by, the Defendants of any liability or wrongdoing whatsoever. Any such liability or wrongdoing has been and is denied.

NOW, THEREFORE, in consideration of the covenants and agreements set forth herein, and of the releases and dismissals of claims described below, the Parties agree as follows, subject to approval by the Court:

I. DEFINITIONS

In addition to those terms defined above, capitalized terms used in this Agreement shall be defined as follows:

1.1 The terms “**Agreement**” and “**Settlement**” mean the final, operative version of this fully executed Class Action Settlement and Release Agreement, including all Exhibits thereto, which the Parties acknowledge sets forth all the material terms and conditions of the Settlement between them and which is subject to Court approval.

1.2 “**Attorneys’ Fee and Expense Payment**” means any such funds as may be awarded by the Court consistent with the terms of this Agreement to Class Counsel for their past, present, and future work, efforts, and expenditures in connection with this Litigation and Settlement, and to reimburse them for their costs and expenses, as described more particularly in Section VII of this Agreement.

1.3 “**Available Settlement Funds**” means the Settlement Fund net of any Notice and Administration costs, Service Awards and Attorneys’ Fee and Expense Payment.

1.4 “**Claim Administrator**” means, subject to Court approval, Angeion Group, unless another third-party administrator is later agreed to by the Parties in writing and approved by the Court.

1.5 “**Claim Filing Deadline**” means sixty (60) days after the Notice Date.

1.6 “**Claim Form**” means the document to be submitted by Claimants seeking direct monetary benefits pursuant to the Agreement, substantially in the form of Exhibit C.

1.7 “**Claim Period**” means the period beginning on the Notice Date and continuing until the Claim Filing Deadline.

1.8 “**Class Counsel**” means Sultzer & Lipari, PLLC, Reese LLP, Levin Sedran, & Berman LLP, Poulin Willey Anastopoulos, Milberg, Coleman, Bryson, Phillips, Grossman, PLLC, and Leeds Brown Law, P.C.

1.9 “**Class Period**” means the earliest date of manufacture of any Covered Product through August 12, 2024, inclusive.

1.10 “**Court**” means the United States District Court for the Southern District of New York.

1.11 “**Covered Product**” or “**Covered Products**” means any product subject to the Recall, as identified in Exhibit D.

1.12 “**Effective Date**” means the day after the later of: (i) the expiration of the

time for consumers to appeal the Final Approval with no appeal having been filed (including any time period for consumers to file motions to extend the time to appeal under Fed. R. App. P. 4(a)(5) or any other applicable law or court rule); or (ii) if such appeal is filed, the termination of such appeal, on terms that affirm the Final Approval or dismiss the appeal with no material modification to the Final Approval. As used in this Paragraph, the phrase “termination of such appeal” means the date upon which the relevant appellate court issues its order.

1.13 “**Excluded Persons**” are (1) any judge presiding over the Litigation, their staff and their immediate family members; (2) Defendant; (3) any entity in which a Defendant has a controlling interest; (4) any of Defendant’s subsidiaries, parents, affiliates, and officers, directors, employees, legal representatives, heirs, successors, or assigns; and (5) any persons who timely exclude themselves from the Settlement Class in accordance with the procedures set forth in Section VI of this Agreement.

1.14 “**Exclusion Deadline**” means sixty (60) days after the Notice Date.

1.15 “**Final**” means that all of the events necessary for there to be an Effective Date have occurred, the Settlement has become completely final, and there is no further recourse by an appellant or objector who seeks to contest the Settlement.

1.16 “**Final Approval**” means issuance of an order granting final approval of this Agreement as binding upon the Parties; holding this Agreement to be final, fair, reasonable, adequate, and binding on all Settlement Class Members who have not excluded themselves as provided below; ordering that the settlement relief be provided as set forth in this Agreement; ordering the releases as set forth in Section VIII of this Agreement; entering judgment in this case; and retaining continuing jurisdiction over the interpretation, implementation, and enforcement of the Settlement.

1.17 “**Household**” means a single dwelling unit, no matter the number of natural persons residing therein.

1.18 “**Litigation**” means and refers to the *Torres, Chuskas, Gatoff, Pompilio and Harper* Actions cited herein, as well as any other class action lawsuits pending as of the date of the mediation.

1.19 “**Notice**” means the Court-approved form of notice to Settlement Class Members in substantially the same form as Exhibit B (“Long Form Notice”).

1.20 “**Notice and Administration Costs**” mean all costs actually incurred by the Claim Administrator in connection with the execution of the Notice Plan, claims processing and other administration in accordance with the terms of this Agreement.

1.21 “**Notice Date**” means forty-five (45) days after the date of Preliminary Approval.

1.22 “**Notice Plan**” means the plan for disseminating notice of the Settlement to

the Settlement Class, as described in Section V of this Agreement.

1.23 “**Objection Deadline**” means sixty (60) days after the Notice Date.

1.24 “**Person(s)**” means any natural person or business entity.

1.25 “**Preliminary Approval**” means issuance of an order substantially in the form attached hereto as Exhibit A, granting preliminary approval to this Agreement as within the range of possible Final Approval, approving the Notice Plan as described in Section V below and setting a hearing to consider Final Approval of the Settlement and any objections thereto.

1.26 “**Proof of Purchase**” means an itemized retail sales receipt or other document or photo (including, but not limited to, a retail store club or loyalty card record) showing, at a minimum, the purchase of a Covered Product, the purchase price, and the date and place of the purchase.

1.27 “**Released Claims**” means the claims released as set forth in Section VIII of this Agreement.

1.28 “**Released Parties**” means Defendant and each and all of its past, present and future direct and indirect affiliates, subsidiaries, divisions, parents, owners, predecessors, successors and assigns, and all other persons or entities under common control with Defendant, and each and all of their respective former, present and future officers, directors, shareholders, members, lenders, investors, partners, employees, agents, representatives, licensors, attorneys, accountants, insurers, and any suppliers, resellers, retailers, wholesalers, distributors, customers and all other persons or entities in the chain of distribution of the Covered Products, whether specifically named and whether or not participating in the settlement by payment or otherwise.

1.29 “**Service Award**” means any award approved by the Court that is payable to the Class Representatives to compensate them for their efforts in bringing this Litigation and achieving the benefits of this Settlement on behalf of the Settlement Class. The Service Award shall be in addition to any Settlement Benefit that the Named Plaintiffs may receive as participating Settlement Class Members.

1.30 “**Settlement Benefit**” means the benefits provided to Settlement Class Members as set forth in this Agreement.

1.31 “**Settlement Class**” or “**Settlement Class Members**” means all natural persons who, during the Class Period, purchased in the United States any Covered Product for personal, family or household use, and not for resale, except for any Excluded Persons; *provided however*, that the term Settlement Class Members as used herein with respect to any right or obligation after the Final Approval Date shall not include any opt-outs or Exclusions as provided in Section VI of this Agreement.

1.32 “**Settlement Fund**” means a total payment by Defendant of Three Million

One Hundred Thousand Dollars (\$3,100,000), all-in, inclusive of all payments to Plaintiffs and members of the Settlement Class, Service Awards, costs for notice and administration, and court-awarded Attorneys' Fees and Attorneys' Costs. Any notice and settlement administration costs over and above the Initial Settlement Administration Payment will be paid from the Settlement Fund. The Settlement Fund is non-reversionary. For sake of clarity, the Settlement Fund does not include, and is in addition to, the over Three Hundred Ninety-Four Thousand, One Hundred Forty-One Dollars and Eighty-Seven Cents (\$394,141.87) that Defendant has already paid in Recall Reimbursement.

1.33 **"Settlement Website"** means an internet website created and maintained by the Claim Administrator for the purpose of providing the Settlement Class with notice of and information about the Settlement, as described in Paragraph 5.2.1 of this Agreement.

1.34 **"Valid Claim"** means a claim submitted in compliance with this Agreement and determined to be valid by the Claim Administrator, and as further described in Section IV of this Agreement.

II. CERTIFICATION OF THE SETTLEMENT CLASS

2.1 **Certification of the Settlement Class.** For purposes of settlement and the proceedings contemplated by this Agreement only, subject to Court approval, the Parties stipulate and agree that a Settlement Class as defined in Paragraph 1.31 of this Agreement shall be provisionally certified pursuant to Federal Rule of Civil Procedure 23, that the Named Plaintiffs shall be the Class Representatives and shall represent the Settlement Class for Settlement Purposes, and that Class Counsel shall be appointed to represent the Settlement Class.

2.2 **Decertification of the Settlement Class if Settlement Not Approved.** Defendant does not consent to certification of the Settlement Class for any purpose other than to effectuate the Settlement. If the Court does not enter an order granting final approval of the Settlement, or if for any other reason the Effective Date does not occur, this Agreement shall terminate and cancel and any certification of any Settlement Class will be vacated and the Parties will be returned to their positions with respect to the Litigation as if the Agreement had not been entered into. Specifically: (a) any Court orders preliminarily or finally approving the certification of any class contemplated by this Agreement shall be null, void, and vacated, and shall not be used or cited thereafter by any person or entity; and (b) the fact of the settlement reflected in this Agreement, that Defendant did not oppose the certification of a Settlement Class under this Agreement, or that the Court preliminarily or finally approved the certification of a Settlement Class, shall not be used or cited thereafter by any person in any manner whatsoever, including without limitation any contested proceeding relating to the certification of any class. In the event the terms and conditions of this Agreement are substantially modified by the Court, Defendant reserves the right to declare this Agreement null and void, in its sole discretion, within fourteen (14) days after such modification. Notwithstanding, in the event the Settlement is not approved, the parties will work in good faith, to the extent possible, to resolve the Court's concerns.

III. OBTAINING COURT APPROVAL

3.1 **Filing of Consolidated Complaint.** Following the execution of this Agreement, Plaintiffs Torres, Chuskas, Gatoff, Pompilio and Harper will file a Consolidated Amended Complaint in the *Pompilio Action* for the purposes of obtaining Preliminary and Final Approval. Within three (3) business days of the filing of the Consolidated Amended Complaint, Plaintiffs Torres, Chuskas, Gatoff and Harper will file a notice of dismissal without prejudice of their separate respective Actions. The Parties will cooperate and make any filings reasonably necessary to obtain dismissal and closure of the *Torres, Chuskas, Gatoff and Harper* Actions as quickly as possible.

3.2 **Preliminary Approval.** After executing this Agreement, the Parties will submit to the Court the Agreement, and will request that the Court enter the Preliminary Approval Order in substantially similar form as the proposed order attached as Exhibit A. In the Motion for Preliminary Approval, Plaintiffs will: (i) request that the Court grant preliminary approval of the proposed Settlement as sufficiently fair and reasonable to warrant notice to the Settlement Class Members; (ii) provisionally certify the Settlement Class for settlement purposes and appoint Class Counsel; (iii) appoint Angeion Group as the Claim Administrator; (iv) approve the forms of Notice and find that the Notice Plan is the best practicable notice under the circumstances, is reasonably calculated to apprise Settlement Class Members of the Litigation and of their right to object or opt out of the Settlement and satisfies the Due Process Clause, Rule 23 of the Federal Rules of Civil Procedure and the requirements of any other applicable rules or law; (v) Preliminarily appoint the Named Plaintiffs as the Class Representatives and (vi) schedule a Final Approval Hearing to determine whether the Settlement should be granted final approval, whether an application for attorneys' fees and costs should be granted, and whether an application for service awards should be granted..

3.3 **Final Approval.** A Final Approval Hearing to determine final approval of the Agreement shall be scheduled as soon as practicable, subject to the calendar of the Court, but no sooner than twenty-one (21) calendar days after the Claims Deadline, Objection Deadline, and Opt-Out Deadline. If the Court issues the Preliminary Approval Order and all other conditions precedent of the Settlement have been satisfied, no later than fourteen (14) calendar days before the Final Approval Hearing, all Parties will move, individually or collectively, for a Final Approval Order, with Class Counsel filing a memorandum of points and authorities in support of the motion. Defendant may, but is not required to, file a memorandum in support of the motion. The Final Approval Order will, among other things: (i) approve the Settlement without material alteration and direct the parties and counsel to comply with and consummate the terms of this Agreement; (ii) certify the Settlement Class for settlement purposes only; (iii) find Class Counsel and Named Plaintiffs have adequately represented the Settlement Class; (iv) find the terms of this Agreement are fair, reasonable, and adequate to the Settlement Class; (v) find that the Notice Program was the best practicable notice under the circumstances and satisfied the Due Process Clause, the Federal Rules of Civil Procedure and the requirements of any other applicable rules or law; (vi) dismiss all claims in the Consolidated Complaint and with prejudice, and enter final judgment thereon, without fees or costs to any party except as

provided in this Agreement; and (vii) without affecting the finality of the Final Approval Order for purposes of appeal, retain jurisdiction as to all matters relating to administration, consummation, enforcement and interpretation of the Settlement Agreement and the Final Approval Order, and for any other necessary purpose.

3.4 Failure to Obtain Approval. If this Agreement is not given preliminary or final approval by the Court, or if an appellate court reverses final approval of the Agreement, the Parties will seek in good faith to revise the Agreement as needed to obtain Court approval. Failing this, the Parties will be restored to their respective places in the litigation. In such event, the terms and provisions of this Agreement will have no further force or effect with respect to the Parties and will not be used in this or any other proceeding for any purposes, and any Judgment or Order entered by the Court in accordance with the terms of this Agreement, including any Order certifying any Settlement Class, will be treated as vacated. The Parties agree that, in the event of any such occurrence, the Parties shall stipulate or otherwise take all necessary action to resume the Actions at the procedural posture they occupied immediately prior to the filing of the Parties' Notice of Settlement, as though this Agreement had never been reached.

IV. SETTLEMENT BENEFIT AND CLAIMS ADMINISTRATION

4.1 Settlement Consideration. Defendant agrees to establish the Settlement Fund, a non-reversionary common fund of \$3,100,000 which shall be used to pay all Settlement expenses, including Notice and Other Administrative Costs; CAFA notice, the Fee Award; Service Awards; and Settlement Class Members' Claims. Under no circumstances shall Boar's Head be required to pay more than the amount of the Settlement Fund or to pay anything apart from the Settlement Fund.

4.2 Creation & Administration of Qualified Settlement Fund. The Claim Administrator is authorized to establish the Settlement Fund under 26 C.F.R. §§ 1.468B-1(c) and (e)(1), to act as the "administrator" of the Settlement Fund pursuant to 26 C.F.R. § 1.468B-2(k)(3), and to undertake all duties as administrator in accordance with the Treasury Regulations promulgated under § 1.468B of the Internal Revenue Code of 1986. All costs incurred by the Claim Administrator operating as administrator of the Settlement Fund shall be construed as costs of Claims Administration and shall be borne solely by the Settlement Fund. Interest on the Settlement Fund shall inure to the benefit of the Settlement Class.

4.1 Funding of the Settlement Fund Account. Defendant shall fund the Settlement Fund Account pursuant to the following schedule:

4.1.1 Initial Settlement and Administration Payment. Amounts equal to the cost of publishing the Notice Plan, CAFA Notice, and other administrative costs (as incurred), to be paid within thirty (30) days of when such amounts are invoiced to Defendant along with wire instructions and other required documentation and become due and owing.

- 4.1.2 Notice and Administration Costs. Defendant is not required to advance costs for claims validation or other claims processing related costs until such time such costs are actually incurred. These will be paid within thirty (30) days of when such amounts are invoiced to Defendant along with wire instructions and other required documentation and become due and owing.
- 4.1.3 As promptly as reasonably practicable, and in no event later than thirty (30) days after the later of (a) the entry of an order granting Final Approval of the Settlement, and (b) the entry of an order awarding any Attorneys' Fee and Expense Payment and/or Service Awards in accordance with Paragraphs 7.1 and 7.2, Defendant shall deposit into the Settlement Fund Account an amount sufficient to cover any Attorneys' Fee and Expense Payment and Service Awards awarded by the Court.
- 4.1.4 Within thirty (30) days after the Effective Date, Defendant shall deposit into the Settlement Fund Account the remainder of the Settlement Fund (i.e., \$3,100,000, less any amount of Initial Settlement and Administration Payment, Notice and Administration Costs, Attorneys' Fees and Expense Payment and Service Award Defendant has already deposited into Settlement Fund Account pursuant to Paragraphs 4.1.1, 4.1.2 and 4.1.3).

4.2 **Defendant's Total Financial Commitment.** Defendant's total financial commitment and obligation under this Agreement, not including the over Three Hundred Ninety-Four Thousand, One Hundred Forty-One Dollars and Eighty-Seven Cents (\$394,141.87) in Recall Reimbursement paid to date by Defendant to putative class members, shall not exceed \$3,100,000.

4.3 **Use of the Settlement Fund** The Settlement Fund shall be applied as follows, in accordance with the terms and conditions set forth elsewhere in this Agreement:

- 4.3.1 To pay any portion of the Notice and Administration Costs that exceed the Initial Settlement and Administration Payment;
- 4.3.2 To pay any Attorneys' Fee and Expense Payment, as may be ordered by the Court and as described in Paragraph 7.1 below;
- 4.3.3 To pay any Service Awards to the Class Representatives, not to exceed \$1,000.00 per Class Representative, as may be ordered by the Court and as described in Paragraph 7.2 below; and
- 4.3.4 To pay Valid Claims for Settlement Benefits submitted by Settlement Class Members as described in Paragraph 4.6 below.

4.4 Cash Benefit to Class Members. Settlement Benefits shall be paid to each Settlement Class Member who submits a Valid Claim in accordance with the following terms:

- 4.4.1 Settlement Class Members who timely submit a valid Claim Form with Proof of Purchase of a Covered Product shall receive the full purchase price for each unit of Covered Product listed on the Proof of Purchase, inclusive of all taxes, subject to Paragraphs 4.6.3 and 4.6.4 below.
- 4.4.2 Settlement Class Members who timely submit a valid Claim Form without Proof of Purchase of a Covered Product shall receive the average retail price for up to two (2) Covered Products claimed per Household, subject to Paragraphs 4.6.3 and 4.6.4 below. Defendant shall provide the Claim Administrator with data sufficient to show the average retail price of each Covered Product, as such price is determined in good faith by Defendant based on information reasonably available to it, within fourteen (14) days after Preliminary Approval of the Settlement.
- 4.4.3 If a Settlement Class Member or any person in that Settlement Class Member's Household previously received Recall Reimbursement from Defendant, as reflected on the Settlement Class Member's Claim Form or in the records of Defendant, the amount of that Settlement Class Member's payment shall be reduced by the amount of Recall Reimbursement that Settlement Class Member or persons in that Settlement Class Member's Household have received (provided that the payment shall not be reduced below \$0.00).
- 4.4.4 Each Settlement Class Members' payment shall be increased or decreased on a *pro rata* basis such that the total amount paid to all Settlement Class Members equals the Available Settlement Funds.

4.5 Submission of Claims. Subject to the rights and limitations set forth in this Agreement, every Settlement Class Member shall have the right to submit a claim for Settlement Benefits. A claim shall be a Valid Claim only if submitted on the Claim Form pursuant to, and in compliance with, the procedures set forth herein. Submission of a claim, regardless of whether it is determined to be a Valid Claim, shall confer no rights or obligations on any Party, any Settlement Class Member, or any other Person, except as expressly provided herein.

- 4.5.1 At the election of the Settlement Class Member, Claim Forms may be submitted in paper via first class mail or online via the Settlement Website. Claim Forms must be postmarked or submitted online no later than the Claim Filing Deadline. Claim Forms postmarked or submitted online after that date will not be Valid Claims.
- 4.5.2 Claim Forms submitted in paper via first class mail must include in a

single mailing any Proof of Purchase submitted in connection with the claim. Proof of Purchase that is not submitted in the same mailing as the Claim Form will not be considered by the Claim Administrator. For Claim Forms that are submitted online, the Class Member shall have the opportunity to upload Proof of Purchase image files (e.g. jpg, tif, pdf) prior to submitting the claim, and to print a page immediately after the Claim Form has been submitted showing the information entered, the names of image files uploaded, and the date and time the Claim Form was submitted.

- 4.5.3 On the Claim Form, the Settlement Class Member must provide and certify the truth and accuracy of the following information under penalty of perjury, including by signing the Claim Form physically or by e-signature, or the claim will not be considered a Valid Claim by the Claim Administrator:
- (a) The Settlement Class Member's name and mailing address;
 - (b) The Settlement Class Member's email address (unless the Settlement Class Member submits the Claim Form in paper via first class mail, in which case an email address is optional);
 - (c) Which Covered Products were purchased during the Class Period;
 - (d) The number of Covered Products purchased during the Class Period and the actual or approximate date(s) of purchase;
 - (e) Whether the Settlement Class Member is submitting Proof of Purchase for any of the claimed purchases and, if so, the number of Covered Products for which the Settlement Class Member is submitting Proof of Purchase;
 - (f) That the claimed purchases were not made for purposes of resale;
 - (g) That neither the Settlement Class Member nor any person in his or her Household has previously received a refund for the claimed purchases, with the exception of any Recall Reimbursement provided by Defendant in connection with the Recall; and
 - (h) Whether the Settlement Class Member or any person in his or her Household received any Recall Reimbursement from Defendant for the claimed purchases and, if so, the total amount of Recall Reimbursement received by any person in that Settlement Class Member's Household.

4.6 Determination and Processing of Claims. The Claim Administrator shall be responsible for processing Claim Forms and reviewing and determining the validity of all

submitted claims in accordance with this Agreement. The Claim Administrator shall reject any Claim that does not comply in any material respect with the instructions on the Claim Form or with the terms of Paragraph 4.5, that is submitted after the Claims Deadline, or that the Claim Administrator identifies as duplicative or fraudulent. The Claim Administrator will use adequate and customary procedures and standards to prevent the payment of duplicative or fraudulent claims and to pay only Valid Claims. The Claim Administrator and Parties shall have the right to audit claims, and the Claim Administrator may request additional information from persons who submit Claim Forms to provide reasonable bases for the Claim Administrator to monitor for and detect fraud. Such additional information may include, for example, retailers and locations (city and state) at which the claimed purchases of Covered Products were made. If any fraud is detected or reasonably suspected, the Claim Administrator and Parties can require further information from the Settlement Class Member (including by cross-examination) or deny claims, subject to the supervision of the Parties and ultimate oversight by the Court. The Claim Administrator shall retain sole discretion in accepting or rejecting claims, and shall have no obligation to notify Settlement Class Members of rejected claims unless otherwise ordered by the Court. The Claim Administrator's decision as to the validity of claims shall be final and binding, except that Class Counsel and Defendant shall retain the right to audit claims and to challenge the Claim Administrator's decision by their mutual agreement or by motion to the Court. Class Counsel's or Defendant's choice not to audit the validity of any one or more Claim Forms shall not constitute or be construed as a waiver or relinquishment of any audit or other rights as to any other Claim Forms, individually or as a group, and similarly shall not be construed as a waiver or relinquishment by the Party as to any of its audit and other rights under this Agreement. No Person shall have any claim against Named Plaintiffs, Defendant, Class Counsel, Defendant's counsel, or the Claim Administrator based on any determination of a Valid Claim, distributions or awards made in accordance with this Agreement and the Exhibits hereto. Neither Named Plaintiffs nor Defendant, nor their counsel, shall have any liability whatsoever for any act or omission of the Claim Administrator. Prior to the hearing on Final Approval and in accordance with the Court's regular notice requirements, the Claim Administrator shall provide, in addition to the certification to the Court required under this Agreement, a declaration to the Court regarding the number and dollar amount of claims received to date.

4.7 Recall Reimbursement Data. Defendant shall provide to the Claim Administrator, no more than twenty-one (21) days following Preliminary Approval, data sufficient to show all Recall Reimbursement provided to Settlement Class Members in connection with the Recall, including the names and addresses of any recipients of Recall Reimbursement, to the extent such data is reasonably accessible to Defendant (the "**Recall Reimbursement Data**"). The Claim Administrator shall keep the Recall Reimbursement Data and the identities and contact information of Recall Reimbursement recipients confidential and shall not provide such information to Class Counsel.

4.8 Payment of Valid Claims. Valid Claims shall be paid by an electronic deposit through Venmo, prepaid card or Zelle with checks available upon request to the Settlement Class Member within sixty (60) days after the Effective Date, subject to reasonable extension upon mutual agreement by the Parties if necessary for the Claim Administrator, the Parties and/or the Court to complete the claim determination and processing processes described in

Paragraph 4.6. All settlement checks shall be void and no longer negotiable one hundred twenty (120) day after the date the check was issued. If a settlement check is not negotiated, the Settlement Class Member shall not be entitled to any further payment under this Agreement. If a settlement check is returned as undeliverable, the Claim Administrator shall send an email to the claimant, if an email address was provided with the claim, to attempt to obtain a better address, and if obtained, shall mail the check to the new address, but the re-mailing of any check will not extend the 120-day period after which the check will become void. The return or failure to cash checks shall have no effect on a Settlement Class Member's release of claims, obligations, representations, or warranties as provided herein, which shall remain in full effect. Funds from uncashed checks shall be paid to a *cy pres* charity to be agreed upon between the parties and approved by the Court.

4.9 Taxes on Settlement Benefit. No deductions for taxes will be taken from any Settlement Benefit at the time of distribution. Settlement Class Members are responsible for paying all taxes due on such Settlement Benefits. All Settlement Benefit payments shall be deemed to be paid solely in the year in which such payments are actually issued. Counsel and the Parties do not purport to provide legal advice on tax matters to each other or Settlement Class Members. To the extent this Agreement, or any of its exhibits or related materials, is interpreted to contain or constitute advice regarding any U.S. Federal or any state tax issue, such advice is not intended or written to be used, and cannot be used, by any Person or Business for the purpose of avoiding penalties under the Internal Revenue Code or any state's tax laws.

4.10 Retention of Payment Records. The Claim Administrator shall retain all records relating to payment of claims under the Agreement for a period of five (5) years from the Effective Date. Those records shall be maintained in accordance with this Agreement as "Confidential – Attorneys' and Claim Administrator's Eyes Only."

4.11 Limitation of Liability. Defendant, the Released Parties, and Defendant's counsel shall have no responsibility for, interest in, or liability with respect to: (i) any act, omission, or determination by Class Counsel, the Claim Administrator, or their respective designees or agents in connection with the administration of the Settlement Fund; (ii) the management, investment, or distribution of the Settlement Fund; (iii) the allocation of payments from the Settlement Fund to Settlement Class Members or the implementation, administration, or interpretation thereof; (iv) the determination, administration, calculation, or payment of any claims asserted against the Settlement Fund; or (v) any losses suffered by, or fluctuations in value of, the Settlement Fund.

4.12 Non-Monetary Relief. The Parties agree that, in part, as a result of the Litigation, Defendant made modifications to its practices and procedures regarding bacterial contamination. In addition, Defendant is continuing to diligently implement its food safety programs to reduce the potential future risk of bacterial contamination. These modifications significantly benefit consumers, including Settlement Class Members who wish to purchase Defendant's products in the future.

V. NOTICE

5.1 **Administration of Notice Plan.** The Claim Administrator will administer the Notice Plan in accordance with this Agreement, the Court's order granting Preliminary Approval and any other order of the Court. The Claim Administrator will keep the identities and contact information of Settlement Class Members confidential (subject to the Parties' audit rights set forth in Paragraph 4.6), and shall use such information solely for purposes of administering the Settlement.

5.2 **Notice Plan.** Notice of the Settlement will be provided to the Settlement Class Members as follows:

5.2.1 **Settlement Website.** Prior to the Notice Date, the Claim Administrator shall establish the Settlement Website, which shall contain: a complete list of Covered Products as set forth in Exhibit D to this Agreement; the Notice in both downloadable PDF format and HTML format with a clickable table of contents; answers to frequently asked questions (to be agreed upon in form and substance between Class Counsel and Defendant); a contact information page that includes the address for the Claim Administrator and addresses and telephone numbers for Class Counsel; the Consolidated Complaint; the Agreement; the signed order of Preliminary Approval; a downloadable and online version of the Claim Form; a downloadable and online version of the form by which Settlement Class Members may exclude themselves from the Settlement Class; and (when it becomes available) Plaintiffs' application for Attorneys' Fees and Expenses and/or an application for Service awards. The Settlement Website will include a readily accessible means for members of the Settlement Class to electronically submit a Claim Form or request for exclusion, as well as an address to which Claim Forms or requests for exclusion may be mailed. The Settlement Website will be live on the Notice Date. The Settlement Website shall remain accessible until one hundred eighty (180) days after all Settlement Benefits are distributed, except that it will not allow online submission of Claim Forms after the Claim Filing Deadline or online submission of requests for exclusion after the Exclusion Deadline.

5.2.2 **Toll-Free Number.** The Claim Administrator will establish a toll-free telephone number where members of the Settlement Class can request a copy of the Detailed Notice, the Claim Form, and other materials referenced in Paragraph 5.2.1.

5.2.3 **Internet/Social Media Advertising Campaign.** The Claim Administrator shall design and implement a media campaign using internet and social media advertising, the form and substance of which shall be mutually agreed upon by the Parties in advance of the Notice Date.

5.3 **Supervision of Claim Administrator.** The Parties shall supervise the Claim Administrator in the performance of the notice functions set forth in this Section V.

5.4 **CAFA Notice.** The Claim Administrator, at the direction of Defendant's counsel, shall comply with the notice requirements of 28 U.S.C. § 1715, within the timelines specified by 28 U.S.C. § 1715(b). The costs of such notice shall be paid from the Initial Settlement Administration Payment.

5.5 **Certification.** Prior to the hearing on Final Approval and in accordance with the Court's regular notice requirements, the Claim Administrator shall certify to the Court that it has complied with the notice requirements set forth herein.

VI. OBJECTION AND EXCLUSION

6.1. **Rights to Objection and Exclusion.** The Notice shall advise prospective Settlement Class Members of their rights to forego the benefits of this Settlement and pursue an individual claim, object to this Settlement individually or through counsel and appear at the final approval hearing.

6.2. **Procedures for Objection.** If any Settlement Class Member wishes to object to the Settlement, the Settlement Class Member must electronically file via the Court's ECF system, or deliver to the Clerk of the Court by mail, express mail, or personal delivery, a written notice of objection. To be timely, the objection must be *received by* the Clerk of the Court (not just postmarked or sent) prior to the Objection Deadline. Each objection must include: (i) a caption or title that clearly identifies the proceeding and that the document is an objection, (ii) information sufficient to identify and contact the objector or his or her attorney if represented, (iii) information sufficient to establish the objector's standing as a Settlement Class Member, (iv) a clear and concise statement of the objector's objection, as well as any facts and law supporting the objection, (v) the objector's signature, and (vi) the signature of the objector's counsel, if any (an attorney's signature alone shall not be deemed sufficient to satisfy this requirement). Failure to include documents or testimony sufficient to establish membership in the Settlement Class shall be grounds for overruling and/or striking the objection on grounds that the objector lacks standing to make the objection.

6.3. **Procedures for Exclusion.** If any Settlement Class Member wishes to be excluded from this Settlement, the Settlement Class Member may do so by completing the online exclusion form at the Settlement Website; downloading and submitting to the Claim Administrator a completed exclusion form; or submitting a valid request to exclude themselves, as described in the Notice, to the Claim Administrator. Requests to exclude must be postmarked or submitted online by the Exclusion Deadline or they shall not be valid. For exclusion requests that are submitted online, the Settlement Class Member shall have the opportunity to print a page immediately after submission showing the information entered and the date and time the request for exclusion was submitted. Settlement Class Members who elect to exclude themselves from this Settlement shall not be permitted to object to this Settlement or to intervene. Settlement Class Members shall be encouraged, but not required, to provide their email addresses in their requests for exclusion.

6.4. **Timeliness.** The proposed Preliminary Approval Order will provide, and the Notice will clearly state, that any Settlement Class Members wishing to object or exclude

themselves who fail to properly or timely file or serve any of the requested information and/or documents will be precluded from doing so.

6.5. **Notice of Exclusions.** Not later than ten (10) days after the Exclusion Deadline, the Claim Administrator shall provide to Class Counsel and Counsel for Defendant a complete list of the names of the persons who have excluded themselves from the Settlement Class in a valid and timely manner with copies of the exclusion requests. Class Counsel shall inform the Court of the number of persons who have timely and validly excluded themselves prior to the hearing on Final Approval and in accordance with the Court's regular notice requirements.

6.6. **Effect of Both Submitting a Claim and Requesting Exclusion.** If a Settlement Class Member submits both a Claim Form and an exclusion request, the Claim Form shall take precedence and be considered valid and binding, and the exclusion request shall be deemed to have been sent by mistake and rejected. A Settlement Class Member who objects to the Settlement may also submit a Claim Form on or before the Claim Filing Deadline, which shall be processed in the same way as all other Claim Forms. A Settlement Class Member shall not be entitled to an extension to the Claim Filing Deadline merely because the Settlement Class Member has also submitted an objection.

6.7. **Effect of Both Requesting Exclusion and Objecting.** If a Settlement Class Member submits both a timely and valid request for exclusion and timely files an Objection, the Settlement Class Member will be deemed to have opted out of the Settlement, and thus to be ineligible to object. However, any objecting Settlement Class Member who has not timely submitted a completed request for exclusion will be bound by the terms of the Agreement upon the Court's Final Approval of the Settlement.

VII. ATTORNEYS' FEES AND EXPENSE PAYMENT AND CLASS REPRESENTATIVE SERVICE AWARDS

7.1 **Attorneys' Fees and Expense Payment.** Prior to the initially scheduled hearing on Final Approval and in accordance with the Courts' regular notice requirements, Class Counsel may apply to the Court for an award of an Attorneys' Fees in a total amount not to exceed one-third of the Settlement Fund, as well as expenses. In no event shall Defendant be liable for any attorneys' fees or expenses in excess of that amount.

7.2 **Service Awards.** Prior to the initially scheduled hearing on Final Approval and in accordance with the Courts' regular notice requirements, the Class Representatives may additionally apply to the Court for a Service Award not to exceed \$1,000.00 each as compensation for (a) the time and effort undertaken in and risks of pursuing this Litigation, including the risk of liability for the Parties' costs of suit, and (b) the additional release set forth in Paragraph 8.2.

7.3 **Payment.** Any Attorneys' Fee and Expense Payment and Service Awards awarded by the Court shall be paid from the Settlement Fund. The Claim Administrator shall pay any such Attorneys' Fee and Expense Payment and Service Awards out of the Settlement Fund Account into an escrow account maintained by Class Counsel, Sultzer & Lipari, PLLC.,

immediately following Defendant's deposit of the payment described in Paragraph 4.1.3. If Final Approval or the award of Attorneys' Fees and Attorneys' Costs and/or incentive awards is later reversed on appeal or if for any reason the Judgment does not become final or the Effective Date fails to occur, then, within fourteen (14) business days, Class Counsel shall repay into the Settlement Fund Account the amount received pursuant to this Paragraph. Class Counsel will hold the Attorneys' Fee and Expense Payment and Service Awards in escrow until such time as Class Counsel is authorized to disseminate those funds pursuant to this Agreement, the Final Approval Order or other order of the Court, but in any case no earlier than the Effective Date.

7.4 No Modification of Agreement. Class Counsel and the Class Representatives agree that the denial, downward modification, failure to grant the request for Attorneys' Fees and Expense Payment or Service Awards, or the reversal or modification on appeal of any such payment or awards, shall not constitute grounds for modification or termination of this Agreement.

7.5 Defendant's Fees and Expenses. Defendant shall be responsible for paying its own attorneys' fees and expenses.

VIII. RELEASES, WARRANTIES AND COVENANTS NOT TO SUE

8.1 Release. As of the Effective Date, the Settlement Class Members, and any all of their respective heirs, executors, administrators, representatives, agents, partners, successors and assigns (the "**Releasing Parties**") hereby fully and irrevocably release and forever discharge the Released Parties from, and shall be forever barred from instituting, maintaining, or prosecuting, any and all claims, liens, demands, actions, causes of action, rights, duties, obligations, damages, costs, attorneys' fees or liabilities of any kind or nature whatsoever, whether legal or equitable or otherwise, known or unknown, accrued or to accrue, vested or contingent, liquidated or otherwise, whether based in contract, tort, warranty, fraud, negligence, violation of federal or state statute or any other theory, that arise out of or relate to: (i) the allegations, claims, or contentions that were, or could have been, asserted in the Litigation and/or the Consolidated Complaint, including but not limited to allegations, claims, or contentions related in any way to the manufacture, testing, labeling, marketing, sales, advertising, and use of the Covered Products with respect to the potential for contamination by *Listeria monocytogenes* or any other bacteria or contaminant; and (ii) any alleged acts, omissions, or misrepresentations related in any way to the potential for *Listeria monocytogenes*, or any other bacteria or contaminant, with respect to the Covered Products (the "**Released Claims**"). Except as set forth in Paragraph 8.2 below, the Released Claims exclude claims for bodily injury arising out of exposure to or consumption of any Released Parties' Covered Products.

8.2 Additional Release from Named Plaintiffs. In addition to the release provided in Paragraph 8.1, Named Plaintiffs further represent that they do not have any claims as to any Released Parties' products or services other than those asserted in the Litigation and/or the Consolidated Complaint, and hereby fully and irrevocably release and forever discharge the Released Parties from, and shall be forever barred from instituting, maintaining, or prosecuting, any and all claims, liens, demands, actions, causes of action, rights, duties, obligations,

damages, costs, attorneys' fees or liabilities of any kind or nature whatsoever, whether legal or equitable or otherwise, known or unknown, accrued or to accrue, vested or contingent, liquidated or otherwise, whether based in contract, tort, warranty, fraud, negligence, violation of federal or state statute or any other theory, that arise out of or relate to any of the Released Parties' products or services and are based on any conduct, act or omissions prior to the date of execution of this Agreement, including any claims for bodily injury or any other claims.

8.3 **Unknown Claims.** In consideration for this Agreement and the consideration and mutual covenants set forth herein, Named Plaintiffs and the Settlement Class Members acknowledge that the release herein includes potential claims and costs that may not be known or suspected to exist, and that Named Plaintiffs and the Settlement Class Members hereby agree that all rights under California Civil Code section 1542, and any similar law of any state or territory of the United States, are expressly and affirmatively waived. California Civil Code section 1542 states 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.

8.4 **Covenant Not to Sue.** Named Plaintiffs and the Settlement Class Members covenant and agree: (a) not to assert any of the Released Claims in any action or proceeding and not to file, commence, prosecute, intervene in, or participate in (as class members or otherwise) any action or proceeding based on any of the Released Claims against any of the Released Parties; (b) that they are not aware of, and agree not to organize or solicit, the participation of Settlement Class Members in a separate class for purposes of pursuing any action or proceeding (including by seeking to amend a pending complaint to include class allegations, or seeking class certification in a pending or future action or proceeding) based on or relating to any of the Released Claims or the facts and circumstances relating thereto against the Released Parties; and (c) that the foregoing covenants and this Agreement shall be a complete defense to any of the Released Claims against any of the Released Parties. Class Members are not precluded from addressing, contacting, dealing with, or complying with requests or inquiries from any governmental authorities relating to the issues raised in this class action settlement.

8.5 **Action to Enforce Settlement.** None of the foregoing releases or covenants included herein shall be read to prohibit a cause of action to enforce the terms of the Settlement.

IX. DENIAL OF LIABILITY; PROHIBITION OF USE

9.1 **Denial of Liability.** Defendant vigorously denies all of the material allegations in the Litigation and/or the Consolidated Complaint. Defendant enters into this Agreement without in any way admitting or acknowledging any fault, liability, or wrongdoing of any kind. Defendant further denies the truth of any of the claims asserted in the Litigation and/or the

Consolidated Complaint, including any allegations that Named Plaintiffs or any member of the Settlement Class has been harmed by any conduct by Defendant, whether as alleged in the Litigation, the Consolidated Complaint or otherwise. Defendant is settling this matter solely to avoid the risk, burden, and expense of continued litigation.

9.2 Admissibility of Agreement. This Settlement Agreement and its exhibits, along with all related drafts, motions, pleadings, conversations, negotiations, correspondence, orders, or other documents shall be considered a compromise within the meaning of the Federal Rule of Evidence Rule 408. To the extent permitted by law, neither this Agreement, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, shall be discoverable, relevant or offered as evidence or received in evidence in any pending or future civil, criminal, or administrative action or proceeding to establish any liability or admission by Defendant, or to establish the truth of any of the claims or allegations alleged in the Litigation, including without limitation the provisions regarding class certification. This Agreement may be pleaded or invoked as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit, or other proceeding which may be instituted, prosecuted, or attempted for the Released Claims.

X. REPRESENTATIONS AND WARRANTIES

10.1 Authority to Execute. Class Counsel represent and warrant as of the date this Agreement is executed that they have authority to enter into this Settlement Agreement on behalf of the Class Representatives and the members of the Settlement Classes.

10.2 Class Representative Warranties. The Class Representatives represent and warrant as of the date this Agreement is executed that they: (i) have agreed to serve as representatives of the Settlement Class proposed to be certified herein; (ii) are willing, able, and ready to perform all of the duties and obligations as representatives of the Settlement Class; (iii) are familiar with the pleadings in the Litigation and Consolidated Complaint, or have had the contents of such pleadings described to them; (iv) are familiar with the terms of this Settlement Agreement, including the exhibits attached to this Settlement Agreement, or have received a description of the Settlement Agreement, including the exhibits attached to this Settlement Agreement, from Class Counsel, and have agreed to its terms; (v) have consulted with, and received legal advice from, Class Counsel about the Litigation, this Settlement Agreement (including the advisability of entering into this Settlement Agreement and its Releases and the legal effects of this Settlement Agreement and its Releases), and the obligations of a representative of the Settlement Class; (vi) have authorized Class Counsel to execute this Settlement Agreement on their behalf; and (vii) will remain in and not request exclusion from the Settlement Class and will serve as representatives of the Settlement Class until the terms of this Settlement Agreement are effectuated, this Settlement Agreement is terminated in accordance with its terms, or the Court at any time determines that such Class Representatives cannot represent the Settlement Class.

10.3 Defendant Warranties. Defendant represents and warrants as of the date this Agreement is executed that: (i) Defendant has all requisite corporate powers and authority to execute, deliver, and perform this Settlement Agreement; (ii) the execution, delivery, and performance of this Settlement Agreement by Defendant has been duly authorized by all

necessary corporate action; (iii) this Settlement Agreement has been duly and validly executed and delivered by Defendant; and (iv) this Settlement Agreement constitutes a legal, valid, and binding obligation of Defendant.

XI. ADDITIONAL PROVISIONS

11.1 Cooperation of the Parties. Subject to the limitations expressed herein, the Parties' counsel shall use their best efforts to cause the Court to give Preliminary Approval to this Agreement and Settlement as promptly as practicable, to take all steps contemplated by this Agreement to effectuate the Settlement on the stated terms and conditions, to cooperate in addressing any objections, and to obtain Final Approval of this Agreement. The Parties and Counsel shall not encourage anyone directly or indirectly to opt out or object. The Class Representatives shall not opt out or object. If the Court requires changes to the Agreement as a prerequisite to Preliminary Approval or Final Approval, the Parties shall negotiate in good faith regarding such changes.

11.2 Press Releases. To avoid contradictory, incomplete, or confusing information about the Settlement during the Claim Period, the Parties agree that if they make any written press releases or affirmative statements to the media about the Settlement before the conclusion of the Claim Period, such releases or statements will be approved by all Parties in advance. Defendant may, however, in its sole discretion and at any time, make responsive statements in response to any media, customer or other public or private inquiries to: (a) make clear that Defendant denies any and all wrongdoing, liability or allegations asserted in the Litigation and is entering into the Settlement solely to avoid the uncertainty and expense of litigation; or (b) correct any inaccuracies about the terms or conditions of the Settlement. Similarly, Plaintiffs and Class Counsel may, in their sole discretion and at any time, make responsive statements in response to any media, consumer or other public or private inquiries to: (a) to provide information regarding how Settlement Class Members may submit a claim; (b) to provide the Long Form Notice, the URL of the Settlement Website, or the contact information of the Settlement Administrator, or (c) correct any inaccuracies about the terms or conditions of the Settlement. The Parties otherwise agree that before the entry of the Order Granting Final Approval, if any print or electronic media outlet contacts any Party or its counsel seeking information or a statement regarding the Settlement, unless a response is agreed on by all Parties, no information will be provided in response to such inquiries. For the avoidance of any doubt, nothing in this Agreement prevents the Parties from making any disclosures required to effectuate this Agreement or from making any disclosures required by law or any securities exchange regulation. Additionally, nothing in this Agreement prevents Defendant from making affirmative or responsive public statements denying any allegations asserted in the Litigation or otherwise addressing the Recall.

11.3 Non-Disparagement. Named Plaintiffs, Settlement Class Members, and Class Counsel shall make no statements, including statements to the press or any other public statements, that disparage Defendant, any Released Party, or any of the Covered Products, or accuse Defendant or any Released Party of any wrongdoing regarding this Settlement or Litigation or the subject matter thereof.

11.4 Modification of Time Periods. The time periods and/or dates described in this

Agreement with respect to the giving of notices and hearings are subject to approval and change by the Court or by the written agreement of Class Counsel and Defendant's Counsel, without notice to Settlement Class Members, except that the Claim Administrator shall ensure that such dates are posted on the Settlement Website.

11.5 Right to Terminate. Except for changes to the time periods as set forth in the Paragraph 11.4 and any non-substantive changes to the Long Form Notice, Claim Form or Online Advertisement that may be ordered by the Court or agreed upon between counsel for the Parties in writing, all other terms and limitations set forth in this Agreement and in the documents referred to or incorporated herein (including but not limited to the Long Form Notice, Claim Form and Online Advertisement) shall be deemed material to the Parties' agreement, and in the event any such other term is altered or amended by the Court (including if the Court refuses to certify the Settlement Class and/or modifies the definition of the class), or any other court, or if any federal or state authority objects to or requires modifications to the Agreement, any Party whose rights or obligations are affected by the alteration or amendment may terminate this Agreement upon prompt written notice to the other Party (in no event later than fourteen (14) days after the terminating Party learns of the event that gives right to the right to terminate, unless agreed upon in writing between Class Counsel and Defendant).

11.6 Return of Funds Upon Termination. In the event of a termination under Paragraph 11.5 of this Agreement, or if for any reason the Judgment does not become final or the Effective Date fails to occur, the Claim Administrator shall return any remaining portion of the Initial Settlement Administration Payment, and any and all monies remaining in the Settlement Fund, to Defendant within fourteen (14) days of receiving notice of the termination. Additionally, within fourteen (14) days of receiving notice of the termination, Class Counsel shall reimburse Defendant for fifty percent (50%) of any portion of the Initial Settlement Administration Payment that has been applied to pay Notice and Administration Costs as of the termination.

11.7 Computation of Time. All time periods set forth herein shall be computed in calendar days unless otherwise specified. If the date for performance of any act required by or under this Agreement falls on a Saturday, Sunday or court holiday, that act may be performed on the next business day with the same effect as if it had been performed on the day or within the period of time specified by or under this Agreement.

11.8 No Assignment of Claims. The Settlement Class Members will be deemed by operation of the Order Granting Final Approval to represent, covenant, and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, cause of action, or rights herein released and discharged. Any Party that breaches the representations and warranties set forth in this Paragraph shall indemnify and hold harmless the other Party, its parents, subsidiaries, and affiliates, and their respective owners, agents, attorneys, successors, heirs, assigns, administrators, officers, directors, employees, and all other persons acting in concert with them from any and every claim or demand of every kind or character arising out of a breach of any such breaching Party of its representations and warranties in this Paragraph.

11.9 Governing Law. This Agreement is intended to and shall be governed by the laws

of the State of New York, without regard to conflicts of law principles.

11.10 Integration. The terms and conditions set forth in this Agreement (including all exhibits) constitute the complete and exclusive statement of the agreement between the Parties hereto relating to the subject matter of this Agreement, superseding all previous negotiations and understandings, and may not be contradicted by evidence of any prior or contemporaneous agreement. The Parties further intend that this Agreement (including exhibits) constitutes the complete and exclusive statement of its terms as between the Parties hereto, and that no extrinsic evidence whatsoever may be introduced in any agency or judicial proceeding, if any, involving this Agreement.

11.11 Modification. Except as otherwise provided herein, any amendment or modification of the Agreement must be in writing signed by each of the Parties and their counsel.

11.12 Construction. The determination of the terms of, and the drafting of, this Agreement have been by mutual agreement after negotiation, with consideration by and participation of all Parties hereto and their counsel. The presumption found in California Civil Code section 1654, and any comparable statutes, that uncertainties in a contract are interpreted against the party causing an uncertainty to exist is hereby waived by all Parties.

11.13 Headings and Captions. Headings, captions, and section numbers herein are inserted merely for the reader's convenience, and in no way define, limit, construe, or otherwise describe the scope or intent of the provisions of this Agreement. In the event of a dispute concerning the terms and conditions of this Agreement, the headings, captions, and section numbers shall be disregarded.

11.14 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the respective heirs, successors, and assigns of the Parties hereto.

11.15 No Waiver. The failure of a Party hereto to insist upon strict performance of any provision of this Agreement shall not be deemed a waiver of such Party's rights or remedies or a waiver by such Party of any default by another Party in the performance or compliance of any of the terms of this Agreement. In addition, the waiver by any Party of any provision or breach of this Agreement shall not be deemed a waiver of any other provision or breach of this Agreement.

11.16 Legal Fees and Costs. Except as otherwise provided herein, each Party shall bear its own legal and other costs incurred in connection with the Released Claims, including the preparation and performance of this Agreement.

11.17 Warranty of Signatures. Each person executing this Agreement in a representative capacity represents and warrants that they are empowered to do so.

11.18 Counterparts. The Parties may execute this Agreement in counterparts and/or by fax or electronic mail, and execution of counterparts shall have the same force and effect as if all Parties had signed the same instrument.

11.19 Continuing Jurisdiction. The Court shall retain jurisdiction to enforce, interpret, and implement this Agreement. Any disputes or controversies arising out of, or related to, the interpretation, implementation, administration, and enforcement of this Settlement Agreement will be made by motion to the Court. All Parties hereto submit to the jurisdiction of the Court for these purposes.

11.20 No Exclusion of Named Plaintiffs. Named Plaintiffs hereby agree not to request to seek to exclude themselves from the Settlement Class. Any such request shall be void and of no force or effect.

11.21 Voluntary Execution and Representation by Counsel. This Agreement is executed voluntarily by each of the Parties without any duress or undue influence on the part, or on behalf, of any of them. The Parties represent and warrant to each other that they have read and fully understand the provisions of this Agreement and have relied on the advice and representation of legal counsel of their own choosing.

11.22 Notices. All notices to the Parties or counsel required by this Agreement shall be made in writing and (i) delivered personally or by registered or certified mail, postage prepaid, to the appropriate address(es) set forth immediately below, or to other contact points as the Parties may identify by notice given in accordance with this Paragraph; and also (ii) transmitted by email to the appropriate email address(es) set forth below:

If to Named Plaintiffs or Class Counsel:

Jason P. Sultzer
Sultzer & Lipari, PLLC
85 Civic Center Plaza, Suite 200
Poughkeepsie, NY 12601
Telephone: (845) 483-7100
Email: sultzerj@thesultzerlawgroup.com

Nick Suciu III
MILBERG COLEMAN BRYSON
PHILLIPS GROSSMAN, PLLC
6905 Telegraph Road, Suite 115
Bloomfield Hills, MI 48301
Telephone: (313) 303-3472
Email: nsuciu@milberg.com

Michael R. Reese
REESE LLP
100 West 93rd Street, 16th Floor
New York, NY 10025
Telephone: (212) 643-0500
Email: mreese@reesellp.com

Paul Doolittle
POULIN WILLEY ANASTAPOULO, LLC
32 Ann Street
Charleston, SC 29403
Telephone: (800) 313-2546
Email:
pauld@akimlawfirm.com

Charles E. Schaffer
LEVIN SEDRIN & BERMAN LLP
510 Walnut Street, Suite 500
Philadelphia, Pa. 19106
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Email: cschaffer@lfsblaw.com

Jeffrey K. Brown
LEEDS BROWN LAW, P.C.
One Old Country Road, Suite 347
Carle Place, NY 11514
Telephone: (516) 873-9550
Email: jbrown@leedsbrownlaw.com

If to Defendant:

Nick P. Panayotopoulos
WEINBERG WHEELER HUDGINS GUNN & DIAL
3344 Peachtree Road, NE
Suite 2400
Atlanta, GA 30326
T: 404.876.2700
Email: npanayo@wwhgd.com

[Signatures on next page]

IN WITNESS HEREOF the undersigned, being duly authorized, have caused this Agreement to be executed on the dates shown below and agree that it shall take effect on the last date it is executed by all of the undersigned.

The Named Plaintiffs:

Dated: 01/13/2025

Rita J. Torres

Rita Torres
Plaintiff and Class Representative

Dated: _____

Samantha Chuskas
Plaintiff and Class Representative

Dated: _____

Sheryl Gatoff
Plaintiff and Class Representative

Dated: _____

Frank Pompilio
Plaintiff and Class Representative

Dated: _____

Robby Harper
Plaintiff and Class Representative


IN WITNESS HEREOF the undersigned, being duly authorized, have caused this Agreement to be executed on the dates shown below and agree that it shall take effect on the last date it is executed by all of the undersigned.

The Named Plaintiffs:

Dated: _____

Rita Torres
Plaintiff and Class Representative

Dated: 01/06/2025



Samantha Chuskas (Jan 6, 2025 10:57 CST)
Samantha Chuskas
Plaintiff and Class Representative

Dated: _____

Sheryl Gatoff
Plaintiff and Class Representative

Dated: _____

Frank Pompilio
Plaintiff and Class Representative

Dated: _____

Robby Harper
Plaintiff and Class Representative

IN WITNESS HEREOF the undersigned, being duly authorized, have caused this Agreement to be executed on the dates shown below and agree that it shall take effect on the last date it is executed by all of the undersigned.

The Named Plaintiffs:

Dated: _____

Rita Torres
Plaintiff and Class Representative

Dated: _____

Samantha Chuskas
Plaintiff and Class Representative

Dated: 01/13/2025

Sheryl Gatoff

Sheryl Gatoff
Plaintiff and Class Representative

Dated: _____

Frank Pompilio
Plaintiff and Class Representative

Dated: _____

Robby Harper
Plaintiff and Class Representative

IN WITNESS HEREOF the undersigned, being duly authorized, have caused this Agreement to be executed on the dates shown below and agree that it shall take effect on the last date it is executed by all of the undersigned.

The Named Plaintiffs:

Dated: _____

Rita Torres
Plaintiff and Class Representative

Dated: _____

Samantha Chuskas
Plaintiff and Class Representative

Dated: _____

Sheryl Gatoff
Plaintiff and Class Representative

Dated: 1/13/2025

Frank Pompilio

Frank Pompilio
Plaintiff and Class Representative

Dated: _____

Robby Harper
Plaintiff and Class Representative

IN WITNESS HEREOF the undersigned, being duly authorized, have caused this Agreement to be executed on the dates shown below and agree that it shall take effect on the last date it is executed by all of the undersigned.

The Named Plaintiffs:

Dated: _____

Rita Torres
Plaintiff and Class Representative

Dated: _____

Samantha Chuskas
Plaintiff and Class Representative

Dated: _____

Sheryl Gatoff
Plaintiff and Class Representative

Dated: _____

Frank Pompilio
Plaintiff and Class Representative

Dated: 1/10/2025

Robert Harper
Robby Harper
Plaintiff and Class Representative

Approved as to Form:

Dated: 1/13/2025

SULTZER & LIPARI, PLLC
Jason P. Sultzer
85 Civic Center Plaza, Suite 200
Poughkeepsie, NY 12601
Tel: (845) 483-7100
E-Mail: sultzerj@thesultzerlawgroup.com
*Attorneys for Plaintiff Rita Torres, Sheryl
Gatoff, Frank Pompilio, and the Settlement
Class*

Dated: _____

REESE LLP
Michael R. Reese
100 West 93rd Street, 16th Floor
New York, New York 10025
Tel: (212) 643-0500
E-Mail: mreese@reesellp.com
*Attorneys for Plaintiff Rita Torres, Sheryl
Gatoff, and the Settlement Class*

Dated: _____

MILBERG COLEMAN BRYSON
PHILLIPS GROSSMAN, PLLC
Nick Suciu III
6905 Telegraph Road, Suite 115
Bloomfield Hills, MI 48301
Telephone: (313) 303-3472
Email: nsuciu@milberg.com
*Attorneys for Plaintiff Rita Torres, Sheryl
Gatoff, and the Settlement Class*

Dated: _____

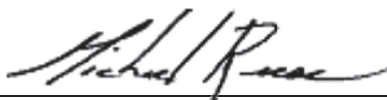
POULIN WILLEY ANASTAPOULO
Paul Doolittle
32 Ann Street
Charleston, SC 29403
Telephone: (800) 313-2546
Email: pauld@akimlawfirm.com

Approved as to Form:

Dated: _____

SULTZER & LIPARI, PLLC
Jason P. Sultzer
85 Civic Center Plaza, Suite 200
Poughkeepsie, NY 12601
Tel: (845) 483-7100
E-Mail: sultzerj@thesultzerlawgroup.com
*Attorneys for Plaintiff Rita Torres, Sheryl
Gatoff, Frank Pompilio, and the Settlement
Class*

Dated: January 7, 2025




REESE LLP
Michael R. Reese
100 West 93rd Street, 16th Floor
New York, New York 10025
Tel: (212) 643-0500
E-Mail: mreese@reesellp.com
*Attorneys for Plaintiff Rita Torres, Sheryl
Gatoff, and the Settlement Class*

Dated: _____

MILBERG COLEMAN BRYSON
PHILLIPS GROSSMAN, PLLC
Nick Suci III
6905 Telegraph Road, Suite 115
Bloomfield Hills, MI 48301
Telephone: (313) 303-3472
Email: nsuciu@milberg.com
*Attorneys for Plaintiff Rita Torres, Sheryl
Gatoff, and the Settlement Class*

Dated: 01/06/2025



POULIN WILLEY ANASTAPOULO
Paul Doolittle
32 Ann Street
Charleston, SC 29403
Telephone: (800) 313-2546
Email: pauld@akimlawfirm.com

Approved as to Form:


Dated: _____

SULTZER & LIPARI, PLLC
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85 Civic Center Plaza, Suite 200
Poughkeepsie, NY 12601
Tel: (845) 483-7100
E-Mail: sultzerj@thesultzerlawgroup.com
*Attorneys for Plaintiff Rita Torres, Sheryl
Gatoff, Frank Pompilio, and the Settlement
Class*

Dated: _____

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Tel: (212) 643-0500
E-Mail: mreese@reesellp.com
*Attorneys for Plaintiff Rita Torres, Sheryl
Gatoff, and the Settlement Class*

Dated: _____



MILBERG COLEMAN BRYSON
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Bloomfield Hills, MI 48301
Telephone: (313) 303-3472
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*Attorneys for Plaintiff Rita Torres, Sheryl
Gatoff, and the Settlement Class*

Dated: _____

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Paul Doolittle
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*Attorneys for Plaintiff Samantha Chuskas and
the Settlement Class*



Dated: 01/08/2025

LEVIN SEDRAN & BERMAN
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Philadelphia, PA 19106
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E-Mail: cschaffer@lfsblaw.com
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Gatoff, and the Settlement Class*

Dated: _____

Jeffrey K. Brown
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Gatoff, and the Settlement Class*

Dated: _____

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COMPLEX LITIGATION GROUP
711 Van Ness Avenue, Suite 500
San Francisco, CA 94102
Tel: (415) 846-3862
Fax: (415) 358-6923
Attorneys for Plaintiff Robby Harper

*Attorneys for Plaintiff Samantha Chuskas and
the Settlement Class*

Dated: _____

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E-Mail: cschaffer@lfsblaw.com
*Attorneys for Plaintiff Rita Torres, Sheryl
Gatoff, and the Settlement Class*

Dated: 01/13/2025

Jeff Brown

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Carle Place, NY 11514
Telephone: (516) 873-9550
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*Attorneys for Plaintiff Rita Torres, Sheryl
Gatoff, and the Settlement Class*

Dated: _____

Michael F. Ram
mram@forthepeople.com
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Attorneys for Plaintiff Robby Harper

*Attorneys for Plaintiff Samantha Chuskas and
the Settlement Class*

Dated: _____

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Dated: _____

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Gatoff, and the Settlement Class*

Dated: 1/9/2025

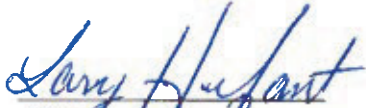


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Attorneys for Plaintiff Robby Harper

Defendant:

Boar's Head Provisions Co., Inc.

Dated: 1/24/2025


By: Larry Helfant
Executive Vice President

Approved as to Form:

Dated: _____

Nick P. Panayotopoulos
WEINBERG WHEELER HUDGINS GUNN
& DIAL
3344 Peachtree Road, NE
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Defendant:

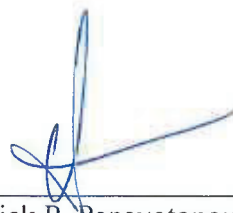
Boar's Head Provisions Co., Inc.

Dated: _____

By: _____

Approved as to Form:

Dated: 1/23/25



Nick P. Panayotopoulos
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Counsel for Defendant

LIST OF EXHIBITS

- Exhibit A: Proposed Preliminary Approval Order
- Exhibit B: Long Form Notice
- Exhibit C: Claim Form
- Exhibit D: Covered Products List

EXHIBIT A

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

<hr/>		x
Frank Pompilio, Rita Torres, Samantha Chuskas,	:	
Sherly Gattof, and Robby Harper, individually and	:	
on behalf of all others similarly situated,	:	Case No. 7:24-cv-08220
	:	
Plaintiffs,	:	Hon. Philip M. Halpern
v.	:	
	:	
	:	
Boar’s Head Provisions Co. Inc.,	:	
	:	[PROPOSED] PRELIMINARY APPROVAL
Defendant.	:	ORDER
	:	
	:	
<hr/>		x

[PROPOSED] PRELIMINARY APPROVAL ORDER

WHEREAS, on or about December 16, 2024, Plaintiffs filed their Consolidated Amended Complaint in a recall-related putative nationwide class action lawsuit against Boar’s Head, the above-captioned *Frank Pompilio, et al v. Boar's Head Provisions Co., Inc.*, Case No. 7:24-cv-08220 (S.D.N.Y), though their counsel Sultzer & Lipari, PLLC, Reese LLP, Milberg Coleman Bryson Phillips Grossman, PLLC, Levin Sedran & Berman LLP, Leeds Brown Law, P.C., Poulin, Willey, Anastopoulo, LLC, which, in sum, asserts claims for violations of New York General Business Law §§ 349 & 350, Illinois consumer protection laws, California consumer protection laws, unjust enrichment, breach of warranty, fraudulent concealment, and fraud by omission in connection with their alleged purchases of one or more recalled products.

WHEREAS, Plaintiffs and Boar’s Head Provisions Co., Inc. (“Boar’s Head”) entered into a Settlement Agreement and Release (“Settlement Agreement”) on January 14, 2025, which is attached as **Exhibit 1** to the Memorandum in Support of Plaintiffs’ Unopposed Motion for

Preliminary Approval of the Settlement Agreement, to be filed on January 14, 2025, and sets forth the terms and conditions of the Settlement between the litigants.

WHEREAS, Plaintiffs will move the Court for an order preliminarily approving the proposed Settlement pursuant to Federal Rule of Civil Procedure 23 and approving the Notice to the Settlement Class as more fully described herein.

WHEREAS, Boar's Head does not contest certification of the Settlement Class solely for purposes of this Settlement.

WHEREAS, this Court is familiar with and has reviewed the record, the Settlement Agreement and the attached exhibits, inclusive of Plaintiffs' Memorandum of Law in Support of their Unopposed Motion for Preliminary Approval, and the supporting Declaration of Jason P. Sultzer of Sultzer & Lipari, PLLC, and the exhibits thereto, and finds good cause for entering the following Order:

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. For purposes of this Order, the Court adopts all defined terms as set forth in the Settlement Agreement.

2. *Preliminary Certification of the Settlement Class for Settlement Purposes.* Under Federal Rule of Civil Procedure 23(b)(3), the Settlement Class, as defined as follows, is preliminarily certified for the purpose of this settlement only:

Settlement Class. All natural persons who, during the Class Period, purchased in the United States any Covered Products for personal, family or household use and not resale.

3. Furthermore, the Settlement Class excludes the following:

Exclusions. Any judge or magistrate presiding over the Litigation, their staff and their immediate family members; (2) the Defendant; (3) any and all entities in which Defendant has a controlling interest; (4) any of Defendant's subsidiaries, parents, affiliates and officers, directors and employees, as well as legal

representatives, heirs, successors or assigns; (5) any persons who timely exclude themselves from the Settlement Class in accordance with the procedures set forth in the Settlement Agreement.

4. This Court preliminarily finds, for the purpose of settlement only, that the Settlement Class as defined above meets all of the prerequisites of Federal Rule of Civil Procedure 23 for class certification, including numerosity, commonality, typicality, predominance of common issues, superiority and that Plaintiffs and their counsel are adequate representatives of the Settlement Class:

5. Thus, Plaintiffs Pompilio, Torres, Chuskas, Gatoff, and Harper are hereby appointed Class Representatives of the Settlement Class;

6. Additionally, the following firms and their counsel are appointed as Class Counsel for the Settlement Class:

- a. Jason P. Sultzer and Jeremy Francis of Sultzer & Lipari, PLLC;
- b. Michael Reese of Reese LLP;
- c. Nick Suciu of Milberg Coleman Bryson Phillips Grossman, PLLC;
- d. Charles Schaffer of Levin Sedran & Berman LLP;
- e. Jeffrey K. Brown and Blake Hunter Yagman of Leeds Brown Law, P.C.; and
- f. Paul Doolittle of Poulin, Willey, Anastopoulo, LLC.

7. The Settlement Class, if certified in connection with final approval, shall be for settlement purposes only and without prejudice to the parties in the event the Settlement Agreement is not finally approved by this Court or otherwise does not take effect.

8. *Preliminary Approval of the Settlement Agreement.* The Court has carefully scrutinized the Settlement Agreement and preliminarily finds that the Settlement is the product of extensive, non-collusive and arm's-length negotiations between experienced counsel who were

thoroughly informed of the strengths and weaknesses of the related actions through pre-suit disclosure pursuant to Federal Rule of Evidence 408 and during mediation conducted before the Honorable Judge Steven M. Gold (Ret.).

9. The Court also preliminarily finds that the Settlement is within the range of possible approval because it compares favorably with the expected recovery for the Settlement Class balanced against the risks of protracted litigation, does not grant preferential treatment to Plaintiffs and Class Counsel, and has no obvious deficiencies.

10. The Court preliminarily approves of the Settlement, as memorialized in the Settlement Agreement at Ex.1, as fair, reasonable and adequate, and in the best interests of the Settlement Class, subject to further consideration at the Final Approval Hearing to be held on _____, 2025 in Courtroom_____.

11. The Court hereby stays this Action pending final approval of the Settlement Agreement, and enjoins, pending final approval of the Settlement, any future actions brought by the named Plaintiffs concerning a Released Claim.

12. *Manner and Form of Notice.* The Court approves the Notice substantially in the form attached as Exhibit B to the Settlement Agreement. The Notice is reasonably drafted, under the circumstances, to apprise the Settlement Class of the pendency of the Litigation; the effects of the proposed Settlement on their rights (including the Released Claims contained therein); Class Counsels' upcoming motion for attorneys' fees, expenses, and service awards; of their right to submit a Claim Form; of their right to exclude themselves; and of their right to object to any aspect of the proposed Settlement. The date and time of the Final Approval Hearing shall be included in the Notice before it is disseminated.

13. The Court also finds that the proposed Notice Plan, which includes dissemination of Notice via (i) the Settlement Website, (ii) a toll-free telephone number, and (iii) an internet/social

media advertising campaign, will provide the best notice practicable under the circumstances. The Notice and Notice Plan provide due, adequate, and sufficient notice to the Settlement Class, and satisfy the requirements of Rule 23 of the Federal Rules of Civil Procedure, due process, and all other applicable law and rules.

14. The Court appoints Angeion Group to serve as the Claim Administrator to supervise and administer the Notice Plan, establish and operate a Settlement Website, administer the Claims process, including the determination of valid claims, distribute the Class Benefit to Valid Claimants according to the criteria set forth in the Settlement Agreement, and perform any other duties of the Claim Administrator provided for in the Settlement Agreement.

15. The Claim Administrator shall provide Notice of the Settlement and Final Approval Hearing to the Settlement Class as follows:

- a. Within 45 days following the entry of this Order, the Claim Administrator will establish the Settlement Website pursuant to the terms of the Settlement Agreement. The Settlement Website shall contain: a complete list of Covered Products as set forth in Exhibit D to the Settlement Agreement; the Notice in both downloadable PDF format and HTML format with a clickable table of contents; answers to frequently asked questions (to be agreed upon in form and substance between Class Counsel and Defendant); a contact information page that includes the address for the Claim Administrator and addresses and telephone numbers for Class Counsel; the Operative Complaint; the Settlement Agreement; the signed order of Preliminary Approval; a downloadable and online version of the Claim Form; a downloadable and online version of the form by which Settlement Class Members may exclude themselves from the Settlement Class; and (when it becomes available) Plaintiffs' application for Attorneys' Fees and Expenses and/or an application for Service awards. The

Settlement Website will include a readily accessible means for members of the Settlement Class to electronically submit a Claim Form or request for exclusion, as well as an address to which Claim Forms or requests for exclusion may be mailed. The Settlement Website will be live on the Notice Date. The Settlement Website shall remain accessible until one hundred eighty (180) days after all Settlement Benefits are distributed, except that it will not allow online submission of the Claim Forms after the Claim Filing Deadline or online submission of requests for exclusion after the Exclusion Deadline;

- b. Within forty-five (45) days following the entry of this Order, Angeion Group, will establish a toll-free telephone number where Settlement Class members can request a copy of all of the relevant case documents; and
- c. Within forty-five (45) days following the entry of this Order, Angeion Group will initiate the internet/social media advertising campaign as described in the Notice Plan, which will direct Settlement Class Members to the Settlement Website.

16. *Final Approval Hearing.* The Court will hold a Final Approval Hearing on _____ at _____ in Courtroom ____ of the United States District Court, Southern District of New York, the Hon. Charles L. Bricant Jr. Federal Building and United States Courthouse 300 Quarropas St. White Plains, NY 10601-4150, for the following purposes: (i) to determine whether the Settlement Agreement should be approved as fair, reasonable, and adequate and in the best interests of Settlement Class Members; (ii) to rule upon Class Counsels' application for an award of attorneys' fees and expenses; (iii) to rule upon Class Counsels' application for service awards for the Class Representatives; and (iv) to consider any other matters that may be properly brought before the Court in connection with the Settlement Agreement.

17. The Court may adjourn the Final Approval Hearing or decide to hold the Final Approval Hearing telephonically or via other means without further notice to the Settlement Class, and may approve the proposed Settlement Agreement without further notice to the Settlement Class.

18. Class Counsels' application for an award of attorneys' fees and expenses, and Class Counsels' application for service awards, will be decided in an order separate from the order that addresses the fairness, reasonableness, and adequacy of the Settlement Agreement.

19. If the Settlement Agreement is approved, Settlement Class Members (i.e., those who have not excluded themselves from the Settlement) will be bound by the Release provided for in the Settlement Agreement, and by any judgment or determination of the Court affecting Settlement Class Members. All Settlement Class Members shall be bound by all determinations and judgments in this Action concerning the Settlement, whether favorable or unfavorable to the Settlement Class.

20. Any Settlement Class Member who intends to object to the Settlement must file with the Court a written statement that includes: (i) a caption or title that clearly identifies the proceeding and that the document is an objection; (ii) information sufficient to identify and contact the objector or his or her attorney if represented; (iii) information sufficient to establish the objector's standing as a Settlement Class Member; (iv) a clear and concise statement of the objector's objection, as well as any facts and law supporting the objection; (v) the objector's signature; and (vi) the signature of the objector's counsel, if any (an attorney's signature alone shall not be deemed sufficient to satisfy this requirement). Failure to include documents or testimony sufficient to establish membership in the Settlement Class shall be grounds for overruling and/or striking the objection on grounds that the objector lacks standing to make the objection. To be timely, the objection must (a) be electronically filed via the Court's ECF system; or (b) delivered to the Clerk of the Court for filing by mail, express mail or personal delivery, and (c) be filed or received by the Clerk of the Court prior to the Objection deadline, which shall be sixty (60) days after the Notice Date.

21. Any Settlement Class Member who fails to timely file with the Court a written objection in accordance with the terms of the Settlement Agreement and as detailed in the Notice shall waive and forfeit any and all rights they may have to object, appear, present witness testimony, and/or submit evidence; shall be barred from appearing, speaking, or introducing any testimony or evidence at the Final Approval Hearing; shall be precluded from seeking review of the Settlement Agreement by appeal or other means; and shall be bound by all the terms of the Settlement Agreement and by all proceedings, orders, and judgments in the Action.

22. *Exclusion from the Settlement Class.* Members of the Settlement Class who choose to opt out must submit a written request for exclusion either by completing the online exclusion form at the Settlement Website, downloading and submitting to the Claim Administrator a completed exclusion form, or submitting a valid request to exclude themselves, as described in the Notice, to the Claim Administrator. The request for exclusion must be submitted online or postmarked no later than sixty (60) days following the Notice Date. The deadline shall be set forth in the Notice and on the Settlement Website.

23. Any member of the Settlement Class who does not submit a request to opt out in accordance with the deadlines and other requirements will be bound by the Settlement absent a court order to the contrary.

24. The Claim Administrator shall also provide a final report to Class Counsel and Boar's Head, no later than ten (10) days after the deadline for submitting written requests for exclusion, that summarizes the number of opt-out requests received to date, the names of the persons who have timely excluded themselves, and other pertinent information. Class Counsel shall include the information, as appropriate, with their final approval papers.

25. *Termination of the Settlement.* If the Settlement fails to become effective in accordance with its terms, or if the judgment is not entered or is reversed, vacated, or materially

modified on appeal (and, in the event of material modification, if either Party elects to terminate the Settlement), this Order shall be null and void, the Settlement Agreement shall be deemed terminated (except for any paragraphs that, pursuant to the terms of the Settlement Agreement, survive termination), and the Parties shall return to their positions without prejudice in any way, as provided for in the Settlement Agreement.

26. *The Use of this Order.* As set forth in the Settlement Agreement, the fact and terms of this Order and the Settlement, all negotiations, discussions, drafts, and proceedings in connection with this Order and the Settlement, and any act performed or document signed in connection with this Order and the Settlement, shall not, in this or any other court, administrative agency, arbitration forum or other tribunal, constitute an admission, or evidence, or be deemed to create any inference against either Party, including, but not limited to: (i) of any acts of wrongdoing or lack of wrongdoing; (ii) of any liability on the part of Boar's Head to the Class Representatives, the Settlement Class, or anyone else; (iii) of any deficiency of any claim or defense that has been or could have been asserted in this Action; (iv) that Boar's Head agrees that a litigation class is proper in this Action or any other proceeding; (v) of any damages or lack of damages suffered by the Class Representatives, the Settlement Class, or anyone else; or (vi) that any benefits obtained by Settlement Class Members pursuant to the Settlement Agreement or any other amount represents the amount that could or would have been recovered in this Action against Boar's Head if it was not settled at this point in time.

27. The fact and terms of this Order and the Settlement, and all negotiations, discussions, drafts and proceedings in connection with this Order and the Settlement, including but not limited to, the release of the Released Claims provided for in the Settlement Agreement, shall not be offered or received in evidence or used for any other purpose in this or any other proceeding in any court, administrative agency, arbitration forum or other tribunal, except as necessary to enforce the terms of this Order and/or the Settlement or as a defense to any released claim.

28. The Court retains exclusive jurisdiction over this Action to consider all further matters arising out of or connected with the Settlement.

IT IS SO ORDERED.

DATED: _____, 2025

EXHIBIT B

*Boar’s Head Provisions Co., Inc. Meat Recall Litigation,
(Pompilio, et al. v. Boar’s Head Provisions Co., Inc., Case No. 7:24-cv-8220)*

Notice of Boar’s Head Provisions Co., Inc. Meat Recall Class Action Settlement

*This is not a solicitation from a lawyer.
Please read this Notice carefully and completely.*

THIS NOTICE MAY AFFECT YOUR RIGHTS. PLEASE READ IT CAREFULLY.

Para una notificación en español, llamar **1-888-888-8888** o visitar nuestro sitio web [[website](#)].

- A proposed Settlement arising out of a voluntary recall of certain Boar’s Head meat products potentially contaminated with *Listeria monocytogenes*. (“Covered Products,” as listed in Exhibit **1**) The settlement redresses alleged economic damages for the purchase of these Covered Products as listed in Exhibit **1**.
- You are included in the Settlement Class if you purchased any of the Covered Products, as identified at: [[website](#)], in the United States, between the earliest date of manufacture of any Covered Product subject to the Recall and August 12, 2024, for personal, family or household use and not for resale.
- Under the Settlement, Defendant will establish a Settlement Fund of \$3,100,000.00, for payments to Plaintiffs and members of the Settlement Class, Service Awards, costs for notice and administration, and court-awarded Attorneys’ Fees and Attorneys’ Costs.
- Your legal rights will be affected whether you act or do not act. You should read this entire Notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
FILE A CLAIM FORM DEADLINE: DATE	Submitting a Claim Form is the only way that you can receive any of the benefits provided by this Settlement, including Reimbursement for the Purchase of Covered Products. If you submit a Claim Form, you will give up the right to sue Boar’s Head Provisions Co. Inc. and certain other Released Parties (as defined in the Class Action Settlement Agreement and Release) in a separate lawsuit about the legal claims this Settlement resolves.
EXCLUDE YOURSELF FROM THIS SETTLEMENT DEADLINE: DATE	This is the only option that allows you to sue, continue to sue, or be part of another lawsuit against Boar’s Head Provisions Co. Inc. or certain other Released Parties, for the claims that this Settlement resolves. If you exclude yourself, you will give up the right to receive any Settlement Benefits from this Settlement.
OBJECT TO OR COMMENT ON THE SETTLEMENT DEADLINE: DATE	You may object to the Settlement by writing to the Court and informing it why you do not think the Settlement should be approved. You will still be bound by the Settlement if it is approved, and you will not be allowed to exclude yourself from the Settlement. If you object, you may also file a Claim Form to receive Settlement Benefits, but you will give up the right to sue Boar’s Head Provisions Co. Inc. and other Released Parties in a separate lawsuit about the legal claims this Settlement resolves.
GO TO THE “FINAL APPROVAL” HEARING DATE	You may attend the Final Approval Hearing where the Court may hear arguments concerning approval of the Settlement. If you wish to speak at the Final Approval Hearing, you must make a request to do so in your written objection or comment. You are <u>not</u> required to attend the Final Approval Hearing.
DO NOTHING	If you do nothing, you will not receive any of the Settlement Benefits and you will give up your rights to sue Boar’s Head Provisions Co. Inc. and other Released Parties for the claims this Settlement resolves.

- These rights and options—and the deadlines to exercise them—are explained in this Notice.
- The Court in charge of this case still has to decide whether to finally approve the Settlement. No Settlement Benefits or payments will be provided unless the Court approves the Settlement and it becomes final.

This Settlement affects your legal rights even if you do nothing.
Questions? Go to [[URL](#)] or call **1-888-888-8888.**

BASIC INFORMATION

1. Why did I get this Notice?

The Court authorized this Notice because you have the right to know about the proposed Settlement of this class action lawsuit and about all of your rights and options before the Court decides whether to grant final approval of the Settlement. This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for the benefits, and how to receive those benefits. The case is known as *Pompilio, et al. v. Boar's Head Provisions Co. Inc.*, Case No. 7:24-cv-8220 (S.D.N.Y.) (the "Action"), in the United States District Court of the Southern District of New York. The people who filed this lawsuit are called the "Plaintiffs" and the company they sued, Boar's Head Provisions Co. Inc., is called the "Defendant." The Plaintiffs and the Defendant agreed to this Settlement.

2. What is this lawsuit about?

On July 25, 2024, and as expanded on July 29, 2024, in coordination with the United States Food and Drug Administration, Boar's Head initiated a voluntary recall of certain food products that it determined had the potential to be contaminated with *Listeria monocytogenes* (the "Recall").

The Plaintiffs filed a Recall-related lawsuit, claiming that Boar's Head Provisions Co. Inc. sold Covered Products that were potentially contaminated and that they were economically injured as a result. Boar's Head Provisions Co. Inc. denies any wrongdoing, and no court or other entity has made any judgment or other determination of any wrongdoing or that the law has been violated. By entering into the Settlement, Boar's Head Provisions Co. Inc. is not admitting that it did anything wrong.

3. Why is this a class action?

In a class action, one or more people called the "Class Representatives" sue on behalf of all people who have allegedly similar claims. Together, all of these people are called a "Class" or "Class Members." One court resolves the issues for all Class Members, except for those Class Members who choose to exclude themselves from the Class.

The Class Representatives in this case are Frank Pompilio, Rita Torres, Samantha Chuskas, Sheryl Gatoff, and Robby Harper.

4. Why is there a Settlement?

The Class Representatives and Boar's Head Provisions Co. Inc. do not agree about the claims made in this Action. The Action has not gone to trial, and the Court has not decided in favor of the Class Representatives or Boar's Head Provisions Co. Inc. Instead, the Class Representatives and Boar's Head Provisions Co. Inc. have agreed to settle the Action. The Class Representatives and the attorneys for the Class ("Class Counsel") believe the Settlement is best for all Class Members because of the risks and uncertainty associated with continued litigation and the nature of the defenses raised by Boar's Head Provisions Co. Inc.

WHO IS INCLUDED IN THE SETTLEMENT

5. How do I know if I am part of the Settlement?

The Court has decided that everyone who fits the following description is a Settlement Class Member:

All natural persons who purchased in the United States any Covered Products between the earliest date of manufacture of any Covered Product and August 12, 2024 for personal, family or household use, and not for resale, except for any Excluded Persons.

If you have any questions as to whether you are a Settlement Class Member, you may contact the Claim Administrator. (provide contact information)

6. Are there exceptions to individuals who are included as Settlement Class Members in the Settlement?

Yes, the Settlement does not include (1) the Judges presiding over the Action and members of their families and immediate staff; (2) Boar's Head Provisions Co. Inc., its subsidiaries, parent companies, successors, predecessors, and any entity in which Defendant or its parents, have a controlling interest, and its current or former officers and directors; and (3) natural persons who properly execute and submit a Request for Exclusion prior to the expiration of the Opt-Out Period.

7. What if I am still not sure whether I am part of the Settlement?

If you are still not sure whether you are a Settlement Class Member, you may go to the Settlement Website at [\[URL\]](#), or call the Claim Administrator's toll-free number at [1-888-888-8888](tel:1-888-888-8888).

**This Settlement affects your legal rights even if you do nothing.
Questions? Go to [\[URL\]](#) or call [1-888-888-8888](tel:1-888-888-8888).**

THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY

8. What does the Settlement provide?

If approved by the Court, Defendant will establish a Settlement Fund of **\$3,100,000.00**, for payments to Plaintiffs and members of the Settlement Class, Service Awards, costs for notice and administration, and court-awarded Attorneys' Fees and Attorneys' Costs.

- Settlement Class Members who timely submit a valid Claim Form with Proof of Purchase of a Covered Product shall receive the full purchase price for each unit of Covered Product listed on the Proof of Purchase, inclusive of all taxes.
- Settlement Class Members who timely submit a valid Claim Form without Proof of Purchase of a Covered Product shall receive the average retail price for up to two (2) Covered Products claimed per Household.

If a Settlement Class Member or any person in that Settlement Class Member's Household received Recall Reimbursement, the amount of that Settlement Class Member's payment shall be reduced by the amount of Recall Reimbursement that Settlement Class Member or persons in that Settlement Class Member's Household have received.

Each Settlement Class Member's payment shall be increased or decreased on a *pro rata* basis such that the total amount paid to all Settlement Class Members equals the Available Settlement Funds.

9. What is the total value of the Settlement?

The Settlement provides a \$3,100,000.00 Settlement Fund for the benefit of the Settlement Class. Any Court-approved Fee Award and Costs, Service Awards to the Class Representatives, Taxes due on any interest earned by the Settlement Fund, if necessary, and any Notice and Settlement Administrative Expenses will be paid out of the Settlement Fund, and the balance ("Net Settlement Fund") will be used to pay for the above Settlement Benefits.

10. What am I giving up to get a Settlement Benefit or Stay in the Class?

Unless you exclude yourself, you are choosing to remain in the Class. If the Settlement is approved and becomes final, all of the Court's orders will apply to you and legally bind you. You will not be able to sue, continue to sue, or be part of any other lawsuit against Boar's Head Provisions Co. Inc. and the other Released Parties about the legal issues in this Action, resolved by this Settlement, and released by the Class Action Settlement Agreement and Release. The specific rights you are giving up are called Released Claims (*see* next question).

11. What are the Released Claims?

If the Settlement becomes final, the Settlement Class Members and Releasing Parties will be releasing Boar's Head Provisions Co. Inc. and other Released Parties from all of the Released Claims described and identified in the Class Action Settlement Agreement and Release.

Section VIII of the Class Action Settlement Agreement and Release, which contains all of the details regarding the Releasing Parties, Released Parties and Released Claims, is available at [\[URL\]](#).

HOW TO GET SETTLEMENT BENEFITS—SUBMITTING A CLAIM FORM

12. How do I make a claim for Settlement Benefits?

You must complete and submit a Claim Form by **DATE**. Claim Forms may be submitted online at [\[URL\]](#) or printed from the website and mailed to the Claim Administrator at the address on the Claim Form. Claim Forms are also available by calling **1-888-888-8888** or by writing to the Boar's Head Provisions Co. Inc. Claim Administrator at [\[URL\]](#). The quickest way to file a claim is online.

13. What happens if my contact information changes after I submit a claim?

If you change your mailing address or email address after you submit a Claim Form, it is your responsibility to inform the Claim Administrator of your updated information. You may notify the Claim Administrator of any changes by emailing the Claim Administrator at [\[URL\]](#) or by writing to the following address:

[\[ADDRESS\]](#)

14. When and how will I receive the Settlement Benefits I claim from the Settlement?

This Settlement affects your legal rights even if you do nothing.
Questions? Go to [\[URL\]](#) or call **1-888-888-8888.**

Payments for valid and timely Claim Forms that are approved will be issued by the Claim Administrator after the Settlement is approved and becomes Final. Payments will be issued via the payment method selected on the Claim Form.

The Court will hold a hearing on [date] at [time], to decide whether to approve the Settlement. The Court may move the Final Approval Hearing to a different date or time without providing further Notice to the Settlement Class. The date and time of the Final Approval Hearing can be confirmed at [website]. If the Settlement is approved, there may be appeals. The appeal process can take time. If there is no appeal, your payment will be processed promptly.

We do not know how long it may take the Court to approve the Settlement as final, and whether any appeals will be filed. Please be patient and check WEBSITE for updates.

THE LAWYERS REPRESENTING YOU

15. Do I have a lawyer in this case?

Yes, the Court has appointed Jason P. Sultzer and Jeremy Francis of Sultzer & Lipari, PLLC, Michael Reese of Reese LLP Nick Suci of Milberg Coleman Bryson Phillips Grossman, PLLC, Charles Schaffer of Levin Sedran & Berman LLP, Jeffrey K. Brown and Blake Hunter Yagman of Leeds Brown Law, P.C. and Paul Doolittle of Poulin Willey Anastopoulos, LLC to represent you and the Class for the purposes of this Settlement. You may hire your own lawyer at your own cost and expense if you want someone other than Class Counsel to represent you in this Action.

16. How will Class Counsel be paid?

Class Counsel will file a motion asking the Court to award them attorneys' fees of up to a maximum of 1/3rd of the \$3,100,000.00 Settlement Fund (i.e., \$1,033,333.33), plus the reimbursement of their reasonable costs and expenses (referred to collectively as "Fee Award and Costs"). They will also ask the Court to approve up to \$1,000.00 Service Awards to each of the Class Representatives for participating in this Action and for their efforts in achieving the Settlement. If awarded, these amounts will be deducted from the Settlement Fund before making payments to Settlement Class Members. The Court may award less than these amounts.

Class Counsel's application for attorneys' fees and expenses and Service Awards will be made available on the Settlement Website at [URL] before the deadline for you to comment or object to the Settlement. You can request a copy of the application by contacting the Claim Administrator at 1-888-888-8888.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you are a Settlement Class Member and want to keep any right you may have to sue or continue to sue Boar's Head Provisions Co. Inc. and/or the other Released Parties on your own based on the claims raised in this Action or released by the Released Claims, then you must take steps to get out of the Settlement. This is called excluding yourself from—or "opting out" of—the Settlement.

17. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must complete and sign a Request for Exclusion or submit a Request for Exclusion online on the Settlement Website. The Request for Exclusion must be in writing and identify the case name as *Pompilio, et al. v. Boar's Head Provisions Co. Inc.*, Case No. 7:24-cv-8220 (S.D.N.Y.), state the name, address, and telephone number and unique identifier of the Settlement Class Member(s) seeking exclusion, and must also contain a statement to the effect that "I/We hereby request to be excluded from the proposed Settlement Class in as *Pompilio, et al. v. Boar's Head Provisions Co. Inc.*, Case No. 7:24-cv-8220 (S.D.N.Y.)." The Request for Exclusion must be postmarked or received by the Claim Administrator at the address below no later than DATE:

[ADDRESS]

You cannot exclude yourself by telephone or by email.

18. If I do not exclude myself, can I sue Boar's Head Provisions Co. Inc. for the same thing later?

No. Unless you exclude yourself, you give up any right to sue Boar's Head Provisions Co. Inc. and the other Released Parties for the claims that this Settlement resolves. You must exclude yourself from this Action to start or continue with your own lawsuit or be part of any other lawsuit against Boar's Head Provisions Co. Inc. or any of the other Released Parties. If you have a pending lawsuit, speak to your lawyer in that case immediately.

This Settlement affects your legal rights even if you do nothing.
Questions? Go to [URL] or call 1-888-888-8888.

OBJECT TO OR COMMENT ON THE SETTLEMENT

19. How do I tell the Court that I do not like the Settlement?

You can ask the Court to deny approval of the Settlement by filing an objection. You cannot ask the Court to order a different Settlement; the Court can only approve or reject the Settlement presented to it. If the Court denies approval, no Settlement Payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object.

Any objection to the proposed Settlement must be in writing. If you file a timely written objection, you may, but are not required to, appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney. All written objections and supporting papers must (a) state the Settlement Class Member's full name, current mailing address, and telephone number; (b) include proof that the Class Member is a member of the Settlement Class; (c) identify the specific factual and legal grounds for the objection; (d) identify all counsel representing the Settlement Class Member, if any; (e) include a list, including case name, court, and docket number, of all other cases in which the objector and/or the objector's counsel has filed an objection to any proposed class action settlement in the past five (5) years; and (f) contain a statement regarding whether the Settlement Class Member (or counsel of his or her choosing) intends to appear at the Final Approval Hearing. All objections must be submitted to the Claim Administrator, Class Counsel identified below, and to the Court either by mailing them or by filing them in person at the Courthouse. All objections must be submitted to the Court either by mailing them to: Clerk, [CLERK ADDRESS] or filing objections electronically through the Court's Electronic Claims Filing system or filing in person with the Court or postmarked on or before DATE

20. What is the difference between objecting and requesting exclusion?

Objecting is telling the Court you do not like something about the Settlement. You can object only if you stay in the Class (that is, you do not exclude yourself). Requesting exclusion tells the Court you do not want to be part of the Settlement Class or the Settlement. If you exclude yourself, you cannot object to the Settlement because it no longer affects you.

THE FINAL APPROVAL HEARING

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

The Court will hold a Final Approval Hearing on DATE before the Honorable Philip M. Halpern, United States District Court Judge, ADDRESS

The date and time of the Final Approval Hearing is subject to change without further notice to the Settlement Class. Settlement Class Members should monitor the Settlement Website or the Court's online docket site to confirm whether the date for the Final Approval Hearing has changed. Please note that the hearing may be held via telephone or video conference. All details about the Final Approval Hearing will be posted on the Settlement Website.

At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate, and will decide whether to finally approve the Settlement, Class Counsel's application for Fee Award and Costs, and the Service Awards to the Class Representatives. If there are objections, the Court will consider them. The Court will also listen to people who have asked to speak at the hearing.

22. Do I have to come to the Final Approval Hearing?

No. Class Counsel will answer any questions the Court may have. However, you are welcome to attend at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you mail your written objection on time as set forth in Paragraph 19 above, the Court will consider it.

23. May I speak at the Final Approval Hearing?

Yes. If you wish to attend and speak at the Final Approval Hearing, you must indicate this in your written objection. Your objection must state that it is your intention to appear at the Final Approval Hearing and must identify any witnesses you may call to testify or exhibits you intend to introduce into evidence at the Final Approval Hearing. If you plan to have your attorney speak for you at the Final Approval Hearing, your objection must also include your attorney's name, address, and phone number.

IF YOU DO NOTHING

24. What happens if I do nothing at all?

If you are a Settlement Class Member and you do nothing, you will not receive any Settlement Benefits. You will also give up certain rights, including your right to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Boar's Head Provisions Co. Inc. or any of the other Released Parties about the legal issues in this Action and released by the Class Action Settlement Agreement and Release.

This Settlement affects your legal rights even if you do nothing.
Questions? Go to [URL] or call 1-888-888-8888.

GETTING MORE INFORMATION

25. How do I get more information?

This Notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please see the Class Action Settlement Agreement and Release available at [URL], or by contacting Class Counsel (see below).

If you have questions about the proposed Settlement or anything in this Notice, you may contact Class Counsel at the following:

[CLASS COUNSEL INFO.]	[CLASS COUNSEL INFO.]
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**PLEASE DO NOT CONTACT THE COURT OR THE CLERK'S OFFICE
TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.**

**This Settlement affects your legal rights even if you do nothing.
Questions? Go to [URL] or call 1-888-888-8888.**

EXHIBIT C

Your claim must be
submitted online or
postmarked by:
[DEADLINE]

Pompilio, et al. v. Boar's Head Provisions Co. Inc.
Case No. Case No. 7:24-cv-8220 (S.D.N.Y.)

BOAR'S HEAD-
CLAIM

SETTLEMENT CLAIM FORM

GENERAL INSTRUCTIONS

You are eligible to submit a Claim Form if you are a Settlement Class Member. By timely submitting a valid Claim Form, you will be included in the Settlement Class identified in the Notice and the Class Action Settlement Agreement and Release. If you also separately submit a Request for Exclusion (in other words, if you ask to “opt out” of the Settlement Class), this Claim Form will be deemed invalid. If you fail to submit your Claim Form by the deadline, your claim will be rejected, and you will be deemed to have waived all rights to receive a class benefit under the settlement.

To be valid, your Claim Form must be completely and accurately filled out, signed and dated, and must include all requested information. If your Claim Form is incomplete, untimely, illegible, not signed, or contains false information, it may be rejected by the Settlement Administrator.

The **Settlement Class** includes all natural persons who purchased in the United States any **Covered Product**, between the earliest date of manufacture of any Covered Product and August 12, 2024 for personal, family or household use, and not resale, except for any **Excluded Persons**.

Excluded Persons include (1) any judge presiding over the Litigation, their staff and their immediate family members; (2) Boar's Head Provisions Co. Inc (“Defendant”); (3) any entity in which a Defendant has a controlling interest; (4) any of Defendant's subsidiaries, parents, affiliates, and officers, directors, employees, legal representatives, heirs, successors, or assigns; and (5) any persons who timely exclude themselves from the Settlement Class.

Covered Products include any product that was subject to the Recall initiated by Defendant on July 25, 2024, and as expanded on July 29, 2024 (the “Recall”), as identified in Exhibit D to the Settlement Agreement and at [WEBSITE],

Please reference the detailed lists of products available on [website] to ensure that the product for which you seek reimbursement was subject to the Recall.

SETTLEMENT CLASS MEMBER BENEFITS

Cash benefits shall be paid to each Settlement Class Member who submits a Valid Claim in accordance with the following terms:

- Settlement Class Members who timely submit a valid Claim Form **with Proof of Purchase** of a Covered Product shall receive the full purchase price for each unit of Covered Product listed on the Proof of Purchase, inclusive of all taxes.
- Settlement Class Members who timely submit a valid Claim Form **without Proof of Purchase** of a Covered Product shall receive the average retail price for up to two (2) Covered Products claimed per **Household**, plus a 10% allowance for sales tax.

Your claim must be submitted online or postmarked by: **[DEADLINE]**

Pompilio, et al. v. Boar's Head Provisions Co. Inc.
Case No. Case No. 7:24-cv-8220 (S.D.N.Y.)

BOAR'S HEAD-CLAIM

SETTLEMENT CLAIM FORM

- If a Settlement Class Member or any person in that Settlement Class Member's Household received Recall Reimbursement, regardless of whether such Recall Reimbursement was provided in the form of cash, check, gift card or coupon, as reflected on the Settlement Class Member's Claim Form or in the records of Defendant, the amount of that Settlement Class Member's payment shall be reduced by the amount of Recall Reimbursement that Settlement Class Member or persons in that Settlement Class Member's Household have received (provided that the payment shall not be reduced below \$0.00).
- Each Settlement Class Member's payment shall be increased or decreased on a *pro rata* basis such that the total amount paid to all Settlement Class Members equals the Available Settlement Funds.

Proof of Purchase means an itemized retail sales receipt or other document or photo (including, but not limited to, a credit card, retail store club or loyalty card record) showing, at a minimum, the purchase of a Covered Product (including a product name or SKU sufficient to identify the product purchased), the purchase price, and the date (month/year) and place of the purchase. In providing Proof of Purchase, you may redact balance information and any information regarding transactions other than your purchase of the Covered Product from your credit card or other statements.

Household means a single dwelling unit, no matter the number of natural persons residing therein.

I. CLAIMANT CONTACT INFORMATION

Provide your contact information below. It is your responsibility to notify the Claim Administrator of any changes to your contact information after the submission of your Claim Form.

<input type="text"/>		<input type="text"/>	
First Name		Last Name	
<input type="text"/>			
Street Address			
<input type="text"/>		<input type="text"/>	<input type="text"/>
City		State	Zip Code
<input type="text"/>		<input type="text"/>	
Email Address (required for online submission)		Phone Number (optional)	

II. COVERED PRODUCT PURCHASE INFORMATION

- Check this box if you are enclosing Proof of Purchase of a Covered Product.
- Enter the number of Covered Products you are enclosing Proof of Purchase for: _____

Your claim must be submitted online or postmarked by: **[DEADLINE]**

Pompilio, et al. v. Boar's Head Provisions Co. Inc.
Case No. Case No. 7:24-cv-8220 (S.D.N.Y.)

BOAR'S HEAD-CLAIM

SETTLEMENT CLAIM FORM

- Did you or anyone in your Household receive any Recall Reimbursement (including in the form of cash, check, coupons or gift cards) for any of these Covered Products? (Y/N): _____
- If yes, provide the total amount of Recall Reimbursement you or anyone in your Household received in connection with these Covered Products: _____

Check this box if you are claiming a cash benefit for a Covered Product for which you do not have Proof of Purchase.

Complete the chart below providing information about the Covered Product(s) you purchased for which you do not have Proof of Purchase (maximum two Covered Products per Household):

COVERED PRODUCT PURCHASE INFORMATION	COVERED PRODUCT #1	COVERED PRODUCT #2
Name of Covered Product		
Approximate Purchase Date (MM/YYYY)		
Did you or anyone in your Household receive any Recall Reimbursement for this Covered Product? (Y/N)		
If so, provide the amount of Recall Reimbursement you or anyone in your Household received for this Covered Product.		

III. PAYMENT SELECTION

If your Claim Form is valid, signed, and has been timely submitted, you will receive a payment by electronic deposit through a Prepaid Mastercard, Venmo, or Zelle below. Please select **one** of the following payment options:

- Prepaid Mastercard**
Enter the email address you want the Prepaid Mastercard sent to: _____
- Venmo**
Enter the mobile number associated with your Venmo account: _____
- Zelle**
Enter the email address or phone number associated with your Zelle account: _____

Your claim must be submitted online or postmarked by: **[DEADLINE]**

Pompilio, et al. v. Boar's Head Provisions Co. Inc.
Case No. Case No. 7:24-cv-8220 (S.D.N.Y.)

BOAR'S HEAD-CLAIM

SETTLEMENT CLAIM FORM

IV. CERTIFICATION & SIGNATURE

By signing below and submitting this Claim Form, I certify under penalty of perjury under the laws of the United States that:

- I am a natural person who, between the earliest date of manufacture of any Covered Product and August 12, 2024, purchased in the United States the Covered Product(s) identified above for personal, family or household use, and not resale;
- The information provided in this Claim Form, including any Proof of Purchase documentation submitted in support of this Claim, is true and correct to the best of my knowledge;
- Nobody has submitted another Claim Form in connection with this Settlement on my behalf;
- Only one Claim Form has been submitted for my Household, which includes all persons residing at the same physical address; and
- Neither I nor any member of my Household has previously received a refund for any portion of the purchase price of the Covered Product(s) claimed above, with the exception of any Recall Reimbursement, which I have identified above.
- I understand the Claim Administrator may contact me requesting additional information about my Claim and that failure to provide the requested information may result in the denial of my Claim.

Signature: _____ Printed Name: _____ Date: _____

SUBMITTING YOUR CLAIM FORM

Claim Forms may be submitted online at **WEBSITE** by **DEADLINE** or completed and mailed to: Boar's Head Settlement, Attn: Claim Form Submissions, **[ADDRESS]** postmarked no later than **DEADLINE**.

Please keep a copy of your Claim Form and any supporting materials you submit. Do not submit your only copy of the supporting documents. Materials submitted will not be returned. Copies of documentation submitted in support of your Claim should be clear and legible.

If you have any questions or if you would like to request a paper check, please contact the Claim Administrator by email at **EMAIL ADDRESS** or by mail at the address listed above.

DO NOT ADDRESS ANY QUESTIONS ABOUT THIS LAWSUIT TO THE CLERK OF THE COURT, THE JUDGE, COUNSEL FOR DEFENDANT, OR TO ANY AGENT OR EMPLOYEE OF DEFENDANT.

EXHIBIT D

BRAND	ITEM_NAME	Production Date Range	Sell-by Date Range
Boar's Head	Virginia Ham Whole	17-JUN-24-28-JUL-24	31-JUL-24-09-SEP-24
Boar's Head	Fiber Cappy Ham Half	17-JUN-24-27-JUL-24	31-JUL-24-09-SEP-24
Boar's Head	Hot Butt Cappy Ham	17-JUN-24-27-JUL-24	31-JUL-24-09-SEP-24
Boar's Head	Gourmet Pepper Ham Half	19-JUN-24-27-JUL-24	30-JUL-24-05-SEP-24
Boar's Head	Sweet Slice Ham Whole	13-JUN-24-24-JUL-24	30-JUL-24-10-SEP-24
Boar's Head	Sweet Slice Ham Half	11-JUN-24-28-JUL-24	29-JUL-24-13-SEP-24
Boar's Head	Natural Casing Cappy Ham Half	17-JUN-24-26-JUL-24	31-JUL-24-08-SEP-24
Boar's Head	Tavern Ham	17-JUN-24-29-JUL-24	31-JUL-24-11-SEP-24
Boar's Head	Extra Hot Cappy Ham	17-JUN-24-27-JUL-24	31-JUL-24-09-SEP-24
Boar's Head	Rosemary Sundried Tomato Ham	18-JUN-24-29-JUL-24	30-JUL-24-10-SEP-24
Boar's Head	Sweet Slice Ham Baby Half	05-JUN-24-24-JUL-24	30-JUL-24-17-SEP-24
Boar's Head	Head Cheese	19-JUN-24-27-JUL-24	02-AUG-24-09-SEP-24
Boar's Head	Olive Loaf	17-JUN-24-25-JUL-24	31-JUL-24-06-SEP-24
Boar's Head	Pickle & Pepper Loaf	15-JUN-24-27-JUL-24	29-JUL-24-09-SEP-24
Boar's Head	Liverwurst Paté 8oz	14-JUN-24-25-JUL-24	02-AUG-24-12-SEP-24
Boar's Head	Bologna Thin Half	17-JUN-24-27-JUL-24	31-JUL-24-09-SEP-24
Boar's Head	Bologna Thick Half	20-JUN-24-27-JUL-24	02-AUG-24-09-SEP-24
Boar's Head	Beef Salami	17-JUN-24-27-JUL-24	31-JUL-24-09-SEP-24
Boar's Head	Natural Casing Pork & Beef Frankfurters Giant	12-JUN-24-24-JUL-24	01-AUG-24-12-SEP-24
Boar's Head	Steakhouse Slab Bacon	10-JUN-24-28-JUL-24	29-JUL-24-14-SEP-24
Boar's Head	Natural Casing Beef Franks 8/1	11-JUN-24-23-JUL-24	31-JUL-24-11-SEP-24
Boar's Head	Canadian Style Bacon	18-JUN-24-27-JUL-24	31-JUL-24-09-SEP-24

Boar's Head	All Natural Traditional Ham	19-JUN-24-27-JUL-24	30-JUL-24-06-SEP-24
Boar's Head	All Natural Applewood Smoked Ham	19-JUN-24-27-JUL-24	30-JUL-24-06-SEP-24
Boar's Head	Garlic Bologna	17-JUN-24-23-JUL-24	31-JUL-24-05-SEP-24
Boar's Head	Lower Sodium Bologna	19-JUN-24-24-JUL-24	02-AUG-24-06-SEP-24
Boar's Head	Beef Bologna	15-JUN-24-28-JUL-24	29-JUL-24-09-SEP-24
Boar's Head	Spiced Ham Square Half	17-JUN-24-25-JUL-24	31-JUL-24-06-SEP-24
Boar's Head	Hot Smoked Sausage 1LB	12-JUN-24-26-JUL-24	01-AUG-24-14-SEP-24
Boar's Head	Skinless Pork & Beef Franks 8/1 1LB	11-JUN-24-23-JUL-24	31-JUL-24-11-SEP-24
Boar's Head	Beef Knockwurst 1LB	10-JUN-24-26-JUL-24	30-JUL-24-14-SEP-24
Boar's Head	Skinless Beef Frankfurters 4/1 8"	11-JUN-24-25-JUL-24	31-JUL-24-13-SEP-24
Boar's Head	Cocktail Frankfurters 12oz	12-JUN-24-24-JUL-24	31-JUL-24-11-SEP-24
Boar's Head	Virginia Ham Half	17-JUN-24-24-JUL-24	31-JUL-24-06-SEP-24
Boar's Head	Skinless Pork & Beef Frankfurters 4/1 2.5 LB	12-JUN-24-25-JUL-24	01-AUG-24-12-SEP-24
Boar's Head	SmokeMaster Beechwood Smoked Black Forest Ham Whole	17-JUN-24-29-JUL-24	31-JUL-24-11-SEP-24
Boar's Head	SmokeMaster Beechwood Smoked Black Forest Ham Half	18-JUN-24-26-JUL-24	01-AUG-24-08-SEP-24
Boar's Head	Sweet Slice Ham Service Case	12-JUN-24-27-JUL-24	30-JUL-24-13-SEP-24
Boar's Head	Peppenero Garlic Ham	17-JUN-24-26-JUL-24	31-JUL-24-08-SEP-24
Boar's Head	Roasted Pork	19-JUN-24-26-JUL-24	30-JUL-24-05-SEP-24
Boar's Head	BourbonRidge Ham	18-JUN-24-29-JUL-24	31-JUL-24-11-SEP-24
Boar's Head	FS Porchetta - Roasted Seasoned Pork	22-JUN-24-20-JUL-24	01-AUG-24-29-AUG-24
Boar's Head	TAVERN HAM - WHOLE	17-JUN-24-29-JUL-24	31-JUL-24-11-SEP-24

Boar's Head	MAPPLE RST PORK LOIN BABY	18-JUN-24-12-JUL-24	31-JUL-24-25-AUG-24
Boar's Head	HKRY SMK RST UNCURED HAM	19-JUN-24-29-JUL-24	02-AUG-24-11-SEP-24
Boar's Head	FoodService Hickory Smoked Uncured Ham	21-JUN-24-29-JUL-24	04-AUG-24-11-SEP-24
Boar's Head	Brown Sugar & Spice Delight Off the Bone Ham	17-JUN-24-28-JUL-24	31-JUL-24-09-SEP-24
Boar's Head	Skinless Beef Franfurters 6/1	11-JUN-24-24-JUL-24	31-JUL-24-12-SEP-24
Boar's Head	Skinless Beef Franks 12oz	10-JUN-24-26-JUL-24	30-JUL-24-14-SEP-24
Boar's Head	Kielbasa 16oz	14-JUN-24-27-JUL-24	02-AUG-24-15-SEP-24
Boar's Head	Natural Casing Beef Franks 8/1 14oz	10-JUN-24-27-JUL-24	30-JUL-24-15-SEP-24
Boar's Head	Natural Casing Pork & Beef Frankfurters 8/1 14oz	12-JUN-24-27-JUL-24	31-JUL-24-15-SEP-24
Boar's Head	ANDOUILLE CHICKEN SAUSAGE	10-MAY-24-29-JUL-24	29-JUL-24-17-OCT-24
Boar's Head	BRATWURST 1LB	10-MAY-24-29-JUL-24	29-JUL-24-17-OCT-24
Old Country	OC CAPPY HAM FIBER 1/2	25-JUN-24-22-JUL-24	05-AUG-24-01-SEP-24
Old Country	OC HOT BUTT CAPPY- FIBER	19-JUN-24-27-JUL-24	30-JUL-24-06-SEP-24
Old Country	OC GOURMET PEPPER HAM	20-JUN-24-27-JUL-24	30-JUL-24-05-SEP-24
Old Country	OC BLACK FOREST HAM 1/2	27-JUN-24-29-JUL-24	07-AUG-24-08-SEP-24
Old Country	OC SWT SLICE SMK HAM 1/2	19-JUN-24-28-JUL-24	29-JUL-24-06-SEP-24
Old Country	OC CAPPY BRAND HAM NC 1/2	25-JUN-24-26-JUL-24	04-AUG-24-05-SEP-24
Old Country	OC TAVERN HAM	19-JUN-24-29-JUL-24	30-JUL-24-08-SEP-24
Old Country	OC ROSEMARY/TOMATO HAM	19-JUN-24-16-JUL-24	29-JUL-24-26-AUG-24
Old Country	OC SWT SLICE HAM BABY1/2	25-JUL-24-25-JUL-24	03-SEP-24-03-SEP-24
Old Country	OC ALL NATURAL UNC HAM	24-JUN-24-27-JUL-24	04-AUG-24-06-SEP-24

Old Country	OC CANADIAN STYLE BACN JR	20-JUN-24-25- JUL-24	31-JUL-24-04- SEP-24
Old Country	OC ALL NAT UNC SMKD HAM	20-JUN-24-27- JUL-24	30-JUL-24-06- SEP-24
Old Country	OC HABANERO HAM	21-JUN-24-26- JUL-24	31-JUL-24-04- SEP-24
Old Country	OC SEASONED CKD FRESH HAM	28-JUN-24-27- JUL-24	31-JUL-24-28- AUG-24
Old Country	OC BEECHWOOD SMOKD HAM WH	26-JUN-24-29- JUL-24	06-AUG-24- 08-SEP-24
Old Country	OC BOURBONRIDGE SMKD HAM	19-JUN-24-28- JUL-24	30-JUL-24-06- SEP-24
Old Country	OC BROWN SUGAR & SPICE DELIGHT OFF THE BONE HAM	17-JUN-24-28- JUL-24	31-JUL-24-09- SEP-24