

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (this "Agreement") is made by and between The Chemical Toxin Working Group Inc. dba Healthy Living Foundation Inc. ("HLF") and JBS USA Food Company, primarily operating through its subsidiary Food Ventures North America dba Wild Fork Foods (the "Company"). HLF and Company are hereinafter referred to individually as a "Party" and collectively as the "Parties." The Parties agree as follows:

1. This Agreement is a complete accord and satisfaction between the Parties and is intended to fully resolve all claims, demands, and allegations set forth in or related to HLF's 60 Day Notices of Intent to Sue for Violations of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code § 25249.5, et seq. (also known as "Proposition 65") dated December 14, 2023 ("Notice 1"), and dated June 19, 2024 ("Notice 2") (together "Notices") with regard to the following products: all sizes and packaging of Wild Fork Spanish Coquina Clams, Wild Fork Foods Bay Scallops, Wild Fork Foods Clam Meat, PanaPesca Cooked Blue Mussels in Shell, Wild Fork Foods Fully Cooked Hardshell Clams, Wild Fork Foods Fully Cooked Mussel Meat, PanaPesca New Zealand Greenshell Mussels Fully Cooked, and Wild Fork Foods Sea Scallops (collectively, the "Covered Products" and, individually, each a "Covered Product"). With regard to the PanaPesca branded products listed above, such products are only Covered Products hereunder and subject to this Agreement only to the extent the Company sold or sells such products in California or to California consumers. HLF has no unasserted claims under Proposition 65 against the Company as of the Effective Date (as defined below).

2. "Reasonably Foreseeable" means that a reasonable inquiry would have revealed to the Company that a Distributor could sell Covered Products to California consumers. Some, but not all, examples of such circumstances include: where the Distributor sells products online/over the internet, telephone, telephone applications (apps), or mail-order; or maintains or intends to maintain storage, warehouse(s), or brick-and-mortar retail establishment(s) located in California. As used herein, "Distributor" is a person to whom Company sells or distributes Covered Products.

3. "Distribute into the State of California" means any one or more of the following: the Company directly sells Covered Products in California at its physical retail stores in California or ships to a California address an order placed on its proprietary website; or the Company ships Covered Products for sale in California to a Distributor that the Company knows, or for which it is Reasonably Foreseeable that such Distributor will sell one or more Covered Products in California; or it is Reasonably Foreseeable to Company that the Distributor will sell Covered Products in California.

4. The "Effective Date" is February 11, 2025, provided both Parties or their counsel have notice at least via email by 6 pm Pacific Time that it is fully executed and, if such notice is later than 6 pm, the next business day (the "Effective Date").

5. The "Covered Period" is the period from one year prior to the date of Notice 1 up to and including the Effective Date.

6. The Parties enter into this Agreement in order to achieve a settlement of the claims

as stated in Section 1 and for the purpose of avoiding prolonged litigation. Nothing in this Agreement shall be construed as an admission against interest by either of the Parties of any fact, issue of law, or violation of law, nor shall compliance with this Agreement constitute or be construed as an admission against interest by either of the Parties of any fact, issue of law or violation of law. Nothing in this Agreement or any document referred to herein, shall be construed as giving rise to any presumption or inference of admission or concession against interest by either of the Parties as to any fault, wrongdoing or liability whatsoever. The Parties agree that this Section 6 shall not diminish or otherwise affect the obligations, responsibilities, and duties of the Parties under this Agreement.

7. The Company is a “person in the course of doing business” as that term is defined in California Health and Safety Code section 25249.11(b); they employ ten (10) or more employees. The Covered Product is a “food” as defined in 27 Cal. Code Reg. § 25600.1(g).

8. In consideration of the following covenants and conditions contained in this Agreement, the Parties have provided the releases as set forth in Section 12 below:

(a) The Company shall not “Distribute into the State of California” any Covered Products on or after August 10, 2024 unless each unit of such Covered Product includes a Proposition 65 warning using the currently applicable regulatory “safe harbor” methods and content for cadmium and lead in foods, with the example text set forth in Exhibit A. Examples of the warnings also appear on a photo for each Covered Product at Exhibit A. The Parties agree that such warning text as set forth in Exhibit A complies as a “clear and reasonable” warning and thus presently satisfies Proposition 65 warning obligations with regard to the Covered Products.

(b) The Company further agrees, in addition to providing warnings satisfying the terms of Section 8(a) on each unit of a Covered Product, to provide the same regulatory “safe harbor” warning text set forth in Exhibit A for sales via its proprietary website of Covered Products it “Distributes into the State of California”. The Company does not knowingly sell Covered Products to commercial customers for resale, and it sells Covered Products to California consumers online only via its proprietary website, not any third party website. The proprietary website warning shall be displayed either: (i) on the same webpage where the Covered Product is displayed and described, or (ii) on the same webpage as the price is displayed, or (iii) by a clearly marked hyperlink using the word “WARNING” on the product display webpage, or (iv) otherwise provided to the California purchaser prior to completion of check out. Whichever alternative is elected, the warning in all cases must be conspicuous, so a purchaser does not need to search for it in the general content of the website and always associated with a specific Covered Product, not just applying to general categories of products sold on the website.

(c) The Company agrees to maintain the content and methods of warnings specified in Sections 8(a) and 8(b) for all Covered Products subject to this Agreement or, after six (6) months the Effective Date, the Company may employ warnings conforming with “safe harbor” regulations as to methods and content in effect at the time the Covered Products are manufactured after six (6) months after the Effective Date. Where a Covered Product label contains consumer information in a foreign language, the warning also must be provided in that foreign language.

(d) The Parties vigorously dispute whether Proposition 65 warnings are

required in connection with sales in California of any one or more of the Covered Products. The Company also is evaluating reformulation alternatives for lead, lead compounds, and for cadmium, or for all of them. The Company may end warnings as to any one or more Covered Products if that specific Covered Product is a "Reformulated Covered Product," as defined below in Section 9.

9. Reformulated Product(s); Testing; Daily Lead Exposure Level.

(a) For purposes of determining if one or more Covered Products is a Reformulated Covered Product, or if instead a warning is required pursuant to Section 8, the Company shall randomly select and test three (3) samples of the relevant Covered Product(s) from different lot numbers by Company (or, if fewer than 3 lots are available for testing, from as many lots as are available for the Covered Product being tested) to determine if a Covered Product exceeds the "Violative Exposure Level" for lead, or cadmium, or for both. The "Violative Exposure Level" is an exposure to more than 0.50 micrograms of lead per daily serving and/or more than 4.1 micrograms of cadmium per daily serving. "Expose" as used in the prior sentence and in this Agreement is as defined in Cal. Code Regs., tit. 27, § 25102(i) ("Expose" means to cause to ingest, inhale, contact via body surfaces or otherwise come into contact with a listed chemical. An individual may come into contact with a listed chemical through water, air, food, consumer products and any other environmental exposure as well as occupational exposures.")

(b) All testing pursuant to this Agreement shall be performed using a laboratory method that complies with the performance and quality control factors appropriate for the method used, including limit of detection, limit of quantification, accuracy, and precision and meets the following criteria: Gas Chromatography Mass Spectroscopy, achieving a limit of detection of less than or equal to 40 parts per billion, or any other testing method subsequently agreed upon in writing by the Parties.

(c) All testing pursuant to this Agreement shall be performed by an independent third party laboratory accredited to perform lead testing using the methodology in Section 9(b). Testing shall be performed prior to Company's first Distribution into the State of California of any Reformulated Covered Product, and testing shall continue at least once per year thereafter for as long as Company Distributes into the State of California the relevant Covered Product, unless testing shows no warning is needed for two consecutive years, at which time testing under this Agreement shall no longer be mandatory.

(d) The testing requirements of this Section 9 do not apply to any of the Covered Products for which the Company has provided, or continues to provide, a warning as specified in Section 8.

10. Company shall make a total settlement payment of \$198,000.00 by wire transfer to HLF's counsel's escrow account within (10) business days of the Effective Date, for which HLF's counsel will give Company the necessary wire transfer account information within one (1) business day after the Effective Date. HLF also shall provide all taxpayer identification information requested by Company to process the wire transfer, including a Form W-9, within one (1) business day of the Effective Date. The settlement payment shall be allocated as follows:

(a) As a portion of the Total Settlement Amount, \$40,000.00 shall be

considered a civil penalty pursuant to California Health and Safety Code § 25249.7(b)(1). HLF shall remit 75% (\$30,000.00) of the civil penalty to the Office of Environmental Health Hazard Assessment ("OEHHA") for deposit in the Safe Drinking Water and Toxic Enforcement Fund in accordance with California Health and Safety Code §25249.12(c). HLF will retain the remaining 25% (\$10,000.00) of the civil penalty.

(b) As a portion of the Total Settlement Amount, \$158,000.00 shall be considered reimbursement of attorneys' fees and costs for HLF.

11. Except as expressly set forth in Section 10, the Parties shall bear their own costs, expenses, and attorneys' fees in connection with the Notices and this Agreement.

12. Binding Effect; Claims Covered and Released

(a) This Agreement is a full, final, and binding resolution between HLF, on behalf of itself, and its respective principals, officers, directors, employees, parents, subsidiaries, executors, administrators, successors, assigns, on the one hand, and Company, on behalf of itself, and its respective owners, principals, shareholders, officers, directors, employees, parents, subsidiaries, servants, heirs, executors, divisions, administrators, predecessors, successors, assigns, including without limitation Food Ventures North America, Inc., JBS USA Holdings, LLC, JBS USA Food Company Holdings, JBS USA Food Company, Food Ventures North America dba Wild Fork Foods, on the other hand, of any alleged violation of Proposition 65 or its implementing regulations for failure to provide Proposition 65 warnings of exposure to cadmium, lead and lead compounds from the import, manufacturing, marketing, distribution, sale or offering for sale, handling, use, or consumption of the Covered Products for the Covered Period, and fully resolves all claims that have been asserted, or could have been asserted based on the Notices, for failure to provide Proposition 65 warnings for the Covered Products. HLF hereby releases, and waives all claims against and discharges Company and its respective owners, principals, officers, directors, shareholders, employees, agents, parent companies, subsidiaries, affiliated legal entities, divisions, suppliers, franchisees, licensees, customers, distributors, wholesalers, packagers, manufacturers, retailers and any upstream or downstream entities in the distribution chain for the Covered Products for the Covered Period, including without limitation Food Ventures North America, Inc., JBS USA Holdings, LLC, JBS USA Food Company Holdings, JBS USA Food Company, Food Ventures North America dba Wild Fork Foods, PanaPesca USA Corp., PanaPesca USA, LLC, Vima USA, Inc., and Raw Seafoods, Inc. and the predecessors, successors and assigns of any of them (collectively, the "Released Parties"), from any and all claims, actions, causes of action, suits, demands, liabilities, damages, penalties, fees, costs and expenses asserted and related exclusively to any alleged violation of Proposition 65 arising from any failure to provide Proposition 65 warnings for the Covered Products regarding cadmium, lead and lead compounds. For the avoidance of doubt, the releases of claims herein with regard to the PanaPesca branded Covered Products apply only to the extent the Company sold such products in California or to California consumers during the Covered Period.

(b) HLF, on behalf of itself only, hereby releases and discharges the Released Parties from all claims, causes of action, suits, damages, penalties, liabilities, injunctive relief, declaratory relief, attorney's fees, costs, and expenses arising from or related to the presence of cadmium, lead and lead compounds in the Covered Products as alleged in the Notices, including

without limitation any and all claims concerning exposure of any person to cadmium, lead and lead compounds in the Covered Products subject to this Agreement for the Covered Period.

(c) HLF on its own behalf only, on one hand, and Company on its own behalf only, on the other hand, further waive and release any and all claims they may have against each other for all actions or statements made or undertaken in the course of seeking or opposing enforcement of Proposition 65 in connection with the Notices, for the Covered Period; provided, however, nothing in this Section 12 shall affect or limit any Party's right to seek to enforce the terms of this Agreement.

(d) It is possible that other claims related to the Covered Products and not known to the Parties, arising out of or related to Proposition 65 and related to Covered Products, will develop or be discovered. HLF on behalf of itself only, and Company on behalf of itself only, acknowledge that this Agreement is expressly intended to cover and include a mutual release of all such claims, known or unknown, against each other up through and including the Effective Date, including all rights of action therefore, as relates to the Covered Products. HLF and Company acknowledge that the claims released herein in this Agreement may include unknown claims related to the Covered Products, and nevertheless waive California Civil Code section 1542 as to any such unknown claims up through and on the Effective Date. California Civil Code section 1542 reads 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.

DS (HLF initials)

DM (Company initials)

13. Compliance with all terms of this Agreement by Company shall be deemed by the Parties to constitute compliance with Proposition 65 on and after the Covered Period by any Released Party, provided Company is in compliance in all material respects with the obligations set forth in Sections 8 and 9 has discharged its payment obligations in Section 10.

14. It is the Parties' understanding that the commitments Company has agreed to herein, and the actions to be taken by Company under this Agreement, including payment of a Civil Penalty, would confer a significant benefit to the general public, as set forth in Code of Civil Procedure § 1021.5 and Cal. Admin. Code tit. 11, § 3201. As such, it is the intent of the Parties that, to the extent any other private party initiates an action alleging a violation of Proposition 65 with respect to any failure to provide a warning concerning exposure to cadmium, lead and lead compounds prior to use of the Covered Products during the Covered Period, or with respect to Covered Products subject to this Agreement on and after the Effective Date, such private party action would not confer a significant benefit on the general public as to those Covered Products addressed in this Agreement, provided that the Company complies in all material respects with this Agreement.

15. As a material term of this Agreement, HLF agrees that HLF shall not file an action

or issue a Proposition 65 Notice of Intent to Sue letter against any Released Party with respect to a Covered Product, except in accordance with this Agreement, including the procedures in Section 15.a. below. HLF agrees that it shall not circumvent this restriction by counsel or another entity acting directly or indirectly on its behalf via another named enforcer. If HLF breaches this Agreement, HLF shall be subject to an injunction and agrees to submit to the jurisdiction of any Superior Court in the State of California.

(a) If HLF alleges that Company has failed to comply with this Agreement, prior to filing an action or a Proposition 65 Notice of Intent to Sue letter against any Released Party, HLF shall first provide Company thirty (30) days' advance written notice of the alleged violation(s). HLF shall provide testing results, lot numbers, photographs of the Covered Product packaging for the Covered Product at issue or such other evidence HLF believes supports its allegations. The Parties shall meet and confer during such thirty (30) day period in an effort to resolve the matter informally without the need for litigation. If the corrective action in good faith may take longer to complete than the initial thirty (30) day period, then Company may have up to sixty (60) days to correct the alleged violation, provided the corrective action has commenced within the initial thirty (30) day period. If the matter is not resolved within thirty (30) days, or if the corrective action is not completed within sixty (60) days, or if HLF does not deem a corrective action sufficient to cure the violation, this Agreement does not prevent either Party from filing suit to enforce this Agreement in any Superior Court in the State of California.

16. The releases in Section 12 are not intended to apply to any occupational or environmental exposures arising under Proposition 65, nor apply to any of Company' products other than the Covered Products. The Agreement also does not apply to Covered Products which are not sold to consumers in California including, for example, products that are manufactured, stored, distributed, or shipped through California and sold to consumers in other states or Covered Products distributed for direct retail sale in other states.

17. After execution of this Agreement, HLF timely will submit to the California Attorney General this Agreement and promptly remit the OEHHA portion of the civil penalties after receipt of payment from Company.

18. This Agreement contains the entire agreement between the Parties with regard to settlement of the subject matter hereof, and supersedes all prior or contemporaneous agreements or understandings, written or oral, with regard to the matters set forth in this Agreement. This Agreement may be amended or modified in whole or in part at any time only by an agreement in writing executed by the Parties.

19. This Agreement shall be binding upon and shall insure to the benefit of the Parties and their respective owners, principals, shareholders, members, managers, officers, directors, employees, servants, heirs, executors, predecessors, successors and assigns.

20. No inference, assumption or presumption shall be drawn, and no provision of this Agreement shall be construed against either of the Parties, based upon the fact that one of the Parties and/or one of the Parties' attorneys prepared and/or drafted all or any portion of this Agreement. It is conclusively presumed that the Parties participated equally in the preparation and drafting of this Agreement.

21. If any provision, term, or section of this Agreement is found by a court of competent jurisdiction to be invalid, illegal, or unenforceable, then all remaining provisions, terms, or sections shall continue in full force and effect and remain binding on the Parties.

22. This Agreement shall be governed by and interpreted under the laws of the State of California, regardless of the physical locations of the Parties or the individuals or entities executing this Agreement at the time of execution.

23. The Parties acknowledge that they have a right to consult an attorney and they have consulted their attorneys with respect to the terms and conditions of this Agreement. The Parties further acknowledge that they fully understand this Agreement and the effect of signing and executing this Agreement.

24. The Parties are aware and acknowledge that this Agreement is an out-of-court settlement. The Parties are entering into this Agreement in good faith and in an effort to settle all claims and allegations arising from or related to the Notices, and this Agreement applies only to the Covered Products as defined herein.

25. Any legal action to enforce this Agreement shall be brought in any county of the State of California, any of which is deemed to be the proper venue for such legal action. This Agreement is enforceable solely by the Parties hereto.

26. This Agreement may be signed in counterparts, and each counterpart, as well as any facsimile, e-mail, copy of this Agreement, or any other counterpart, shall be deemed to be an original.

27. Each of the individuals who execute this Agreement represents and warrants they have the authority to execute this document and bind the respective Parties to the terms and conditions of this Agreement, and have read, understand, and agree to all the terms and conditions in this Agreement.


28. This Agreement will terminate on the fifth anniversary of the Effective Date unless a dispute initiated pursuant to the terms of this Agreement prior to that date remains unresolved, in which case the Agreement term is extended until the dispute is resolved.

[AGREEMENT CONTINUES ON NEXT PAGE]

WHEREFORE, the Parties agree to the foregoing as determined by their respective signatures below.

DATED: February 10, 2025

HEALTHY LIVING FOUNDATION INC.

By: 

DATED: February 11, 2025

JBS USA FOOD COMPANY

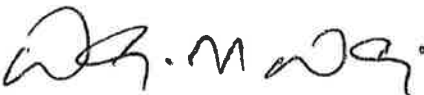
By: 

Exhibit A

WARNING: Consuming this product can expose you to chemicals including cadmium, which is known to the State of California to cause cancer, and lead, which is known to the State of California to cause birth defects and other reproductive harm. For more information go to www.P65Warnings.ca.gov/food.













