

**JOINT STIPULATION
OF SETTLEMENT AND RELEASE**

Subject to approval by the United States District Court for the Northern District of Ohio, Eastern Division, Hon. Patricia Gaughan, U.S. District Judge, presiding (“District Court”), Plaintiff Arnetta Duncan-Watts, individually and on behalf of the Eligible Settlement Participants, and Defendants Nestlé USA, Inc. and Nestlé Prepared Foods Company (“Defendants” or “Nestlé USA”), agree to the terms of this Joint Stipulation of Settlement and Release.

DEFINITIONS

1. “Action” shall mean the civil action in the United States District Court for the Northern District of Ohio, Eastern Division entitled *Duncan-Watts v. Nestlé USA, Inc.*, Case No. 1:19-cv-01437.

2. “Complaint” shall mean the Complaint Plaintiff filed in the Action on June 21, 2019. The “Amended Complaint” is the Amended Complaint Plaintiff filed in the Action on August 29, 2019.

3. “Representative Plaintiff” or “Plaintiff” shall mean Arnetta Duncan-Watts.

4. “Defendants” shall mean defendants Nestlé USA, Inc. and Nestlé Prepared Foods Company and all of their former, current and respective officers, directors, agents, employees, as well as their parents, shareholders, predecessors, successors, subsidiaries, and related and affiliated entities, including each of their respective former and current officers, directors, agents, and employees.

5. “Eligible Settlement Participants” consist of the individuals identified by unique employee identification number in Appendix 1 and who are current and former overtime eligible employees of Nestlé USA’s Solon, Ohio facility who were required to don and doff sanitary clothing and other protective equipment at any time from April 30, 2017 to April 30, 2020. This also includes opt-in plaintiff Denise Clark-Griffin, who claims to have worked at Nestlé USA’s Solon, Ohio facility in a relevant role from June to August 2019 and is identified by name in Appendix 1, as well as opt-in Aaron Mustafa, who ceased being a Nestlé employee effective 8/29/2016, but filed an opt-in form on 8/2/2019.

6. “Effective Date.” The Effective Date of the settlement shall be the latest of: (i) thirty days after the final approval of all provisions of the Settlement by the Court, including the Court’s entry of an order granting the Joint Motion for Preliminary Approval of Rule 23 Settlement and Final Approval of FLSA Settlement as set forth in paragraph 36; the Court’s entry of an order granting the Joint Motion for Final Approval as set forth in paragraph 39; and the Court’s entry of a Final Approval order and final judgment as set forth in paragraphs 39 and 40 below, if no appeal of or challenge to these approval orders or final judgment has been filed; (ii) if an appeal or challenge is filed, thirty days after the denial of any such appeal of challenge, or (iii) expiration of the ninety-day notice period pursuant to 28 U.S.C. section 1715(d) without any objections.

7. “Parties” shall mean the Representative Plaintiff and Defendants, and “Party” shall mean any one of the Parties.

8. “Released Parties” shall mean Defendants and all affiliated parties and entities, including past and present affiliates, parents, subsidiaries, predecessors, owners, members, successors, shareholders, divisions, and each of these entities’ past and present directors, officers, employees, partners, agents, shareholders, insurers, reinsurers, trustees, administrators, fiduciaries, attorneys, representatives and assigns, vendors and third-party staffing providers.

9. “Class Counsel” are Jeffrey J. Moyle and Hans A. Nilges of Nilges Draher LLC.

10. “Defendants’ Counsel” are Gregory V. Mersol and Gilbert P. Brosky of Baker & Hostetler LLP.

11. “Settlement” or “Agreement” shall mean this Joint Stipulation of Settlement and Release.

12. “Rule 23 Settlement” shall mean (i) the settlement of the Eligible Settlement Participants’ Released Claims under the Fed. R. Civ. P. 23(b)(3) process; (ii) the Individual Wage Payments to Eligible Settlement Participants as set forth in paragraph 25 below; and (iii) half of Class Counsel’s requested attorney’s fees and expenses as set forth in paragraph 30 below.

13. “FLSA Settlement” shall mean the settlement of the Eligible Settlement Participants’ Released Claims under the 29 U.S.C. § 216(b) & (c) process; (ii) the Individual Liquidated Damages Payments as set forth in paragraph 25 below; and (iii) half of Class Counsel’s requested attorney’s fees and expenses as set forth in paragraph 30 below.

14. “Third-Party Administrator” shall mean Rust Consulting, Inc.

RECITALS

15. On June 21, 2019, Representative Plaintiff Arnetta Duncan-Watts commenced the Action on behalf of herself and all others similarly situated to her with respect to the claims she asserted.

16. In the Action, Plaintiff alleged that Defendants failed to pay Plaintiff and other similarly-situated overtime eligible employees for all hours worked, including but not limited to overtime for alleged “donning and doffing” time and related travel time in violation of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201*et seq.*, as well as a “class action” pursuant to Fed. R. Civ. P. 23 to remedy alleged violations of the Ohio Minimum Fair Wage Standards Act.

17. Defendants denied liability and dispute the damages asserted by Plaintiff.

18. Plaintiff believes that the Action is meritorious based on alleged violations of the FLSA and Ohio state wage and hour laws, and that the Action is appropriate for collective and class

treatment. Defendants deny the merits of the Action or that class or collective treatment is proper other than for the limited purpose of resolving the Action as set forth in the Agreement.

19. The Parties engaged in informal discovery regarding Plaintiff's claims and Defendants' defenses to such claims.

20. On November 26, 2019, the Parties participated in an all-day mediation session before private mediator Michael Ungar. The Parties were not able to reach a resolution at the mediation. However, in the following months the Parties continued to negotiate. With the assistance of Mr. Ungar, the Parties reached an agreement to settle the Action on the terms set forth in this Agreement.

21. It is the desire of the Parties to fully, finally, and forever settle, compromise, and discharge all Released Claims (as defined in Paragraph 34 of the Agreement) for the Released Period (as defined in paragraph 34 of the Agreement).

22. Class Counsel represents that they have conducted a thorough investigation into the facts of this Action and have diligently pursued an investigation of Plaintiff's claims against Defendants, including researching the applicable law and the potential defenses. Based on their own independent investigation and evaluation, Class Counsel is of the opinion that the Settlement is fair, adequate and reasonable and is in the best interest of the Eligible Settlement Participants in light of all known facts and circumstances, including the risk of significant delay and Defendants' defenses.

23. This Agreement represents a compromise of disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendants that Plaintiff's claims in the Action have merit or that Defendants have liability to Plaintiff or anyone else on all of those claims.

SETTLEMENT PAYMENTS

24. **Total Eligible Settlement Amount:** The Total Eligible Settlement Amount is \$254,750.00. In no event will Defendants' liability under this Agreement exceed the Total Eligible Settlement Amount, other than as explicitly stated below and, as stated below, in no event will there be any reversion to Defendants from this Total Eligible Settlement Amount. The Total Eligible Settlement Amount will include and fully cover:

- a. all of the potential Individual Liquidated Damages Payments to the Eligible Settlement Participants (as defined in paragraph 25 of the Agreement);
- b. all of the potential Individual Wage Payments to the Eligible Settlement Participants (as defined in paragraph 25 of the Agreement);
- c. a Class Representative Payment (as defined in paragraph 29 of the Agreement) to Plaintiff Duncan-Watts;

- d. Class Counsel's attorney's fees and expenses; and
- e. The employer's share of payroll taxes (which consists of FICA, FUTA, and any applicable state unemployment taxes) for the settlement payments as calculated by Rust Consulting, but is estimated to be approximately \$8,639.11.

Defendants agree to pay for the reasonable cost of the Third-Party Administrator separate from the Total Eligible Settlement Amount, which shall be paid separately by Defendants into the Third-Party Administrator's qualified settlement fund ("QSF").

25. Settlement Payments to Eligible Settlement Participants: \$149,153.87 of the Total Eligible Settlement Amount will be divided into individual payments allocated to the Eligible Settlement Participants for alleged liquidated damages under the FLSA ("Individual Liquidated Damages Payments") and unpaid wages under the FLSA and Ohio state law ("Individual Wage Payments") (collectively "Individual Payments").

Specifically, \$74,576.93 of this \$149,153.87 amount will be divided into Individual Liquidated Damages Payments. All Eligible Settlement Participants who submit a timely opt-in form will receive their Individual Liquidated Damages Payment. Proposed Individual Liquidated Damages Payments are reflected on Appendix 1. All Individual Liquidated Damages Payments allocated to Eligible Settlement Participants who do not timely opt-in will be used to pay the employer's share of payroll taxes to the extent it exceeds the \$8,639.11 estimate. Any remaining Individual Liquidated Damages Payments allocated to Eligible Settlement Participants who do not timely opt-in will be distributed to Eligible Settlement Participants who do timely opt-in as additional liquidated and other available non-wage relief under the FLSA and Ohio law and be paid as part of their Individual Liquidated Damages Payment ("Additional Non-Wage Payment"). These Additional Non-Wage Payments will be calculated by Class Counsel in the same manner set forth in Paragraph 26 below, who will provide Defendants' counsel with a reasonable opportunity to review the calculated Additional Non-Wage Payments before they are submitted to the Court or the Third-Party Administrator for payment.

The remaining \$74,576.94 of this \$149,153.87 amount will be divided into Individual Wage Payments. Proposed Individual Wage Payments are reflected in Appendix 1. Eligible Settlement Participants who do not timely exclude themselves from the Settlement pursuant to Paragraph 44 of the Agreement will receive their Individual Wage Payment.

26. Calculation of Individual Payments: The Individual Payments were calculated by Class Counsel and are based individually on Representative Plaintiff's and each Eligible Settlement Participant's alleged overtime damages during the Calculation Period depending on their tenure in a relevant role. Class Counsel is solely responsible for calculating the Individual Payments but agrees to provide Defendants' counsel with a reasonable opportunity to review the calculated Individual Payments before they are submitted to the Court or to the Third-Party Administrator. Class Counsel calculated each Eligible Settlement Participants' share of the Total Eligible Settlement Amount (minus Class Representative Payment, Class Counsel's attorney's fees and expenses and employer's share of payroll taxes) by considering each Eligible Settlement Participants' number of work weeks in a relevant role at the Solon, Ohio facility during the Class

Period. All Eligible Settlement Participants were allocated a minimum of \$20.00 (gross) of the Total Eligible Settlement Amount. The Individual Payments per unique employee identification number are provided and attached hereto in Appendix 1.

27. **Calculation Period:** The Calculation Period and/or Class Period for the Eligible Settlement Participants shall mean the period between April 30, 2017 and April 30, 2020.

28. **No Effect on Benefits Calculations:** In no event shall any payment to any Eligible Settlement Participant create any credit or otherwise affect the calculation of any compensation, deferred compensation, or benefit under any compensation, deferred compensation, pension, or other benefit plan, nor shall any such payment be considered as “compensation” under any pension, retirement, profit sharing, incentive, or deferred compensation plan, nor shall any such payment or award require any contribution or award under any such plan, or otherwise modify any benefits, contributions or coverage under any other employment benefit plan or program.

29. **Class Representative Payment:** Subject to Court approval, \$5,000.00 of the Total Eligible Settlement Amount will be paid to Representative Plaintiff Duncan-Watts (the “Class Representative Payment”), in addition to her Individual Wage Payment and Individual Liquidated Damages Payment, in exchange for signing and adhering to the terms of a general release of all claims against Defendants, including all pending claims (proposed and attached as Exhibit 1 to the Settlement). Any Class Representative Payment awarded by the Court will be reported on an IRS Form 1099-MISC by the Third-Party Administrator.

30. **Class Counsel’s Attorney’s Fees and Expenses:** Class Counsel will request, and Defendants will not oppose, that one-third of the Total Eligible Settlement Amount (\$84,916.67) be paid to Class Counsel for attorney’s fees. Class Counsel will also request, and Defendants will not oppose, that they be paid their expenses incurred in the Action totaling \$7,040.35 from the Total Eligible Settlement Amount. Class Counsel will also request, and Defendants will not oppose, that the Court award half this total combined attorney’s fee and costs amount – or \$45,978.51 – as part of the FLSA settlement and the other half – or \$45,978.51 – as part of the Rule 23 Settlement. All amounts allocated as attorney’s fees and costs will be paid to Class Counsel and will be reported on an IRS Form 1099-MISC to each of Class Counsel and Representative Plaintiff Duncan-Watts, and any other reporting deemed necessary by the Third-Party Administrator. This payment is contingent on receipt of a current, valid W-9 from Class Counsel. Payments made pursuant to this Paragraph shall constitute full satisfaction of any claim for fees or costs, and the Representative Plaintiff and Class Counsel, on behalf of themselves and all Eligible Settlement Participants agree that they shall not seek nor be entitled to any additional attorney’s fees or costs under any theory, unless there is a breach of this Agreement and the non-breaching party successfully petitions the Court for fees incurred in enforcing the Agreement.

Other than any reporting of this fee payment as required by this Agreement or law, which the Third-Party Administrator shall make, Class Counsel shall alone be responsible for the payment of any federal, state, and/or local income or other form of tax on any payment that they have received pursuant to this Paragraph. In the event that the Court does not approve the fee and/or cost amount requested by Class Counsel, the settlement will still be effective (subject to an appeal

of the Court's order, to be decided solely by the Representative Plaintiff and Class Counsel) and this Agreement will be deemed modified to reflect the amount that is approved by the Court.

31. **Tax Treatment Of Payments:** The tax treatment of payments under this Agreement will be as follows:

- a. Individual Wage Payments will be treated as 100% payment for wages and allocated as follows: 100% shall be reported as wages on a United States Internal Revenue Service ("IRS") Form W-2 issued by the Third-Party Administrator (with applicable tax withholdings). Form W-2s shall be issued to each of the participating Eligible Settlement Participants with his or her taxpayer identification number, and shall be subject to deductions for applicable taxes and withholdings as required by federal, state, and local law.
- b. Individual Liquidated Damages Payments and any Additional Non-Wage Payments will be treated as 100% for liquidated damages and allocated as follows: If required, 100% shall be reported to the IRS by the Third-Party Administrator as non-wage income on a Form 1099-MISC.
- c. The payments provided by Paragraph 30 of this Agreement shall be considered attorney's fees and costs and reported on behalf of Class Counsel to the IRS on a Form 1099-MISC issued to Class Counsel by the Third-Party Administrator with the taxpayer identification number of Class Counsel. The Third-Party Administrator will also issue a Form 1099-MISC to Representative Plaintiff Duncan-Watts with respect to the attorney's fees and costs payable to Class Counsel under Paragraph 30 of this Agreement.
- d. In the event that it is subsequently determined by the IRS or any other applicable taxing authority that any participating Eligible Settlement Participant owes any additional taxes with respect to any money distributed under this Agreement, it is expressly agreed that the determination of any tax liability is between the Eligible Settlement Participants and the taxing authority, and that Defendants will not be responsible for the payment of such taxes, including any interest and penalties.

32. **Funding the QSF and Timing of Payments:** Within 30 days after the Effective Date of the settlement, Defendants shall deposit into the QSF the sum of \$254,750 (the Total Eligible Settlement Amount). In no event will Defendants' obligation to provide funds under this agreement exceed this amount, other than as explicitly stated in Paragraph 24 above and Paragraph 41 below, and in no event will there be any reversion of funds to Defendants from the Total Eligible Settlement Amount. Payments to Class Counsel for the Court approved attorney's fees, the Court approved Class Representative Payment and Individual Payments shall be made within a reasonable time by the Third-Party Administrator not to exceed 15 business days after Defendants deposit such funds in the QSF.

33. **Checks Issued:** All checks issued pursuant to this Agreement shall be valid and negotiable for a period of 90 days from issuance. Any checks issued pursuant to this Agreement

for Individual Payments that are not cashed or deposited within 90 days from issuance shall become void and any applicable taxes reported and/or paid on such amounts shall be corrected with the applicable taxing authorities and requested for remittance by the Third-Party Administrator. Any such amounts shall be treated as a *cy pres* award to be paid to Boys & Girls Clubs of Cleveland within 21 business days. Representative Plaintiff and other participating Eligible Settlement Participants shall, however, remain bound by this Agreement, their releases and the applicable final order and dismissal, notwithstanding any failure to cash or deposit any check issued pursuant to this Paragraph within 90 days from issuance.

RELEASE OF CLAIMS

34. **Released Claims:** The participating Eligible Settlement Participants, by virtue of either submitting an opt-in form or by not opting out of the Rule 23 Settlement, will release the Released Parties from all federal, state and local wage-and-hour claims, rights, demands, liabilities and causes of action asserted in the Action, the Complaint, the Amended Complaint, and all other claims pertaining to Defendants' alleged non-payment of unpaid wages, including but not limited to wages for time allegedly spent donning or doffing and associated travel and including but not limited to claims for unpaid wages, unpaid overtime compensation, liquidated damages, interest, attorney's fees, and expenses and including but not limited to claims under the Fair Labor Standards Act and the Ohio Minimum Fair Wage Standards Act up to the Effective Date ("Released Period"). Representative Plaintiff Duncan-Watts has agreed to release claims as set forth in a separate General Settlement and Release Agreement attached as Exhibit 1.

APPROVAL AND DISMISSAL OF THE ACTION

35. **Cooperation:** The Parties will agree to cooperate and take all steps necessary and appropriate to obtain approval of the Agreement by the District Court, to effectuate its terms, and to dismiss the Action with prejudice. Should the Court reject approval of the Agreement and/or should objections arise under CAFA, the parties will work in good faith to resolve the issue.

36. **Joint Motion for Preliminary Approval of Rule 23 Settlement and Final Approval of FLSA Settlement:** On or before July 14, 2020, the Parties will jointly file an agreed upon Joint Motion For Preliminary Approval of the Rule 23 Settlement and Final Approval of the FLSA Settlement. The Motion will address both the Rule 23 Settlement and the FLSA Settlement components of this Agreement. The Parties will request final approval of the FLSA Settlement, approving the amounts payable as Individual Liquidated Damages Payments set forth in Appendix 1 as well as a proportional distribution of any Additional Non-Wage Payments, approving the form, content, and method of distribution of the settlement notice to the Eligible Settlement Participants in substantially the same form as that attached hereto as Exhibit 2 (the "Class Notice"), and approving one-half of Class Counsel's attorney's fees and expenses as set forth in paragraph 30 of the Agreement.

In the same motion, the Parties will request that the District Court grant preliminary approval of the Rule 23 Settlement and certify for settlement purposes only the state law claims of the Eligible Settlement Participants under Fed. R. Civ. P. 23(b)(3), approving one-half of Class Counsel's total attorney's fees and expenses as set forth in paragraph 30 of the Agreement, and the setting

of a date for a final approval hearing to take place no sooner than 110 days after the District Court enters an order granting the Parties' Joint Motion For Preliminary Approval of the Rule 23 Settlement and Final Approval of the FLSA Settlement. The Motion will also request that as an essential part of the Settlement, the Court order Defendants to provide the Settlement Administrator the names, last known home address and social security numbers for the Eligible Settlement Participants within 14 days of the District Court's entry of an order approving the Motion. Defendants' obligation to provide the names, last known home address, last work location and social security numbers for the Eligible Settlement Participants will not begin unless and until the Court orders Defendants to provide this information.

37. **Fair, Adequate and Reasonable Settlement:** The Parties agree that the FLSA Settlement and Rule 23 Settlement are fair, adequate, and reasonable and that the Rule 23 Settlement satisfies the requirements of Fed. R. Civ. P. 23(e)(2) and will so represent to the District Court.

38. **CAFA Notices.** The Third-Party Administrator shall submit, upon review and approval of Defendants' counsel, the notices required under the Class Action Fairness Act, 28 U.S.C. § 1715, as to the Rule 23 Settlement to the applicable state and federal officials.

39. **Joint Motion for Final Approval:** No later than 10 days prior to the final approval hearing, the Parties will jointly submit to the District Court a mutually agreeable motion for Final Approval of the Rule 23 Settlement and a proposed order granting final approval of the Settlement, approving the Individual Wage Payments set forth on Appendix 1 to participating Eligible Settlement Participants, approving the cy pres award in paragraph 33 above, appointing Class Counsel, awarding Class Counsel's attorney's fees and expenses pursuant to paragraph 30 of the Agreement, and entering judgment dismissing the Action with prejudice. To be included in the Joint Motion for Final Approval, the Settlement Administrator will provide to Counsel for the Parties a Declaration detailing the efforts made to distribute the Class Notice to Eligible Settlement Participants, which shall include the fact that the addresses were updated using the National Change of Address Database, the date(s) of distribution, the number of returned notices, the number of re-issued notices, the number of notices that remained undeliverable, the names of all individuals who opted to be excluded from the settlement, the names of all individuals who objected to the settlement, if any, and, if no objections are made then that shall be included.

40. **Dismissal With Prejudice of the Action:** Upon entry of the District Court's final approval order, the Action shall be dismissed with prejudice and final judgment shall be entered.

SETTLEMENT ADMINISTRATION

41. **Third-Party Administrator:** Defendant will retain, at its expense, Third-Party Administrator. The Settlement Administrator shall be responsible for, among other things, distributing the Court approved notice as set forth in paragraph 36 and inputting the individual estimated payments approved by the Court into each notice in the designated locations, making Individual Payments as instructed by Class Counsel, calculating taxes relating to the Individual Payments, timely submitting CAFA notices per paragraph 38, handling all tax reporting and tax forms relating to Individual Payments and attorney's fees, distributing any uncashed Individual

Payments to the *cy pres* fund as further set forth herein, and providing reasonable monitoring and reporting services consistent with the duties outlined herein, including but not limited to reporting and monitoring of opt-ins, objections, opt-outs, payments made, payments cashed and taxes reported and paid.

42. **Distribution of the Class Notice:** Within 14 days after the District Court enters and order granting the Joint Motion For Preliminary Approval of the Rule 23 Settlement and Final Approval of the FLSA Settlement, Defendants will provide to the Third-Party Administrator a list that includes the following information for each Eligible Settlement Participant: name, last known home address, and social security numbers (if ordered to do so in the Court Order granting preliminary approval) and unique employee identifier. This information shall be based on data/records from Nestlé USA's Human Resources payroll and services divisions and provided in a format acceptable to the Third-Party Administrator. Within 7 days after the Parties file the Joint Motion For Preliminary Approval of the Rule 23 Settlement and Final Approval of the FLSA Settlement, Class Counsel will provide the Third-Party Administrator with the Schedule of Individual Payments as reflected in Appendix 1.

The Third-Party Administrator shall perform an updated address check using the National Change of Address Database. Within 15 business days after receiving the information from Defendants and Class Counsel as set forth in this Paragraph, the Third-Party Administrator will distribute the Class Notice attached as Exhibit 2 to the Eligible Settlement Participants. The notices will be sent by First Class U.S. Mail with an enclosed postage pre-paid return envelope addressed to the Third-Party Administrator. Any notices returned as undeliverable shall be traced by the Third-Party Administrator one time to obtain a new address and re-mailed one time by First Class Mail.

43. **Consent Period and Return of Consent and Release Forms:** In order for Eligible Settlement Participants to receive an Individual Liquidated Damages Payment, they must properly sign and timely return the consent and release form attached as part of Exhibit 2. The Eligible Settlement Participants must return their respective Consent and Release Form to the Third-Party Administrator within 45 days after the mailing of the notice (the "Consent Period"). The Consent and Release Forms must be signed and timely returned to the Third-Party Administrator via U.S. mail, facsimile, or e-mail within the 45-day period to be timely.

44. **Right to Opt Out Of Rule 23 Settlement:** Eligible Settlement Participants will automatically receive an Individual Wage Payment and be bound by the Agreement unless they timely exclude themselves. Eligible Settlement Participants who wish to exclude themselves from the Agreement must submit a written statement to the Third-Party Administrator requesting exclusion from the Rule 23 Settlement ("opt-out request"), postmarked no later than 45 days after the mailing of the notice (the "Deadline to Opt Out or Object"). Such opt-out requests must state the case name and number, contain the name, address, telephone number, and email address of the Eligible Settlement Participant requesting exclusion, and be personally signed by that Eligible Settlement Participant. The opt-out request must be sent by U.S. Mail to the Third-Party Administrator (at the address provided in the Notice of Settlement), and must be timely postmarked on or before the Deadline to Opt Out or Object. The Third-Party Administrator shall provide Class Counsel and Defendants' Counsel with copies of all opt-out requests within five (5) business days after the Deadline to Opt Out or Object. Any Eligible Settlement Participant

who timely requests exclusion from the Rule 23 Settlement will not be entitled to any Individual Wage Payment or have any right to object, appeal or comment thereon. No opt-out request may be made on behalf of a group of Eligible Settlement Participants. Any Eligible Settlement Participants who timely request exclusion from the Rule 23 Settlement will not be bound by this Agreement, unless he or she submitted a timely Consent and Release form for an Individual Liquidated Damages Payment.

45. **Objections:** Any Eligible Settlement Participant who wishes to object to the Rule 23 Settlement must file a timely written statement of objection with the Third-Party Administrator (at the address provided in the Notice of Settlement) no later than the Deadline to Opt Out or Object. The Third-Party Administrator shall provide Class Counsel with copies of all objections as received but no later than 5 business days after received. The statement of objection must state the case name and number; specify the basis for the objection; provide the name, address, telephone number, and email address of the Eligible Settlement Participant making the objection; and indicate whether the Eligible Settlement Participant intends to appear at the Final Approval Hearing, either with or without counsel. In addition, any statement of objection must be personally signed by the Eligible Settlement Participant and, if represented by counsel, then also by counsel. Any Eligible Settlement Participant who fails to timely object to the Rule 23 Settlement in the manner specified above shall be deemed to have waived any objections to the Rule 23 Settlement and shall be foreclosed from making any objections, whether by appeal or otherwise, to the Rule 23 Settlement.

46. **Filing of Participating Eligible Settlement Participants:** Class Counsel will attach to the Joint Motion for Final Approval a list (after conferring with Defendants' counsel) that identifies by name only all the Eligible Settlement Participant who did not file a timely and proper opt out notice pursuant to paragraph 44 of the Agreement and are thus bound by the Agreement. On the same day as the filing of the Joint Motion for Final Approval, Class Counsel will file a list (after conferring with Defendants' counsel) that identifies by name only all the Eligible Settlement Participants who submitted timely or otherwise accepted Consent and Release Forms and their Individual Liquidated Damages Payments, which will include any Additional Non-Wage Payments.

47. **Effect of Failure to Grant Judgment and Approval:** In the event the Court fails to enter an order and judgment that grants final approval of both the FLSA and Rule 23 Settlement, the Action will resume unless the Parties jointly agree to: (1) seek reconsideration or appellate review of the decision denying entry of judgment; or (2) attempt to renegotiate the Agreement and seek Court approval of the renegotiated settlement. In the event any reconsideration and/or appellate review is denied, or a mutually agreed upon settlement is not approved, the Action will proceed as if no settlement has been attempted. In the event the Court enters an order granting final approval of the FLSA Settlement but not the Rule 23 Settlement, the parties agree to work in good faith to obtain final approval of the Rule 23 Settlement, including but not limited to negotiating modifications to the Agreement and/or moving for reconsideration and appellate review.

GENERAL PROVISIONS REGARDING THE SETTLEMENT PROCESS

48. With the exception of obtaining the names of the Eligible Settlement Participants pursuant to Paragraph 36, Representative Plaintiff and Class Counsel shall not be entitled to receive any other information regarding the Eligible Settlement Participants from Defendants or the Third-Party Administrator, including their contact information or social security numbers. However, it is agreed that Class Counsel will be entitled to receive from the Third-Party Administrator contact information (but not social security numbers) of the Eligible Settlement Participants who submit a timely Consent and Release Form, copies of all Consent and Release Forms, and copies of all opt-out requests.

49. Defendants may, in their sole discretion, choose to accept as timely submitted any Consent to Opt-Into Settlement Form received from an Eligible Settlement Participant within twenty (20) days after the end of the Consent Period, in which case such Eligible Settlement Participant will be deemed to have timely submitted the Consent and Release Form for purposes of this Agreement. Absent Defendants' consent, however, any Eligible Settlement Participant who fails to return the executed Consent and Release Form by the end of the Consent Period will not be eligible to participate in the FLSA Settlement or receive his or her Liquidated Damages Payment.

50. Should any individual who was not initially identified as an Eligible Settlement Participant contact Defendants or otherwise come to Defendants' attention prior to the end of the Consent Period, Defendants shall, in their sole discretion, make a determination as to whether to include such individual in the Settlement. If Defendants determine that any such individual should be included in the Settlement, Defendants will notify Class Counsel, and the Class Counsel will calculate such individual's Individual Payment using the settlement calculation method identified in Paragraph 26. Upon agreement and consent with Defendants that such calculations are accurate, Defendants will instruct the Third-Party Administrator to send that individual the Consent and Release Form, who would then have 7 business days to sign and return. Any payments made under this paragraph by Defendants to non-Eligible Settlement Participant(s) will not change the Class Representative Payment or Class Counsel's attorney's fees and expenses.

51. **Non-Admission of Liability:** This Agreement shall not in any way be construed as an admission by Defendants that they acted wrongfully with respect to the Representative Plaintiff or any Eligible Settlement Participant collectively or individually or to any other person, and Defendants specifically disclaim any liability to or wrongful acts against the Representative Plaintiff, Eligible Settlement Participants, or any other person, on the part of Defendants and the Released Parties. Furthermore, the Parties agree that this Agreement does not constitute an adjudication of the merits of the Action or any other matters released in this Agreement. Nor is this Agreement based on the merits of the Action. Accordingly, the Parties agree that no party has prevailed on the merits and that this Agreement shall not serve or be construed as evidence that any party has so prevailed.

52. **Non-Admission of Collective or Class Liability:** The Parties agree that this Agreement does not constitute, shall not be construed to be, and shall not be cited in or be admissible in any proceeding as evidence of: (a) a determination or admission that any group of

similarly situated employees exists to maintain a collective action under the FLSA or a class action under Rule 23 of the Federal Rules of Civil Procedure; (b) an adjudication of the merits of the Action; or (c) an adjudication of any other matters released in this Agreement. Accordingly, the Parties agree that no party has prevailed and that this Agreement shall not serve or be construed to be, nor be cited nor be admissible in any proceeding as, evidence that any party has so prevailed or that Defendants or the Releasees have engaged in any wrongdoing.

53. Release of Fees and Costs for Settled Matters: The Representative Plaintiff and Class Counsel further understand and agree that any payments made under Paragraph 30 of this Agreement will be the full, final, and complete payment of all attorney's fees and costs and any other payments arising from or relating to the representation of the Representative Plaintiff, the Eligible Settlement Participants, or any other attorney's fees and costs associated with the investigation, discovery, and/or prosecution of the Action or any related action or advice provided. As an inducement for Defendants to enter into this Agreement, and as a material condition thereof, once provided with payments under this Agreement (whether checks are cashed or not), the Representative Plaintiff, Eligible Settlement Participants and Class Counsel irrevocably and unconditionally release, acquit, and forever discharge any claim they have or may have against Defendants or the Released Parties for attorney's fees or costs or other payments or remuneration associated with the representation of the Representative Plaintiff and the Eligible Settlement Participants.

As a further inducement to Defendants to enter into this Agreement, and a material condition thereof, the Representative Plaintiff and Class Counsel further understand and agree that the fee and cost payments made pursuant to Paragraph 30 of this Agreement will be the full, final, and complete payment of all attorney's fees and costs that are released, acquitted, or discharged under this Paragraph. The Representative Plaintiff and Class Counsel agree to defend, indemnify, and hold harmless Defendants from any and all demands or claims for additional attorney's fees and costs arising from or relating to Class Counsel's representation of the Eligible Settlement Participants or any other attorney's fees and costs associated with the investigation, discovery, and/or prosecution of the Action.

54. Non-Solicitation of Claims: The Representative Plaintiff agrees not to participate in, encourage, assist or facilitate the bringing or maintenance of any kind of cause of action, claim, report, or any administrative complaint on the federal, state, or local level by any former or present Nestlé USA employees against Nestlé USA based on any matter arising or accruing prior to the execution of the Agreement, except for any activities that cannot be precluded by court-approved agreement under applicable law. Class Counsel also agrees not to use any settlement-related communications, data compilations, analyses, and spreadsheets provided by Defendants during the negotiations resulting in this Agreement to solicit or encourage, whether directly or indirectly, any other parties or attorneys to commence a claim or proceeding against Defendants, or for any other purpose whatsoever except in conjunction with finalizing the Agreement of the Action.

PARTIES' AUTHORITY

55. The respective signatories to the Agreement represent that they are fully authorized to enter into this Agreement and bind the respective Parties to its terms and conditions.

MUTUAL FULL COOPERATION

56. The Parties and their respective counsel agree to cooperate fully with each other to accomplish the terms of this Agreement, including but not limited to, execution of such documents and such other actions as may reasonably be necessary to implement the terms of this Agreement. The Parties shall use reasonable efforts, including all efforts contemplated by this Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate the terms of this Agreement.

NO PRIOR ASSIGNMENTS

57. The Parties and Class Counsel 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, action, cause of action or right released and discharged in this Agreement.

NO ADMISSION OF LIABILITY

58. Nothing contained in this Agreement shall constitute or be construed or deemed as an admission of liability, culpability, negligence or wrongdoing on the part of Defendants, and Defendants deny any such liability. Each Party has entered into this Agreement with the intention to avoid further disputes and litigation with the attendant inconvenience and expenses.

CONSTRUCTION

59. The Parties agree that the terms and conditions of this Agreement are the result of lengthy, intensive arms-length negotiations between the Parties and that this Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party participated in the drafting of this Agreement.

MODIFICATION

60. This Agreement may not be changed, altered or modified, except in writing, signed by counsel for the Parties, and approved by the Court. This Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by counsel for the Parties. Notwithstanding the foregoing sentences, without further Order of the Court, the Parties may agree in writing to extensions of time to carry out any of the provisions of this Agreement.

INTEGRATION CLAUSE

61. This Agreement contains the entire agreement between the Parties, and all prior or contemporaneous agreements, understandings, representations and statements, whether oral or written and whether by a Party or such Party's legal counsel, relating specifically to the resolution of the Action, are merged in this Agreement. No rights under this Agreement may be waived except in writing signed by the Parties.

BINDING ON ASSIGNS

62. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, trustees, executors, administrators, successors and assigns.

COUNTERPARTS

63. This Agreement may be executed in counterparts, and may be signed electronically via PDF. When each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Agreement, which shall be binding upon and effective as to all Parties. Electronic and facsimile transmissions of this Agreement shall be deemed originals.

BREACH

64. If either Party breaches any of the terms and conditions of this Agreement, the non-breaching Party shall be entitled to petition the Court for its reasonable attorney's fees and expenses incurred to enforce the terms and conditions contained herein.

JURISDICTION

65. The parties will request that the Court expressly retain jurisdiction to enforce the terms of the Agreement, including the notice administration, addition of settlement participants pursuant to paragraph 49 and the distribution process.

CLASS SIGNATORIES

66. Representative Plaintiff executes this Agreement on behalf of herself and in her representative capacity on behalf of the Eligible Settlement Participants. It is agreed that it is burdensome to have all of the participating Eligible Settlement Participants execute this Agreement. This Agreement shall have the same force and effect as if each executed this Agreement.

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement as of the date indicated below:

Dated: _____

Arnetta Duncan-Watts

Representative Plaintiff, Individually and on Behalf of the
Eligible Settlement Participants

Dated: _____

Nestlé USA, Inc. and Nestlé Prepared Foods Company

Dated: _____

Nilges Draher LLC

Class Counsel

Dated: _____

Gregory V. Mersol
Baker & Hostetler LLP

Defendants' Counsel

APPENDIX 1

Pers.No.	Eligible Wage Payment	Eligible Liquidated Damage Payment
1601075	\$120.62	\$120.62
1602759	\$120.62	\$120.62
1602777	\$120.62	\$120.62
1602784	\$120.62	\$120.62
1602811	\$120.62	\$120.62
1602847	\$48.21	\$48.21
1602848	\$120.62	\$120.62
1602861	\$120.62	\$120.62
1602888	\$120.62	\$120.62
1602889	\$41.05	\$41.05
1602890	\$120.62	\$120.62
1602915	\$73.63	\$73.63
1602921	\$120.62	\$120.62
1602934	\$120.62	\$120.62
1602948	\$63.73	\$63.73
1602952	\$120.62	\$120.62
1602965	\$120.62	\$120.62
1602966	\$10.24	\$10.24
1602975	\$13.43	\$13.43
1602983	\$120.62	\$120.62
1602984	\$120.62	\$120.62
1602992	\$120.62	\$120.62
1602993	\$120.62	\$120.62
1602997	\$120.62	\$120.62
1602998	\$120.62	\$120.62
1603001	\$120.62	\$120.62
1603026	\$80.34	\$80.34
1603030	\$120.62	\$120.62
1603032	\$120.62	\$120.62
1603036	\$10.00	\$10.00
1603041	\$120.62	\$120.62
1603042	\$120.62	\$120.62
1603066	\$120.62	\$120.62
1603079	\$120.62	\$120.62
1603083	\$120.62	\$120.62
1603096	\$120.62	\$120.62
1603099	\$103.57	\$103.57
1603102	\$120.62	\$120.62
1603105	\$120.62	\$120.62
1603108	\$10.00	\$10.00
1603111	\$120.62	\$120.62
1603134	\$120.62	\$120.62
1603135	\$120.62	\$120.62
1603146	\$108.41	\$108.41
1603147	\$120.62	\$120.62

1603148	\$120.62	\$120.62
1603176	\$120.62	\$120.62
1603190	\$11.34	\$11.34
1603197	\$120.62	\$120.62
1603201	\$90.47	\$90.47
1603210	\$109.07	\$109.07
1603222	\$120.62	\$120.62
1603238	\$120.62	\$120.62
1603241	\$120.62	\$120.62
1603255	\$120.62	\$120.62
1603271	\$10.24	\$10.24
1603275	\$120.62	\$120.62
1603282	\$120.62	\$120.62
1603286	\$120.62	\$120.62
1603360	\$120.62	\$120.62
1603362	\$10.00	\$10.00
1603365	\$120.62	\$120.62
1603398	\$10.00	\$10.00
1603400	\$120.62	\$120.62
1603402	\$113.03	\$113.03
1603406	\$120.62	\$120.62
1603434	\$120.62	\$120.62
1603447	\$120.62	\$120.62
1603456	\$120.62	\$120.62
1603462	\$10.00	\$10.00
1603495	\$120.62	\$120.62
1603498	\$120.62	\$120.62
1603520	\$120.62	\$120.62
1603532	\$120.62	\$120.62
1603538	\$120.62	\$120.62
1603552	\$120.62	\$120.62
1603553	\$120.62	\$120.62
1603568	\$120.62	\$120.62
1603579	\$120.62	\$120.62
1603585	\$120.62	\$120.62
1603593	\$120.62	\$120.62
1603620	\$120.62	\$120.62
1603628	\$120.62	\$120.62
1603704	\$120.62	\$120.62
1603708	\$120.62	\$120.62
1603720	\$120.62	\$120.62
1603723	\$120.62	\$120.62
1603732	\$120.62	\$120.62
1603733	\$120.62	\$120.62
1603734	\$13.65	\$13.65
1603748	\$63.73	\$63.73
1603752	\$120.62	\$120.62

1603754	\$120.62	\$120.62
1603757	\$113.03	\$113.03
1603764	\$107.86	\$107.86
1603773	\$120.62	\$120.62
1603779	\$120.62	\$120.62
1603784	\$120.62	\$120.62
1603788	\$120.62	\$120.62
1603854	\$120.62	\$120.62
1603860	\$120.62	\$120.62
1603863	\$120.62	\$120.62
1603868	\$120.62	\$120.62
1603876	\$120.62	\$120.62
1603880	\$63.73	\$63.73
1603883	\$120.62	\$120.62
1603889	\$120.62	\$120.62
1603931	\$120.62	\$120.62
1603933	\$120.62	\$120.62
1603935	\$120.62	\$120.62
1603951	\$120.62	\$120.62
1603955	\$120.62	\$120.62
1603972	\$120.62	\$120.62
1603986	\$86.07	\$86.07
1603989	\$120.62	\$120.62
1604029	\$120.62	\$120.62
1604106	\$120.62	\$120.62
1635635	\$120.62	\$120.62
1635638	\$120.62	\$120.62
1635639	\$120.62	\$120.62
1635640	\$120.62	\$120.62
1635643	\$104.56	\$104.56
1635725	\$120.62	\$120.62
1635726	\$120.62	\$120.62
1635745	\$27.41	\$27.41
1635747	\$120.62	\$120.62
1636522	\$120.62	\$120.62
1637356	\$83.76	\$83.76
1637520	\$120.62	\$120.62
1637862	\$120.62	\$120.62
1637888	\$120.62	\$120.62
1638454	\$120.62	\$120.62
1638565	\$120.62	\$120.62
1638664	\$67.69	\$67.69
1638673	\$28.73	\$28.73
1638812	\$120.62	\$120.62
1638813	\$120.62	\$120.62
1638880	\$120.62	\$120.62
1638882	\$120.62	\$120.62

1639188	\$30.49	\$30.49
1639483	\$51.40	\$51.40
1639696	\$120.62	\$120.62
1639709	\$120.62	\$120.62
1639715	\$120.62	\$120.62
1639969	\$120.62	\$120.62
1640333	\$77.15	\$77.15
1640347	\$120.62	\$120.62
1640393	\$120.62	\$120.62
1640402	\$120.62	\$120.62
1640413	\$120.62	\$120.62
1640420	\$120.62	\$120.62
1640427	\$120.62	\$120.62
1640574	\$120.62	\$120.62
1640577	\$120.62	\$120.62
1640582	\$120.62	\$120.62
1640587	\$120.62	\$120.62
1640589	\$120.62	\$120.62
1640594	\$120.62	\$120.62
1640645	\$30.38	\$30.38
1640715	\$120.62	\$120.62
1641038	\$120.62	\$120.62
1641055	\$120.62	\$120.62
1641101	\$120.62	\$120.62
1641162	\$120.62	\$120.62
1641233	\$120.62	\$120.62
1641252	\$120.62	\$120.62
1641256	\$120.62	\$120.62
1641337	\$120.62	\$120.62
1641384	\$120.62	\$120.62
1641595	\$120.62	\$120.62
1641643	\$120.62	\$120.62
1641644	\$120.62	\$120.62
1641684	\$34.45	\$34.45
1641697	\$19.04	\$19.04
1641713	\$120.62	\$120.62
1641731	\$120.62	\$120.62
1641743	\$120.62	\$120.62
1641915	\$51.07	\$51.07
1641916	\$120.62	\$120.62
1642025	\$85.63	\$85.63
1642082	\$120.62	\$120.62
1642215	\$16.73	\$16.73
1642216	\$120.62	\$120.62
1642346	\$120.62	\$120.62
1643647	\$120.62	\$120.62
1643657	\$10.00	\$10.00

1643665	\$120.62	\$120.62
1643745	\$120.62	\$120.62
1644708	\$120.62	\$120.62
1644716	\$120.62	\$120.62
1644719	\$120.62	\$120.62
1644720	\$120.62	\$120.62
1644896	\$120.62	\$120.62
1645125	\$120.62	\$120.62
1645651	\$57.78	\$57.78
1645655	\$46.34	\$46.34
1646092	\$120.62	\$120.62
1646094	\$120.62	\$120.62
1646607	\$120.62	\$120.62
1646763	\$120.62	\$120.62
1646897	\$120.62	\$120.62
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1647321	\$120.62	\$120.62
1647322	\$120.62	\$120.62
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1647436	\$120.62	\$120.62
1647617	\$120.62	\$120.62
1647619	\$112.15	\$112.15
1647721	\$120.62	\$120.62
1647722	\$120.62	\$120.62
1647752	\$120.62	\$120.62
1647765	\$34.45	\$34.45
1647780	\$51.84	\$51.84
1647948	\$45.90	\$45.90
1647985	\$120.62	\$120.62
1648185	\$120.62	\$120.62
1648326	\$120.62	\$120.62
1648591	\$120.62	\$120.62
1649078	\$120.62	\$120.62
1649567	\$120.62	\$120.62
1649770	\$120.62	\$120.62
1649962	\$120.62	\$120.62
1649970	\$120.62	\$120.62
1649974	\$50.76	\$50.75
1649994	\$120.62	\$120.62
1650068	\$30.60	\$30.60
1650553	\$58.11	\$58.11
1651272	\$70.22	\$70.22
1651393	\$120.62	\$120.62
1651535	\$12.66	\$12.66
1651757	\$120.62	\$120.62
1651760	\$120.62	\$120.62

1651766	\$120.62	\$120.62
1651768	\$120.62	\$120.62
1652791	\$37.09	\$37.09
1652836	\$120.62	\$120.62
1653027	\$120.62	\$120.62
1653041	\$80.34	\$80.34
1653078	\$120.62	\$120.62
1653080	\$120.62	\$120.62
1653223	\$120.62	\$120.62
1653311	\$120.62	\$120.62
1653325	\$120.62	\$120.62
1653328	\$120.62	\$120.62
1653469	\$120.62	\$120.62
1653968	\$120.62	\$120.62
1654027	\$120.62	\$120.62
1655430	\$120.62	\$120.62
1655859	\$13.21	\$13.21
1655863	\$120.62	\$120.62
1655947	\$120.62	\$120.62
1656099	\$120.62	\$120.62
1656143	\$120.62	\$120.62
1656261	\$43.81	\$43.81
1658275	\$120.62	\$120.62
1658626	\$120.62	\$120.62
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1662544	\$120.62	\$120.62
1662553	\$120.62	\$120.62
1662555	\$120.62	\$120.62
1663335	\$120.62	\$120.62
1663617	\$120.62	\$120.62
10059223	\$27.74	\$27.74
10059227	\$80.89	\$80.89
10059230	\$120.62	\$120.62
10059231	\$111.71	\$111.71
10059274	\$120.62	\$120.62
10059279	\$120.62	\$120.62
10060160	\$120.62	\$120.62
10065874	\$120.62	\$120.62
10065875	\$83.43	\$83.43
10074326	\$120.62	\$120.62
10075156	\$120.62	\$120.62
10076147	\$58.55	\$58.55
10076150	\$34.12	\$34.12
10076152	\$120.62	\$120.62
10076155	\$120.62	\$120.62

10076738	\$120.62	\$120.62
10082912	\$51.40	\$51.40
10082947	\$51.40	\$51.40
10083575	\$120.62	\$120.62
10083580	\$120.62	\$120.62
10083595	\$120.62	\$120.62
10108384	\$120.62	\$120.62
10118926	\$120.62	\$120.62
10119132	\$120.62	\$120.62
10119133	\$120.62	\$120.62
10120170	\$98.83	\$98.83
10141762	\$34.89	\$34.89
10141763	\$120.62	\$120.62
10141899	\$120.62	\$120.62
10141918	\$120.62	\$120.62
10141929	\$120.62	\$120.62
10141943	\$120.62	\$120.62
10141962	\$120.62	\$120.62
10141967	\$85.74	\$85.74
10141972	\$120.62	\$120.62
10141973	\$40.28	\$40.28
10193302	\$120.62	\$120.62
10199135	\$120.62	\$120.62
10211170	\$39.07	\$39.07
10211172	\$14.97	\$14.97
10218031	\$120.62	\$120.62
10218033	\$120.62	\$120.62
10218036	\$18.71	\$18.71
10218037	\$120.62	\$120.62
10218053	\$120.62	\$120.62
10218057	\$120.62	\$120.62
10218060	\$120.62	\$120.62
10218067	\$13.43	\$13.43
10218097	\$120.62	\$120.62
10219683	\$120.62	\$120.62
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10260505	\$120.62	\$120.62
10260510	\$120.62	\$120.62
10260513	\$120.62	\$120.62

10261127	\$120.62	\$120.62
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10268894	\$120.62	\$120.62
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10278020	\$120.62	\$120.62
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10278066	\$120.62	\$120.62
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10289898	\$93.66	\$93.66
10290125	\$10.00	\$10.00
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10292036	\$120.62	\$120.62
10292045	\$120.62	\$120.62
10293252	\$109.07	\$109.07
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10299652	\$120.62	\$120.62
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10299671	\$120.62	\$120.62
10299672	\$120.62	\$120.62
10300160	\$50.63	\$50.63
10300421	\$68.13	\$68.13

10300697	\$120.62	\$120.62
10300751	\$120.62	\$120.62
10300756	\$115.12	\$115.12
10301064	\$120.62	\$120.62
10301067	\$120.62	\$120.62
10301070	\$120.62	\$120.62
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10303098	\$120.62	\$120.62
10303101	\$120.62	\$120.62
10303113	\$108.41	\$108.41
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10303122	\$84.86	\$84.86
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10303390	\$120.62	\$120.62
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10303394	\$120.62	\$120.62
10304187	\$120.62	\$120.62
10304189	\$120.62	\$120.62
10304191	\$58.55	\$58.55
10307372	\$120.62	\$120.62
10307395	\$120.62	\$120.62
10308504	\$120.62	\$120.62
10310659	\$120.62	\$120.62
10310701	\$83.76	\$83.76
10311150	\$107.86	\$107.86
10312491	\$120.62	\$120.62
10313709	\$120.62	\$120.62
10316359	\$70.88	\$70.88
10316364	\$120.62	\$120.62
10316372	\$120.62	\$120.62
10316382	\$120.62	\$120.62
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10319149	\$120.62	\$120.62
10323554	\$120.62	\$120.62
10323571	\$37.53	\$37.53
10324371	\$120.62	\$120.62
10332287	\$41.93	\$41.93
10333905	\$120.62	\$120.62
10371506	\$19.70	\$19.70
10382871	\$111.27	\$111.27
10405639	\$120.62	\$120.62
10405644	\$120.62	\$120.62
10406106	\$120.62	\$120.62
10406111	\$120.62	\$120.62

10406120	\$17.83	\$17.83
10406136	\$120.62	\$120.62
10406137	\$38.52	\$38.52
10406149	\$120.62	\$120.62
10406943	\$120.62	\$120.62
10419826	\$120.62	\$120.62
10424066	\$72.20	\$72.20
10431336	\$69.01	\$69.01
10431337	\$120.62	\$120.62
10432704	\$120.62	\$120.62
10433001	\$120.62	\$120.62
10433014	\$120.62	\$120.62
10433315	\$120.62	\$120.62
10433316	\$120.62	\$120.62
10434318	\$120.62	\$120.62
10434366	\$120.62	\$120.62
10434368	\$120.62	\$120.62
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10440684	\$120.62	\$120.62
10440685	\$120.62	\$120.62
10440697	\$120.62	\$120.62
10452139	\$120.62	\$120.62
10455232	\$120.62	\$120.62
10455243	\$120.62	\$120.62
10455252	\$120.62	\$120.62
10455605	\$120.62	\$120.62
10456092	\$120.62	\$120.62
10456094	\$120.62	\$120.62
10456103	\$120.62	\$120.62
10456105	\$108.41	\$108.41
10456107	\$120.62	\$120.62
10458953	\$120.62	\$120.62
10458954	\$120.62	\$120.62
10462351	\$120.62	\$120.62
10462400	\$120.62	\$120.62
10463460	\$18.60	\$18.60
10468625	\$120.62	\$120.62
10468636	\$10.00	\$10.00
10468639	\$120.62	\$120.62
10472641	\$10.00	\$10.00
10472651	\$120.62	\$120.62
10472664	\$120.62	\$120.62
10479437	\$120.62	\$120.62
10479440	\$116.33	\$116.33
10479442	\$120.62	\$120.62
10479447	\$92.45	\$92.45

10479669	\$120.62	\$120.62
10479910	\$120.62	\$120.62
10480157	\$27.96	\$27.96
10487643	\$120.62	\$120.62
10487652	\$120.62	\$120.62
10487816	\$120.62	\$120.62
10488880	\$98.17	\$98.17
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10500312	\$120.62	\$120.62
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10538638	\$53.60	\$53.60
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10567164	\$120.62	\$120.62
10567172	\$64.83	\$64.83
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10567449	\$120.62	\$120.62
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10567905	\$120.62	\$120.62
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10580450	\$91.13	\$91.13
10580607	\$120.62	\$120.62

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10590449	\$120.62	\$120.62
10590479	\$110.94	\$110.94
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10590516	\$120.62	\$120.62
10628046	\$113.80	\$113.80
10659398	\$41.16	\$41.16
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10659453	\$78.58	\$78.58
10659676	\$34.78	\$34.78
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10802947	\$98.06	\$98.06
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10802995	\$40.28	\$40.28
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10900907	\$74.29	\$74.29
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10916935	\$50.74	\$50.74
10918475	\$15.52	\$15.52
10919298	\$37.97	\$37.97
10920326	\$35.44	\$35.44
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11007246	\$16.84	\$16.84
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11008103	\$28.07	\$28.07
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11061556	\$10.00	\$10.00
11061761	\$10.00	\$10.00
11061828	\$10.00	\$10.00
11062034	\$10.00	\$10.00
Aaron Mustafa	\$10.00	\$10.00
Denise Clark-Griffin	\$10.00	\$10.00
Total =	\$74,576.94	\$74,576.93

EXHIBIT 1

GENERAL RELEASE PURSUANT TO SETTLEMENT OF LITIGATION

This General Release (“Release”) is being agreed to as of _____, 2020, by Arnetta Duncan-Watts (“Duncan-Watts”).

1. Release of Claims. In consideration of the entry into the Joint Stipulation of Settlement and Release (“Settlement”) in the case of *Duncan-Watts v. Nestlé USA, Inc.*, Case No. 1:19-cv-01437, before the United States District Court for the Northern District of Ohio, (the “Action”), which includes in paragraph 29 of the Settlement a Class Representative payment to Duncan-Watts of \$5,000.00, which is in addition to what Duncan-Watts is entitled under Appendix 1 of the Settlement, Duncan-Watts does hereby forever release and discharge Nestlé USA, Inc. and Nestlé Prepared Foods Company and all affiliated parties and entities, including past and present affiliates, parents, subsidiaries, predecessors, owners, members, successors, shareholders, divisions, and each of these entities’ past and present directors, officers, employees, partners, agents, shareholders, trustees, administrators, fiduciaries, attorneys, representatives and assigns, vendors and third-party staffing providers (hereinafter collectively referred to as “Nestlé USA” or the “Released Parties”) from any and all claims, demands, actions, causes of action, or suits at law or in equity, of whatsoever kind or nature (including for attorneys’ fees, interest and costs), whether known or unknown, except those that cannot be waived by law, up to the date of this Release, which Duncan-Watts or her heirs, family members, or personal representatives may now have or may now or hereafter assert against the Released Parties. This release includes but is not limited to (a) all claims related in any way to treatment of Duncan-Watts by employees of Nestlé USA; (b) any and all claims for unpaid wages, unpaid overtime compensation, or liquidated damages or punitive damages pursuant to the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201 et seq. and/or Ohio Minimum Fair Wage Standards

Act; all claims relating to the alleged “off-the-clock” work; interest on the previously-described overtime or other unpaid wages; (c) any claim for intentional infliction of emotional distress; (d) all claims of whatsoever nature relating in any way to Duncan-Watts’ employment, to emotional or other injuries Duncan-Watts may claim as a result of her employment at Nestlé USA; (e) all claims asserted by Duncan-Watts in the Action, including in the Complaint and Amended Complaint; (f) all claims premised upon the Ohio Revised Code, Chapter 4111 and (including but not limited to § 4111.03) and Chapter 4112 (including but not limited to § 4112.02, 4112.14 and 4112.99); (g) all claims under the Age Discrimination in Employment Act, 29 U.S.C. §§ 621 *et seq.*; (h) all claims under Title VII of the Civil Rights Act, as amended; (i) all claims under the Americans with Disabilities Act of 1990 (“ADA”); 42 U.S.C. §§ 12101 *et seq.*; (j) all claims under the Family Medical Leave Act (“FMLA”); (k) all claims under the Employee Retirement Income Security Act (“ERISA”), 29 U.S.C. §§ 1001 *et seq.* (including but not limited to claims for retiree medical coverage); (l) all intentional tort claims; and (m) all claims under any other applicable federal, state or local law, ordinance, regulation, or order.

This Release does not prohibit Duncan-Watts from filing a charge of discrimination with any governmental agency relating to her former employment, but does preclude her from receiving any monetary or economic benefit as a result of any action the agency may take.

2. Monetary Payment. Duncan-Watts understands that the \$5,000.00 payment referenced in paragraph 1 of this Release (which is set forth in paragraph 29 of the Settlement) will be made pursuant to paragraph 29 of the Settlement and subject to approval from the Court and is being provided in exchange for Duncan-Watts entering into this Release and fulfilling her other obligations as Representative Plaintiff as set forth in the Settlement. This payment will be issued by the Third-Party Administrator after the Effective Date of the Settlement within the time

period set forth in paragraph 32 of the Settlement, provided Duncan-Watts timely signs the Release, does not revoke the Release, and provides Nestlé USA reasonably requested tax forms. The Third-Party Administrator will issue a Form 1099-MISC., in Box 3, for the payment. No taxes will be withheld from this non-wage income. In the event that it is subsequently determined by the IRS or any other applicable taxing authority that you owe any additional taxes with respect to this payment or the Settlement, it is expressly agreed that the determination of any tax liability is between you and the taxing authority, and that Nestlé USA will not be responsible for the payment of such taxes, including any interest and penalties

3. Covenant. Duncan-Watts hereby covenants not to sue (or be a party to any other actions or participate as a member in any class actions against) the Released Parties with respect to any matters described in paragraph 1, above.

4. No Admission. Duncan-Watts understands and agrees that the payment of the consideration set forth in Paragraphs 1 and 2 and the entry into this Release do not constitute an admission by any party of any of the allegations in the Action or of any wrongdoing at all. Nestlé USA expressly denies Duncan-Watts's allegations and has agreed to the Settlement solely to avoid the burden of protracted litigation.

5. Consultation with Professionals. Duncan-Watts understands that she has the option to consider and reflect upon this Release before its signing and has the right to consult with any professionals, such as accountants or lawyers, concerning its terms. Nestlé USA advises Duncan-Watts to consult with an attorney prior to executing this Release. Duncan-Watts acknowledges that she has, in fact, consulted with an attorney prior to executing this Release.

6. Period for Review and Consideration of Release. Duncan-Watts understands that she has been given a period of 21 days to review and consider this Release before signing it.

Duncan-Watts further understands that she may use as much of this 21-day period as she wishes prior to signing. Duncan-Watts agrees that any counter-offers, revisions or amendments made to the terms of this Release prior to signing, whether material or immaterial, do not restart the 21 days to consider this Release.

7. Right to Revoke Agreement. Duncan-Watts understands that she may revoke this Release within 7 days of signing it. Revocation must be made by delivering a written notice of revocation to:

Gregory V. Mersol
Baker & Hostetler LLP
Key Tower
127 Public Square, Suite 2000
Cleveland, OH 44114-1214
216-696-0740 (facsimile)
gmersol@bakerlaw.com (email)

For any such revocation to be effective, written notice must be received no later than the close of business on the seventh day after Duncan-Watts signs this Release. Duncan-Watts understands that if she revokes this Release, it shall not be effective or enforceable and Duncan-Watts will not receive any of the compensation or other benefits described in paragraphs 1 and 2 of this Release.

8. No Re-employment. Duncan-Watts agrees that she will not seek re-employment with Nestlé USA. If Duncan-Watts does seek employment with Nestlé USA, either directly or via a third-party staffing agency, she agrees that the consideration given herein will be a legitimate, non-discriminatory and non-retaliatory business justification for the denial of her application and refusal to hire her.

9. Binding Effect. This Release shall be binding upon and shall inure to the benefit of the Parties hereto and their respective heirs, personal representatives, successors and assigns.

10. Entire Agreement. Nothing in this Release is intended to limit Duncan-Watts's duties or obligations as set forth in the Agreement. This Release and the Agreement constitute the complete understanding between the Parties and supersede any and all prior or contemporaneous agreements, promises or inducements, no matter its or their form, concerning its subject matter. No promises or agreements made subsequent to the execution of this Release by these parties shall be binding unless reduced to writing and signed by the Parties.

11. Ohio Law. This Release and the rights and obligations of each of the Parties hereunder shall be governed by, construed and interpreted in accordance with the laws of the State of Ohio.

I HAVE CAREFULLY READ THIS RELEASE. I HAVE BEEN GIVEN A REASONABLE AMOUNT OF TIME WITHIN WHICH TO CONSIDER THIS RELEASE. I HAVE CONSULTED WITH LEGAL COUNSEL REGARDING THIS RELEASE AND UNDERSTAND ITS CONTENTS. I AM SIGNING IT AS OUR FREE, KNOWING, AND VOLUNTARY ACT AND DEED, BEING FULLY AWARE OF ITS FINAL AND BINDING EFFECT.

IN WITNESS WHEREOF, Duncan-Watts, intending to be legally bound, has executed this Release on the date listed below.

Arnetta Duncan-Watts

Dated: _____

EXHIBIT 2

___, 2020

NOTICE OF SETTLEMENT OF LAWSUIT

(with attached Consent and Release Form)

TO: All current and former overtime eligible employees of Nestlé USA, Inc. or Nestlé Prepared Foods Company (“Defendants” or “Nestlé USA”) who worked at Nestlé USA’s Solon, Ohio facility and were required to don and doff sanitary clothing and other protective equipment at any time from April 30, 2017 to April 30, 2020.

FROM: Judge Patricia A. Gaughan, U.S. District Court for the Northern District of Ohio, Case No. 1:19-cv-011437-PAG (the “Court”)

This Notice informs you of the settlement of a wage-and-hour lawsuit filed in the United States District Court for the Northern District of Ohio titled *Duncan-Watts v. Nestlé USA, Inc.*, Case No. 1:19-cv-01437 (N.D. Ohio) (the “Action”) brought by Arnetta Duncan-Watts on behalf of all other similarly-situated current and former overtime eligible employees of Defendants’ Solon, Ohio facility who were required to don and doff sanitary clothing and other protective equipment at any time from April 30, 2017 to April 30, 2020 (“Eligible Settlement Participants”).

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

PLEASE READ THIS NOTICE CAREFULLY. IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHTS.

1. Why am I receiving this notice?

The Settlement announced by this Notice makes individual settlement payments available to Eligible Settlement Participants.

On ____, the Court preliminary approved the Settlement of the Action (the “Settlement”). The Court’s order granted final approval of certain settlement payments to Eligible Settlement Participants who timely submit the attached Consent and Release Form.

The Court’s order also preliminarily certified a class action for settlement purposes only under Rule 23(b)(3) of the Federal Rules of Civil Procedures and preliminarily approved additional settlement payments to Eligible Settlement Participants.

You received this notice because Nestlé USA’s records indicate that you are eligible to participate in the Settlement.

2. What is the Action about?

On June 21, 2019, a lawsuit seeking payment for additional wages was filed against Nestlé USA by Arnetta Duncan-Watts, who worked for Nestlé USA in an overtime eligible role in Nestlé USA’s Solon, Ohio facility and was allegedly required to put on (“don”) and take off (“doff”) sanitary clothing and other personal protective equipment as part of her job. The Action alleges that Nestlé USA unlawfully failed to pay Plaintiff and other Eligible Settlement Participants for all hours worked, including but not limited to overtime for alleged “off the clock” work in the form of “donning and doffing” time and related travel time while working at Nestlé USA’s Solon, Ohio facility from April 30, 2017 to April 30, 2020 (the “Class Period”). The Action asserts claims on behalf of the Eligible Settlement Participants under the federal Fair Labor Standards Act as a collective action as well as similar state law claims as a class action on behalf of the Rule 23 Class Members.

Nestlé USA contends that its donning and doffing policy is legally compliant and was previously approved by the Department of Labor. Nestlé USA also contends that Eligible Settlement Participants were able to don much of the required personal protective equipment outside of work and were required to be clocked in while they donned and doffed any other required clothing or equipment. Nestlé USA also contends that any alleged donning and doffing time and associated travel time was *de minimis*.

3. What are my options under the proposed Settlement and how much will I receive?

You have several options available to you:

<p>Do Nothing And Receive An Individual Wage Payment</p>	<p>By doing nothing, you will receive an Individual Wage Payment if the proposed Settlement is finally approved of approximately [REDACTED], less applicable withholdings, in return for your release of claims as summarized in Section 11 below.</p>
<p>Submit A Timely Consent And Release Form No Later Than [REDACTED] And Receive An Additional Individual Liquidated Damages Payment</p>	<p>If you submit a timely Consent and Release Form (a copy of which is attached to this notice) and the Settlement becomes effective, you will receive an Individual Liquidated Damages Payment of approximately [REDACTED] in addition to your Individual Wage Payment, in return for your release of claims as summarized in Section 11 below. If you submit a timely Consent and Release Form, you may also receive as part of your Individual Liquidated Damages Payment a proportional share of any liquidated damages allocated to Eligible Settlement Participants who do not submit a timely Consent and Release Form as additional liquidated and other available non-wage relief under the FLSA and Ohio law.</p>
<p>Ask To Be Excluded (Opt Out) No Later Than [REDACTED] And Receive No Recovery From the Settlement</p>	<p>To exclude yourself entirely from the Settlement, you must submit a “Request for Exclusion” in writing to the Third-Party Administrator at its address listed below, with a postmark date of no later than [REDACTED] and not submit a Consent and Release Form. If you exclude yourself, you will not participate in these proceedings, nor will you receive any recovery from the Settlement. You will also retain the right to assert any claims you may have against Nestlé USA for which the deadline to file such claims has not already expired.</p>
<p>Object No Later Than [REDACTED]</p>	<p>Object to the terms of this proposed Settlement. You cannot choose this option if you ask to be excluded from the proposed Settlement. Your written notice of intent to object must be postmarked by [REDACTED]</p>

Your options are explained further in this notice.

You are automatically a participant in this Settlement unless you explicitly and timely exclude yourself from this Settlement; however, you will not receive your additional Individual Liquidated Damages Payment unless you timely sign and return the Consent and Release Form, as described below.

4. Why did the Action settle?

The parties in this action disagree as to the probable outcome of the action with respect to liability and damages if it were not settled. Although she believes her claims have merit, Plaintiff recognizes that litigating is a risky proposition, and that she may not have prevailed on some or all of her claims. Likewise, while Nestlé USA is confident that it has strong defenses to Plaintiff’s claims, it recognizes the risks, distractions, and costs involved with litigation. The Settlement is not an admission of wrongdoing. The parties attended a mediation conference and, recognizing the risks and costs inherent in litigation, reached the proposed Settlement of the claims asserted in the Action. This proposed Settlement is the result of good faith, arm’s-length negotiations between the parties, through their respective attorneys. Both sides agree that this Settlement is fair and reasonable under the circumstances, and in the best interests of the Plaintiff and the Eligible Settlement Participants.

5. Has the Court decided who is right?

No. The Court has made no decision regarding the merits of Plaintiff's allegations or Nestlé USA's defenses.

6. What are the terms of the proposed settlement?

The Total Eligible Settlement Amount is \$254,750.00. From this amount, \$149,153.87 will be available for payments to Eligible Settlement Participants. Of this:

- \$74,576.94 will be divided into individual wage payments ("Individual Wage Payments") for Eligible Settlement Participants. Individual Wage Payments still need final approval by the Court. You are eligible for an Individual Wage Payment if you do not opt out of the Settlement as described in No. 13 below.
- \$74,576.93 will be divided into individual liquidated damages payments ("Individual Liquidated Damages Payments") for Eligible Settlement Participants. Individual Liquidated Damages Payments have received final approval by the Court. You are eligible for an Individual Liquidated Damages Payment if you return the attached consent and Release Form.

Additionally, the following amounts will be deducted from the Total Eligible Settlement Amount: a class Representative Payment to Arnetta Duncan-Watts for her role as class representative and for signing a general release of all her claims, in the amount of \$5,000.00; attorney's fees in the amount of \$84,916.67; costs of the suit in the amount of \$7,040.35; and employer's share of taxes in the approximate amount of \$8,639.11.

7. What do I have to do to join the Action and receive an Individual Wage Payment?

If you wish to receive an Individual Wage Payment under the terms of the Settlement, you do not have to do anything. However, it is important that if your address has changed, you give your current mailing address to the Settlement Administrator in order to ensure you receive your share of the Settlement proceeds if the proposed Settlement is finally approved. You will be covered by the release summarized in Section 11, below.

8. What do I have to do to receive the additional payment called Individual Liquidated Damages Payment?

To receive an Individual Liquidated Damages Payment, you must complete and return the attached Form entitled "Consent and Release Form" no later than __, 2020. You can return the Consent and Release Form by: **[ENTER procedure for Third-Party Administrator]**

It is important that if your address has changed or changes prior to receiving your settlement payment, you give your current mailing address to the Third-Party Administrator in order to ensure you receive your share of the Settlement proceeds.

9. When will I receive my settlement payments?

Settlement payments will be made within approximately 60 days after the Court finally approves the Rule 23 Settlement and the settlement becomes final and effective. We estimate that process will take approximately six months, but it could be earlier or later depending on the Court's schedule and the outcome of that approval process.

Please note that you must cash your settlement payment(s) within 90 days from issuance. If you do not the checks will become void, will not be reissued, and you will still be bound by the Release summarized in Section 11 below.

10. How were my settlement payments calculated?

Class Counsel calculated each Eligible Settlement Participants' share of the Total Eligible Settlement Amount (minus Class Representative Payment, Class Counsel's attorney's fees and expenses and the employer's share of payroll taxes) by considering each Eligible Settlement Participants' number of work weeks in a relevant role during the Class Period. All Eligible Settlement Participants were allocated a minimum of \$20.00 of the Total Eligible Settlement Amount.

11. What rights am I giving up?

The claims you will release against Nestlé USA and all affiliated parties and entities, including past and present affiliates, parents, subsidiaries, predecessors, owners, members, successors, shareholders, divisions, and each of these entities' past and present directors, officers, employees, partners, agents, shareholders, trustees, administrators, fiduciaries, attorneys, representatives and assigns, vendors and third-party staffing providers are as follows:

All federal, state and local wage-and-hour claims, rights, demands, liabilities and causes of action asserted in the Action, the Complaint, the Amended Complaint, and all other claims pertaining to Defendants' alleged non-payment of unreported or unpaid wages, including but not limited to wages for time allegedly spent donning or doffing and associated travel and including but not limited to claims for unpaid wages, unpaid overtime compensation, liquidated damages, interest, attorney's fees, and expenses and including but not limited to claims under Fair Labor Standards Act and the Ohio Minimum Fair Wage Standards Act up to the date the Court enters final approval of the Rule 23 Settlement and the Settlement becomes final and effective.

12. How will my settlement payments be treated for tax purposes?

Your Individual Wage Payment will be treated as 100% payment for wages and 100% shall be reported as wages on an IRS Form W-2 issued by the Third-Party Administrator (with applicable tax withholdings).

Your Individual Liquidated Damages Payment will be treated as 100% for liquidated damages and, if required, 100% shall be reported to the IRS by the Third-Party Administrator as non-wage income on a Form 1099-MISC. No taxes will be withheld from the non-wage income. However, you may still owe taxes with respect to that amount.

If you have any questions regarding the tax treatment of any payments pursuant to the Settlement, you should consult your own tax advisor. Neither Nestlé USA nor Counsel for the Parties make any representations as to the taxability or non-taxability of any payments pursuant to this Settlement, and nothing in this Notice should be construed as tax advice by or on behalf of Nestlé USA.

13. What if I do not wish to be part of the proposed Settlement?

To exclude yourself entirely from the Settlement you must:

1. Not return a timely Consent and Release; and
2. Sign and mail a Request for Exclusion letter by _____ to the Third-Party Administrator as follows:

[ENTER Third-Party Administrator information]

If your Request for Exclusion is postmarked after _____, it will be rejected and you will be a Rule 23 Class Member and be bound by the Settlement terms.

To be valid, any Request for Exclusion must state the case name and number, contain your name, address, telephone number, and email address (if applicable) and be personally signed by you.

14. What if I have an objection?

Any objection to the proposed Rule 23 Settlement must be in writing and state the case name and number; specify the basis for your objection; provide your name, address, telephone number, and email address; and indicate whether you intend to appear at the Final Approval Hearing, either with or without counsel. In addition, you must personally sign the objection and, if you are represented by counsel, then your counsel must sign as well. The objection must be mailed to the Third-Party Administrator (identified above in Question 13) by _____. **PLEASE DO NOT TELEPHONE THE COURT.**

15. Do I need a lawyer?

You do not need to hire your own lawyer, because Class Counsel is working on your behalf and are being paid from the Total Eligible Settlement Amount. However, you have the right, but are not required to, enter an appearance in this Action through another attorney at your expense. The below are Class Counsel in this Action:

Hans A. Nilges
Jeffrey J. Moyle
Nilges Draher LLC
7266 Portage Street NW
Suite D
Massillon, OH 44646
Phone: 234-401-9089
jmoyle@ohlaborlaw.com
hans@ohlaborlaw.com

16. When and where will the Court decide whether to approve the settlement?

The Court has scheduled a Fairness Hearing at _____ on _____ [INSERT DATE AND TIME] at the United States District Court for the Northern District of Ohio, Carl B. Stokes United States Court House, 801 West Superior Avenue, Courtroom 19B, Cleveland, Ohio 44113. The hearing may be moved to a different date or time without notice, so if you plan to attend, you should call or email Class Counsel for current information. At this hearing, the Court will consider whether the Rule 23 Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court may listen to people who have asked to speak about an objection (*see* Objecting to the Settlement). At or after the hearing, the Court will decide whether to approve the Rule 23 Settlement.

Class Counsel will answer any questions that the Court may have. But you are welcome to come 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 filed and mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend.

You, or an attorney you hire at your own expense, may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying that it is your “Notice of Intent to Appear in *Duncan-Watts v. Nestle USA, Inc.*, Case No. 1:19-cv-01437 (N.D. Ohio).” Be sure to include your name, address, telephone number, your signature, any documents you will seek to introduce and witnesses who you want to testify at the hearing. Your Notice of Intent to Appear must be postmarked no later than _____, 2020 [**20 days prior to date of fairness hearing**], and be sent to the Clerk of Court, Northern District of Ohio, Carl B. Stokes U.S. Court House, 801 West Superior Avenue, Cleveland, Ohio 44113.

17. How can I receive more information?

This Notice is a summary of the basic terms of the proposed Settlement. The precise terms and conditions of the Proposed Settlement is on file with the Court. For further information, you may contact Class Counsel (listed above) or call the Third-Party Administrator at the telephone number designated for this Action: _____.

PLEASE DO NOT CONTACT THE COURT

CONSENT AND RELEASE FORM

By signing and returning this form, I consent to opt into the lawsuit, *Duncan-Watts v. Nestle USA, Inc.*, Case No. 1:19-cv-01437 (N.D. Ohio) (the "Action") pending in the U.S. District Court for the Northern District of Ohio.

I understand that I will receive an Individual Liquidated Damages Payment of approximately [REDACTED], plus a proportional share of any liquidated damages allocated to Eligible Settlement Participants who do not submit a timely Consent and Release Form. The Individual Liquidated Damages Payment will be treated as 100% for payment of liquidated damages and, if required, the Third-Party Administrator will issue a Form 1099-MISC. for the payment. No taxes will be withheld from this non-wage income. However, I may still owe taxes with respect to that amount. In the event that it is subsequently determined by the IRS or any other applicable taxing authority that I owe any additional taxes with respect to any settlement payment I receive, it is expressly agreed that the determination of any tax liability is between me and the taxing authority, and that Nestlé USA will not be responsible for the payment of such taxes, including any interest and penalties.

I agree to be represented by the firm of Nilges Draher LLC, and to be bound by the settlement. I consent to the filing of this form, and the dismissal of the Action and my claims by and through Representative Plaintiff. I designate Representative Plaintiff and the firm of Nilges Draher LLC to execute all appropriate documents to effectuate my payment and the settlement of the Action.

I hereby release Nestlé USA and all affiliated parties and entities, including past and present affiliates, parents, subsidiaries, predecessors, owners, members, successors, shareholders, divisions, and each of these entities' past and present directors, officers, employees, partners, agents, shareholders, trustees, administrators, fiduciaries, attorneys, representatives and assigns, vendors and third-party staffing providers from all federal, state and local wage-and-hour claims, rights, demands, liabilities and causes of action asserted in the Action, the Complaint and Amended Complaint and all other claims pertaining to Nestlé USA's alleged non-payment of unreported time or "off-the-clock" work, including but not limited to wages for time allegedly spent donning or doffing and associated travel and including but not limited to claims for unpaid wages, unpaid overtime compensation, liquidated damages, interest, attorney's fees, and expenses and including but not limited to claims under Fair Labor Standards Act and the Ohio Minimum Fair Wage Standards Act up to the date the District Court enters final approval of the Rule 23 Settlement and the Settlement becomes final and effective.

I have carefully read and fully understand all items in this agreement and am voluntarily signing it. I understand that if I have any questions, I know I have the right to discuss this agreement with the Nilges Draher LLC. I also understand that any issues relating to this agreement will be addressed under the laws of the State of Ohio.

PLEASE READ AND CONSIDER THIS AGREEMENT CAREFULLY BEFORE EXECUTING THIS AGREEMENT. THIS AGREEMENT INCLUDES A RELEASE OF ALL WAGE AND HOUR CLAIMS THAT WERE ASSERTED IN THE ACTION.

{First Name Last Name}
{Address}
{City, State Zip}

Signature: _____

Date: _____

Please make any address corrections:

Street Address: _____

Phone (optional): _____

City, State, Zip: _____

Email (optional): _____

Sign and return to:

[Contact Information For Third-Party Administrator]

Must be Signed and postmarked, faxed, or emailed by [REDACTED], 2020