

**Early Resolution Conciliation Agreement**  
**Between**  
**U.S. Department of Labor**  
**Office of Federal Contract Compliance Programs**  
**and**  
**US Foods, Inc.**

**OFCCP Case Nos. R00302209, R00304509, R00304096 , R00304510, and R00304511**

**I. Preliminary Statement**

The Office of Federal Contract Compliance Programs (OFCCP) began an evaluation of the US Foods, Inc. (US Foods) establishments located at 1051 Amboy Avenue, Perth Amboy, New Jersey; 300 Berkeley Drive, Swedesboro, New Jersey; 2255 High Hill Rd., Bridgeport, New Jersey; 755 Pierce Road, Albany, New York; and 237 Otrobando Avenue, Yantic, Connecticut (hereinafter, Reviewed Establishments). OFCCP alleges that US Foods failed to comply with Executive Order 11246, as amended (E.O. 11246 or the Executive Order) and its respective implementing regulations at 41 Code of Federal Regulations (CFR) Chapter 60 at the company's Perth Amboy, Swedesboro, and Albany establishments. In the interest of resolving the allegations without engaging in further legal proceedings and in exchange for sufficient and valuable consideration described in this document, OFCCP and US Foods enter into this Conciliation Agreement (Agreement) and its attachments, and the parties agree to all the terms therein. The attachments to this Agreement are deemed incorporated into this Agreement.

**II. General Terms and Conditions**

1. In exchange for US Food's fulfillment of all its obligations in this Agreement, OFCCP will not institute administrative or judicial enforcement proceedings under E.O. 11246, based on the allegations described in more detail in Part III below. However, OFCCP retains the right to initiate legal proceedings to enforce this Agreement if US Foods violates any provision of this Agreement, as set forth in Paragraph 11, below. Nothing in this Agreement precludes OFCCP from initiating enforcement proceedings based on future compliance evaluations or complaint investigations.
2. OFCCP may review US Food's compliance with this Agreement. As part of this review, OFCCP may require written reports, inspect the premises, interview witnesses, and examine and copy documents. US Foods will permit access to its premises during normal business hours for these purposes and will provide OFCCP with all hard copy or electronic reports and documents it requests, including those specified in this Agreement.
3. Nothing in this Agreement relieves US Foods of its obligation to fully comply with the requirements of E.O. 11246, Section 503 of the Rehabilitation Act of 1973, as amended (Section 503), the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA), and their implementing regulations, or other applicable laws requiring nondiscrimination or equal employment opportunity through affirmative action.

4. US Foods and OFCCP agree that any release of claims required by this Agreement will only pertain to claims under E.O. 11246.
5. US Foods agrees that it will not retaliate against any potential or actual beneficiary of this Agreement or against any person who files a complaint, who has provided information or assistance, or who participates in any manner in any proceeding in this matter.
6. The parties understand the terms of this Agreement and enter into it voluntarily.
7. This Agreement, including its attachments, constitutes the entire Agreement and represents the complete and final understanding of the parties. This Agreement contains all of the terms binding the parties and it supersedes all prior written and oral negotiations and agreements. Any modifications or amendments to this Agreement must be agreed upon in writing and signed by all parties. If an administrative error is found, OFCCP will work in good faith with all parties to make the corrections.
8. This Agreement becomes effective on the day it is signed by the Regional Director of the Northeast Region (Effective Date).
9. If one or more provisions of this Agreement is deemed unlawful or unenforceable, the remaining provisions will remain in full force and effect.
10. This Agreement will expire sixty (60) days after US Foods submits its final progress report required in Part VII, below, unless OFCCP notifies US Foods in writing before the expiration date that US Foods has failed to fulfill all of its obligations under the Agreement. In this instance, the Agreement is automatically extended until the date that OFCCP determines that US Foods has met all of its obligations under the Agreement.
11. If US Foods violates this Agreement:
  - a. The procedures at 41 CFR § 60-1.34 will govern:
    - i. OFCCP will send US Foods a written notice stating the alleged violations and summarizing any supporting evidence.
    - ii. US Foods shall have fifteen (15) days from receipt of the notice to respond, except in those cases in which such a delay would result in irreparable injury to the employment rights of affected employees or applicants.
    - iii. If US Foods is unable to demonstrate that it has not violated the Agreement, or if OFCCP alleges irreparable injury, enforcement proceedings may be initiated immediately without issuing a show cause notice or proceeding through any other requirement.
    - iv. In the event of a breach of this Agreement by US Foods, OFCCP may elect to proceed to a hearing on the entire case and seek full make-whole relief, and not be limited to the terms agreed to in the Agreement.

- b. US Foods may be subject to the sanctions set forth in Section 209 of the Executive Order, and/or other appropriate relief for violating this Agreement.
- 12. This Agreement does not constitute an admission by US Foods of any violation of the Executive Order, nor has there been an adjudicated finding that US Foods violated the Executive Order.
- 13. OFCCP may seek enforcement of this Agreement itself and is not required to present proof of any underlying violations resolved by this Agreement.
- 14. The parties understand and agree that nothing in this Agreement is binding on other governmental departments or agencies other than the OFCCP.
- 15. Each party shall bear its own fees and expenses with respect to this matter.
- 16. This Agreement is limited to the facts of this case. Neither this Agreement, nor any part of the negotiations that occurred in connection with this Agreement, shall constitute admissible evidence with respect to any OFCCP policy, practice or position in any lawsuit, legal proceeding, administrative proceeding, compliance evaluation or audit, except for legal or administrative proceedings concerning the enforcement or interpretation of this specific Agreement.
- 17. All references to “days” in this Agreement, and in the Timeline included as Attachment D, are calendar days. If any deadline for an obligation scheduled to be performed under this Agreement falls on a weekend or a Federal holiday, that deadline will be extended to the next business day.

### **III. Discrimination Allegations**

#### **1. Alleged Sex Discrimination in Hiring for Positions in Job Group 7A (Warehouse)**

**Perth Amboy, NJ:** OFCCP alleges that US Foods discriminated against female applicants for positions in Job Group 7A (Warehouse) in violation of E.O. 11246 and its implementing regulations at 41 CFR § 60-1.4(a)(1). Specifically, OFCCP found statistically significant differences in the hiring rates of female applicants for positions in Job Group 7A (Warehouse) at US Foods’ Perth Amboy, NJ establishment when compared to male applicants during the January 1, 2019, through December 31, 2019 time period, resulting in a shortfall of sixteen (16) female offers.

**Swedesboro, NJ:** OFCCP alleges that US Foods discriminated against female applicants for positions in Job Group 7A (Warehouse) in violation of E.O. 11246 and its implementing regulations at 41 CFR § 60-1.4(a)(1). Specifically, OFCCP found statistically significant differences in the hiring rates of female applicants for positions in Job Group 7A (Warehouse) at US Foods’ Swedesboro, NJ establishment when compared to male applicants during the January 1, 2020, through June 30, 2021 time period, resulting in a shortfall of six (6) female offers.

**Albany, NY:** OFCCP alleges that US Foods discriminated against female applicants for positions in Job Group 7A (Warehouse) in violation of E.O. 11246 and its implementing regulations at 41 CFR § 60-1.4(a)(1). Specifically, OFCCP found statistically significant differences in the hiring rates of female applicants for positions in Job Group 7A (Warehouse) at US Foods' Albany, NY establishment when compared to male applicants during the January 1, 2020, through June 30, 2021 time period, resulting in a shortfall of five (5) female offers.

## **IV. Financial Remedy**

### **1. Settlement Fund**

- a. **Specific Settlement Fund Amounts.** US Foods agrees to pay \$429,599.96 in back pay and \$69,400.04 interest, for a total settlement amount of \$499,000, to resolve the alleged violations set forth above, as follows:
  - i. **Perth Amboy, NJ:** \$267,071.48 in back pay and \$43,144.26 in interest.
  - ii. **Swedesboro, NJ:** \$111,818.88 in back pay and \$18,063.86 in interest.
  - iii. **Albany, NY:** \$50,709.60 in back pay and \$8,191.92 in interest.

The settlement fund is a negotiated amount that represents restitution for estimated back pay and accrued interest. US Foods' share of taxes on the portion representing back pay (such as federal, state and/or local taxes and Federal Income Contributions Act (FICA)) is not part of the Settlement Fund. US Foods will be responsible for any banking account fees.

### **2. Allocation**

- a. **Total Amount to be Allocated.** The back pay and interest amount of the Settlement Fund will be distributed equally among the eligible individuals as explained in this section. Individual shares will include appropriate deductions for each individual's share of payroll deductions required by law on the portion representing back pay only, such as federal (FICA), state or local insurance premiums or taxes.
- b. **Affected Individuals Eligible to Receive Payments.** The Settlement Fund will be distributed equally to all affected individuals (identified in Attachments A, B, and C) who timely respond to the Notice Process as explained below, and whose eligibility is verified (hereinafter, Eligible Individuals). These individuals will be listed on the Final List of Eligible Individuals (Final List). The process of determining the Final List is explained below under Notice Process. OFCCP will determine the final amount for each Eligible Individual based on the formula or other terms provided in this Agreement. All Eligible Individuals are entitled to their share of the monetary settlement regardless of whether they are currently interested in employment with US Foods.

c. **Individual Payment Amounts.** Each Eligible Individual will receive an equal share of only one of the three respective settlement fund amounts identified in Part IV.1.b above as follows:

- i. **Perth Amboy, NJ:** \$267,071.48 in back pay and \$43,144.26 in interest to be divided and allocated equally among the Eligible Individuals.
- ii. **Swedesboro, NJ:** \$111,818.88 in back pay and \$18,063.86 in interest to be divided and allocated equally among the Eligible Individuals.
- iii. **Albany, NY:** \$50,709.60 in back pay and \$8,191.92 in interest to be divided and allocated equally among the Eligible Individuals.

If an Eligible Individual is in more than one of the above groups covered by a settlement fund amount, they will receive an equal share of only the settlement fund that provides for the largest relief for the Eligible Individual and will not receive any additional share from other settlement funds.

- d. **Payments to Eligible Individuals.** OFCCP will provide US Foods a list of the payment amount for each Eligible Individual on the Final List by the date set forth on the Timeline. US Foods will issue checks to each Eligible Individual in the stated amount, along with appropriate tax reporting forms (such as W-2 and Internal Revenue Service (IRS) Form 1099) by the date set forth on the Timeline. OFCCP will receive timely documentation of all payments made and any payments returned undelivered, or any checks not cashed, as set forth on the Timeline. Reasonable efforts will be made to ensure that all Eligible Individuals listed on the Final List have an opportunity to claim their portion of the settlement. Where it is determined that an Eligible Individual did not receive a check or that a check was lost, OFCCP and US Foods will work together to provide a replacement check. Any check that remains uncashed 180 days after the initial date the check was mailed to the Eligible Individual will be void. With respect to any uncashed funds, US Foods will deposit the monies within thirty (30) days with the state agency responsible for unclaimed funds of the last known address for the Eligible Individual, in accordance with any and all applicable laws and regulations.<sup>1</sup> US Foods will notify each Eligible Individual whose monies is deposited with the state agency in charge of unclaimed funds. No portion of the settlement fund shall revert back, directly or indirectly, to US Foods or any affiliate.
- e. **Tax Payments, Forms and Reporting.** US Foods will pay its share of social security withholdings, and any other tax payments required by law from additional funds separate from the Settlement Fund. US Foods shall mail to each Eligible Individual an IRS Form W-2 for that portion of the payment representing back pay and an IRS Form 1099 for that portion of the payment representing interest. These IRS forms will be provided to the Eligible Individuals either at the time of payment or in the time required

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<sup>1</sup> In New York, the agency is the New York State, Office of State Comptroller, Office of Unclaimed Funds. In New Jersey, the agency is the State of New Jersey Department of Treasury, Unclaimed Property Administration.

by law. No Eligible Individual will be required to complete a W-4 or W-9 in order to receive payments under this settlement.<sup>2</sup> Pursuant to the Tax Cuts and Jobs Act (TCJA), OFCCP will report to the IRS via a form 1098-F when an employer (or individual) is required to pay fines, penalties, restitution, remediation, or other costs in excess of \$50,000 as a result of a violation of law or an investigation or inquiry into a violation of law.<sup>3</sup>

### 3. Notice Process

- a. **OFCCP and US Foods Obligations under the Notice Process.** The Notice Process set forth in this Agreement is intended to provide affected individuals a meaningful opportunity to understand their rights and obligations and act on them in a timely manner. This includes providing notice in multiple relevant languages to the class members upon request and providing technical assistance to affected individuals seeking information about their rights and obligations under this Agreement. As specified in the Timeline and as otherwise necessary to fulfill this Agreement, US Foods and OFCCP will regularly meet and confer in person, by phone and/or by email on the notice process to determine how best to carry out the Notice provisions of this Agreement, and to decide whether any activity, deadline or document should be modified. OFCCP and US Foods agree not to unreasonably withhold consent to reasonable modifications proposed by either party.
- b. **Notice Documents.** US Foods will distribute Notice Documents to affected individuals identified in Attachments A, B and C consistent with the sample Notice Documents contained in Attachments E-1 to E-3. The Notice Documents will include a Notice, Release of Claims, and Information Verification Forms. The Notice Documents will make clear the information about the settlement is being provided by or on behalf of the U.S. Department of Labor. As specified in the Timeline and as otherwise necessary to fulfill this Agreement, the parties will meet and confer on any reasonable modifications of the sample Notice Documents or additions to the materials distributed by US Foods, if proposed by either party.
- c. **Timeline.** Attachment D sets forth the agreed Timeline for Notice and for the parties' other obligations under this Agreement. The parties will meet and confer on any reasonable modifications to the Timeline proposed by either party.
- d. **Search for Affected Individuals.** OFCCP shall provide US Foods with complete contact information in its possession or its authority to obtain on the affected individuals by the date set forth in the Timeline.

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<sup>2</sup> IRS guidance states that an employer can assume a single deduction in the absence of a W-4 form. *See* 26 CFR 31.3402(f)(2)-1(a).

<sup>3</sup> The IRS issued its implementing regulations in January 2021.

<https://www.federalregister.gov/documents/2021/01/19/2021-00741/denial-of-deduction-for-certain-fines-penalties-and-other-amounts-related-information-reporting>

- e. **Distribution of Mail Notice to Affected Individuals.** US Foods will provide initial notice by regular first-class mail. US Foods will send copies of all the Notice Documents as defined above, including a postage-paid return envelope, by first class mail to the best available mailing address for each affected individual, by the date set forth in the Timeline. If envelopes from the initial mail notice are returned with forwarding addresses, US Foods will re-mail the Notice Documents within five (5) days of receipt of the forwarding address.

Based on the response to the initial mail notice, the parties will meet and confer by the date set forth in the Timeline to assess the results of the initial mail notice and to ensure that the second round of mail notice maximizes the potential response rate. A second mail notice will be sent to affected individuals with valid addresses who fail to respond to the first mail notice unless the parties agree otherwise.

- f. **Notice Deadline.** The final deadline for any affected individual to respond to the notice is set forth in the Timeline. The parties will prominently display this deadline on all materials they distribute in paper or online form regarding this Agreement and explain that failure to respond by this deadline will result in a forfeiture of any relief provided by this Agreement.
- g. **Technical Assistance.** The parties will timely respond to any inquiries from affected individuals using information consistent with this Agreement and the Notice Documents and will document all inquiries and the result. OFCCP will provide contact information for individuals to contact OFCCP regarding this Agreement. The parties will prominently display this contact information on all materials they distribute in paper or online form regarding this Agreement. US Foods will provide OFCCP contact information to any affected individual with questions or concerns.
- h. **Exchange of Information Regarding Affected Individuals.** US Foods and OFCCP will timely exchange information regarding affected individuals, including updated contact information and the results of any technical assistance provided.
- i. **Final List of Eligible Individuals.** The Final List will include all class members who timely respond to the Notice and submit the Information Verification Form and Release of Claims by the deadline set forth in the Timeline and whose eligibility is verified by OFCCP. The parties will establish the Final List by the date set forth in the Timeline. The parties will meet and confer on any outstanding issues or questions regarding the Final List. Either party may identify potentially eligible individuals who may have been erroneously excluded from the original or any subsequent list. OFCCP shall make the final determinations of eligibility but will make every effort to negotiate in good faith to resolve any dispute about the Final List. US Foods will provide to OFCCP any information necessary to determine the Final List.
- j. **Documentation of Payments.** By the deadline set forth in the Timeline, US Foods will provide OFCCP with copies of cancelled checks or electronic documentation of all payments to Eligible Individuals, including the amounts paid, the date payment was

sent, the date payment was received, or the check cashed, and any uncashed or returned checks.

- k. **US Foods' Expenses.** US Foods will pay all expenses associated with carrying out its duties pursuant to this section, from funds separate and apart from the amount designated in this Agreement for the Settlement.

## V. Additional Relief

### 1. Job Opportunities

- a. **Description of Job Opportunities.** As vacancies occur for the positions at issue in Job Group 7A (Warehouse), US Foods shall make bona fide job offers to Eligible Individuals who have expressed interest in employment and are not currently employed in the jobs at issue by US Foods, until (b) (6), (b) (7)(C) females are hired into Selector positions for the Perth Amboy, NJ establishment; (b) (6), (b) (7)(C) females are hired into Selector positions for the Swedesboro, NJ establishment; and until (b) (6), (b) (7)(C) females are hired into Selector positions for the Albany, NY establishment, or the list of Eligible Individuals is exhausted, whichever comes first. Until that time, these Eligible Individuals will have priority over all other candidates for hire into Selector positions. As vacancies occur in Selector positions, US Foods shall contact the Eligible Individuals with a written job offer in the order in which they applied to the requisition link provided by US Foods.

The report-to-work date for Eligible Individuals hired pursuant to this Agreement shall be no later than 21 days after the date that the conditional offer of employment is accepted and the conditions satisfied, unless US Foods has good cause to delay the start date. The Eligible Individual must report to work on the day designated or provide US Foods notice of good cause for their absence on or before that date. If good cause is provided, the Eligible Individual must report to work on the next scheduled start date. Otherwise, US Foods may withdraw the job offer and shall be under no obligation to hire the Eligible Individual under this Agreement, but remains obligated to hire Eligible Individuals until (b) (6), (b) (7)(C) Selector positions for the Perth Amboy, NJ establishment, (b) (6), (b) (7)(C) Selector positions for the Swedesboro, NJ establishment, and (b) (6), (b) (7)(C) Selector positions for the Albany, NY establishment are filled or the list of Eligible Individuals is exhausted, whichever comes first.

US Foods agrees to pay Eligible Individuals hired under this provision at least the current entry level wage based on the applicants' qualifications for the Selector positions and provide all regular and on-the-job training currently provided to employees in that position.

- b. **Reporting.** US Foods will document the job offers and hires, including job offers made, reasons for rejection, and Eligible Individuals hired and terminated during the monitoring period as set forth in Part VII below.

3. **Applicant Tracking.** Within thirty (30) days of the Effective Date of this Agreement, US Foods will implement procedures and an electronic applicant tracking system to ensure that all expressions of interest for positions in EEO Job Category 7 (Operatives), which includes positions in Job Group 7A (Warehouse), at the Reviewed Establishments are tracked, and decisions are documented at each step in the application and selection process.

4. **Review of Policies and Procedures - Consultant**

- a. **Engagement of Consultant.** US Foods retained the services of an outside consultant experienced in the areas of equal opportunity and employment discrimination law (Consultant). The Consultant will continue to monitor US Foods' policies and procedures related to recruitment and hiring of females into positions in EEO Job Category 7 (Operatives), including the following:
- i. Evaluating US Foods' policies, procedures and practices relating to recruitment and hiring for positions in EEO Job Category 7 (Operatives), including positions in Job Group 7A (Warehouse), at the Reviewed Establishments for neutral job recruitment, selection, and placement. This shall include, but not be limited to, evaluating:
    - 1. The use of centralized recruiters rather than local managers to screen, interview, and make offers of employment.
    - 2. Removing any unnecessary job requirements, including previous warehouse or pallet jack experience or the need to have previously worked a night shift.
  - ii. Evaluating US Foods' methods of external recruitment, including developing additional outreach and recruitment resources, to help ensure equal access to job opportunities.
  - iii. Monitoring the impact of any changes to US Foods' recruitment or hiring process on the company's affirmative action and equal employment opportunity compliance.
  - iv. Evaluating workplace specific training for US Foods that addresses and enhances its affirmative action and equal employment opportunity compliance in US Foods' recruitment and hiring process.
- b. **Modifications to the Selector Hiring Process.** OFCCP will review US Foods use of the Recruiter Led Hiring (RLH) process, as well as any other recruitment, selection, and placement process, at the Reviewed Establishments to determine if it's a neutral process, and if it results in the improvement of the hiring rates for females in EEO Job Category 7 (Operatives).
- c. **Distribution and Training.** US Foods will distribute new policies to all affected employees. US Foods, or the Consultant, shall train all individuals involved in the

hiring process for positions in EEO Job Category 7 (Operatives) (i.e., recruiting screening, interviewing, selection, rejection, and hiring) at the Reviewed Establishments on any revisions to its recruitment, requisition, and selection processes or policies. Individuals attending this training will include at a minimum, all recruiters, supervisors and managers involved in the hiring process for positions in EEO Job Category 7 (Operatives). The training program will include instruction on the updated hiring process. The training will be mandatory for the personnel identified above, and any employees or managers who are not able to attend the training will be required to listen to a recording of the training.

- d. **Continued Assessment.** US Foods, in consultation with the Consultant, will monitor the results of changes to policies and procedures on an annual basis for the duration of this Agreement, and provide further recommendations to US Foods as necessary to ensure equal employment opportunity.

- 5. **Reporting.** US Foods will provide reports to OFCCP as required by Part VII below. The reports will indicate whether the revised hiring process has been fully implemented and whether the individuals involved in the revised hiring process are following the revised policies and procedures. The monitoring reports will also include the recommendations, if any, made by the Consultant to alter or change the revised recruitment and hiring process, its implementation, or training, to ensure a nondiscriminatory hiring process.

## 6. Adverse Impact Analyses and Associated Remedies

- a. **Adverse Impact Analyses** – US Foods will conduct adverse impact analyses for applicants to positions in Job Group 7A (Warehouse) at the Reviewed Establishments on a semi-annual and annual basis for the duration of this Agreement and consistent with the requirements of 41 C.F.R. §§ 60-3.4 and 3.15. In conducting these analyses of future selection results, US Foods will not include hires made pursuant to this Agreement.
- b. **Investigating Causes for Disparities** – Where US Foods identifies a statistically significant disparity in the overall selection process for females, it will investigate the potential cause(s) of the disparities. This will include analyzing each phase of the selection process and each applicable employment screen or test for adverse impact.
- c. **Remedies** – Where adverse impact is identified in a 12-month monitoring period, and US Foods is unable to demonstrate that the cause of the impact is job-related and consistent with business necessity, US Foods will modify its policies or procedures accordingly to address the cause of the disparate impact. US Foods shall also discuss with OFCCP and implement appropriate job opportunities and remedial relief for affected individuals.
- d. **Reporting** – As part of its monitoring reports under this Agreement, US Foods will provide copies of the adverse impact analyses conducted pursuant to this Agreement, the underlying data used for the analyses, and copies of all subsequent investigation

and analyses conducted pursuant to this Section. US Foods will also provide evidence of any actions taken to remedy unjustifiable disparities.

## **7. Training**

- a. **Content** - Within 12 months of the Effective Date of this Agreement, US Foods shall provide initial training, and design a system of ongoing training, for managers and all individuals involved in any way in recruiting, selecting, or tracking expressions of interest for positions in EEO Job Category 7 (Operatives). The training shall focus on equal opportunity in hiring. The training will include (but is not limited to) instructions in: the implementation of US Foods' recruitment, tracking, and selection procedures; neutral application of the qualifications and criteria that will be used at each step in the hiring process; procedures to be used to document the decisions made at each step in the hiring process; and the procedures to be used to ensure that documents are retained in accordance with 41 C.F.R. §§ 60-1.12(a) and 60-3.
- b. **Creation of Materials** - The training shall be created and conducted by individuals with an expertise in equal employment opportunity.
- c. **Reporting** - US Foods shall provide the names and titles of all individuals responsible for creating training materials and conducting trainings, training agendas, and attendance records as part of the Reporting provisions of this Agreement.

## **VI. Alleged Technical Violations and Remedies**

1. **Violation:** As early as January 1, 2019, OFCCP found that US Foods failed to keep and preserve complete and accurate personnel and employment records, in violation of 41 CFR § 60-1.12(a). Specifically, US Foods failed to maintain all records it created during the selection process. US Foods failed to keep the records for a period of not less than two years from the date of the making of the record or the personnel action, which ever occurred later, as required by 41 CFR § 60-1.12(a), 41 CFR § 60-300.80, and 741.80(a).

**Remedy:** US Foods will preserve all personnel and employment records it makes or keeps in either electronic or hard copy format, including but not limited to all electronic employment applications, interview questionnaires and interview notes for a period of not less than two years from the date of the making of the record or the personnel action involved, whichever occurs later. Where a compliance evaluation has been initiated by OFCCP, US Foods will preserve all personnel and employment records beyond the two-year period, if applicable, until OFCCP makes a final disposition in the matter.

2. **Violation:** As early as January 1, 2019, OFCCP found that US Foods failed to perform in-depth analyses of its total employment process to determine whether and where impediments to equal employment opportunity exists, as required by 41 CFR § 60-2.17(b). Specifically, US Foods failed to evaluate their personnel activity (applicant flow, hires, terminations, promotions, and other personnel actions) to determine whether there are

selection disparities applicable to the positions in Job Group 7A (Warehouse) to determine whether there were gender-race based disparities.

**Remedy:** US Foods will perform in-depth analyses of its total employment process to determine whether and where impediments to equal employment opportunity exists, as required by 41 CFR § 60-2.17(b). Specifically, US Foods will evaluate its applicant and hiring practices to determine whether and where impediments to equal opportunity exist, including analyzing all impediments that result in gender-based and race-based disparities.

3. **Violation:** As early as January 1, 2019, OFCCP found that US Foods failed to develop and implement an internal audit and reporting system that periodically measures the effectiveness of its total affirmative action program, as required by 41 CFR § 60-2.17(d). Specifically, US Foods failed to evaluate and implement the auditing system that measures the effectiveness of its total affirmative action program.

**Remedy:** US Foods will develop and implement an internal audit and reporting system that periodically measures the effectiveness of its total affirmative action program, as required by 41 CFR § 60-2.17(d). Specifically, US Foods' internal audit and reporting system will include the following:

- Monitor records of all personnel activity, including referrals, placements, transfers, promotions, terminations, and compensation, at all levels to ensure the nondiscriminatory policy is carried out.
- Require internal reporting on a scheduled basis as to the degree to which equal employment opportunity and organizational objectives are attained.
- Review report results with all levels of management.
- Advise top management of program effectiveness and submit recommendations to improve unsatisfactory performance.

## VII. OFCCP Monitoring Period

US Foods will submit documentation of monetary payments along with any report required by this Agreement, to:

U.S. Department of Labor, OFCCP  
Attn: Joanne Karayiannidis, District Director  
New Jersey District Office  
200 Sheffield Street, Room 102  
Mountainside, NJ 07092  
E-mail: (b) (6), (b) (7)(C)@dol.gov

US Foods and OFCCP have a common interest in the information being provided in the reports pursuant to this Agreement. To the extent the reports US Foods provides in accordance with this agreement are customarily kept private or closely held, and US Foods believes should remain confidential under Exemption 4 of the Freedom of Information Act (FOIA) in the event of a FOIA request, US Foods will provide such report to OFCCP marked as "Confidential". In the event of

a FOIA request, OFCCP will treat any such documents received as confidential documents to the extent possible under the law.

1. **Recordkeeping.** US Foods agrees to retain all records relevant to the violations cited in Part III and Part VI above and the reports submitted in compliance with the paragraphs below. These records include underlying data and information such as Human Resources Information System (HRIS) and payroll data, job applications and personnel records, and any other records or data used to generate the required reports. US Foods will retain the records until this Agreement expires or for the time period consistent with regulatory requirements, whichever is later.
2. **US Foods Progress Reports.** US Foods will submit two (2) progress reports (Progress Reports), as follows:

**Progress Report 1:** Due February 28, 2025, and covering the period January 1, 2024, to December 31, 2024 for Perth Amboy, Swedesboro and Albany.

**Progress Report 2:** Due February 28, 2026, and covering the period January 1, 2025, to December 31, 2025 for Perth Amboy, Swedesboro and Albany.

3. **Records of Adverse Impact Analyses and Remedies.** US Foods will submit the following in each Progress Report for Perth Amboy, Swedesboro and Albany:
  - a. Copies of the adverse impact analyses conducted pursuant to this Agreement;
  - b. Underlying data used for the adverse impact analyses, including a log of all applicants, their gender, the job(s) to which they applied, requisition number (if applicable), date of application, any final and intermediate dispositions, job offered (if applicable), job hired into (if applicable), start date (if applicable), starting pay (if applicable), reason for non-selection (if applicable), applicant's reason for rejection of offer (if applicable and known), and recruitment source;
  - c. Copies of all subsequent investigations and analyses conducted pursuant to this Agreement; and
  - d. Evidence of any actions taken to remedy unjustifiable disparities.
4. **Reports on Eligible Individual Job Offers.** In each Progress Report, US Foods will report on all job offers and hires made pursuant to Part V of the Agreement until all the job opportunities for the establishment are filled or the list of Eligible Individuals expressing interest in the positions is exhausted. This includes:
  - a. Documentation of all job offers made to Eligible Individuals, including the names of individuals offered jobs, the date of the offer, the date the offer was accepted or rejected, and the starting pay.

- b. Documentation of Eligible Individuals who expressed interest in job offers who did not successfully complete the application process, including the names of these individuals, the date of their application, if any, and the reason US Foods determined they did not successfully complete the application process.
  - c. Documentation of the number of available positions remaining to be filled and the number of Eligible Individuals still on the list.
  - d. Documentation of the start dates for Eligible Individuals who were hired.
  - e. If US Foods has not filled all the positions specified in this Agreement by the Progress Report date or contacted all Eligible Applicants interested in the hiring relief, documentation of the reason this action is not complete and the good faith efforts being taken and planned for the next reporting period to complete it.
  - f. If US Foods fails to meet its hiring obligations under this Agreement by the close of the Monitoring Period or fails to exhaust the list of interested Eligible Applicants, OFCCP reserves its rights under Part II, Paragraph 10 and 11 of this Agreement to extend the monitoring period or to pursue enforcement remedies.
5. **Reports from Policy Review.** In each Progress Report, US Foods will provide the following:
- a. Copies of all reports and suggestions made by the Consultant pursuant to the terms of this Agreement;
  - b. Copies of revised policies and descriptions of any revised procedures implemented as a result of the policy and procedural review required by this Agreement; and
  - c. Copies of all training materials and attendance records for trainings conducted to explain new policies and procedures.
6. **Training Records.** In each Progress Report, US Foods will report for all trainings conducted pursuant to the terms of this Agreement the following:
- a. The names and titles of all individuals responsible for creating training materials and conducting trainings;
  - b. Copies of all training agendas; and
  - c. Attendance records denoting the dates of the trainings, the attendees, the job titles of the attendees.
7. **Affirmative Action Programs.** US Foods will submit its current year narrative AAP for E.O. 11246 for the reviewed establishment with the first Progress Report and annually thereafter while the CA monitoring period is in effect.

8. **Close of Monitoring Period and Termination of Agreement.** This Agreement shall remain in effect until the monitoring period is completed. The monitoring period will close once OFCCP accepts US Foods' final progress report as set forth in Part II, Paragraph 10 above. If OFCCP fails to notify US Foods in writing within sixty (60) days of the date of the final progress report that US Foods has not fulfilled all its obligations under the Agreement, OFCCP will be deemed to have accepted the final report and the Monitoring Period and this Agreement will terminate. If OFCCP notifies US Foods within the allotted time that it has not fulfilled all its obligations, this Agreement is automatically extended until the date that OFCCP determines US Foods has met all of its obligations under the Agreement.

## VIII. Signatures

The person signing this Agreement on behalf of US Foods, Inc. personally warrants that he or she is fully authorized to do so, that US Foods, Inc. has entered into this Agreement voluntarily and with full knowledge of its effect, and that execution of this Agreement is fully binding on US Foods, Inc.

This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and US Foods, Inc.

(b) (6), (b) (7)(C)

Interim General Counsel  
US Foods, Inc.

Date: 9/29/2023

(b) (6), (b) (7)(C)

SAMUEL B. MAIDEN  
Acting Regional Director  
OFCCP – Northeast

Date: 09/29/2023

### Attachments:

- A. List of Affected Individuals- Perth Amboy, NJ
- B. List of Affected Individuals- Swedesboro, NJ
- C. List of Affected Individuals- Albany, NY
- D. Timeline
- E-1. Notice to Affected Individuals
- E-2. Information Verification Form
- E-3. Release of Claims Form

**Attachment A: List of Affected Individuals – Perth Amboy, NJ**

| #   | Candidate ID        | Last Name, First Name | #   | Candidate ID        | Last Name, First Name |
|-----|---------------------|-----------------------|-----|---------------------|-----------------------|
| 1.  | (b) (6), (b) (7)(C) |                       | 22. | (b) (6), (b) (7)(C) |                       |
| 2.  |                     |                       | 23. |                     |                       |
| 3.  |                     |                       | 24. |                     |                       |
| 4.  |                     |                       | 25. |                     |                       |
| 5.  |                     |                       | 26. |                     |                       |
| 6.  |                     |                       | 27. |                     |                       |
| 7.  |                     |                       | 28. |                     |                       |
| 8.  |                     |                       | 29. |                     |                       |
| 9.  |                     |                       | 30. |                     |                       |
| 10. |                     |                       | 31. |                     |                       |
| 11. |                     |                       | 32. |                     |                       |
| 12. |                     |                       | 33. |                     |                       |
| 13. |                     |                       | 34. |                     |                       |
| 14. |                     |                       | 35. |                     |                       |
| 15. |                     |                       | 36. |                     |                       |
| 16. |                     |                       | 37. |                     |                       |
| 17. |                     |                       | 38. |                     |                       |
| 18. |                     |                       | 39. |                     |                       |
| 19. |                     |                       | 40. |                     |                       |
| 20. |                     |                       | 41. |                     |                       |
| 21. |                     |                       | 42. |                     |                       |

| #   | Candidate ID        | Last Name, First Name | #   | Candidate ID        | Last Name, First Name |
|-----|---------------------|-----------------------|-----|---------------------|-----------------------|
| 43. | (b) (6), (b) (7)(C) |                       | 66. | (b) (6), (b) (7)(C) |                       |
| 44. |                     |                       | 67. |                     |                       |
| 45. |                     |                       | 68. |                     |                       |
| 46. |                     |                       | 69. |                     |                       |
| 47. |                     |                       | 70. |                     |                       |
| 48. |                     |                       | 71. |                     |                       |
| 49. |                     |                       | 72. |                     |                       |
| 50. |                     |                       | 73. |                     |                       |
| 51. |                     |                       | 74. |                     |                       |
| 52. |                     |                       | 75. |                     |                       |
| 53. |                     |                       | 76. |                     |                       |
| 54. |                     |                       | 77. |                     |                       |
| 55. |                     |                       | 78. |                     |                       |
| 56. |                     |                       | 79. |                     |                       |
| 57. |                     |                       | 80. |                     |                       |
| 58. |                     |                       | 81. |                     |                       |
| 59. |                     |                       | 82. |                     |                       |
| 60. |                     |                       | 83. |                     |                       |
| 61. |                     |                       | 84. |                     |                       |
| 62. |                     |                       | 85. |                     |                       |
| 63. |                     |                       | 86. |                     |                       |
| 64. |                     |                       | 87. |                     |                       |
| 65. |                     |                       | 88. |                     |                       |

| #    | Candidate ID        | Last Name, First Name | #    | Candidate ID        | Last Name, First Name |
|------|---------------------|-----------------------|------|---------------------|-----------------------|
| 89.  | (b) (6), (b) (7)(C) |                       | 111. | (b) (6), (b) (7)(C) |                       |
| 90.  |                     |                       | 112. |                     |                       |
| 91.  |                     |                       | 113. |                     |                       |
| 92.  |                     |                       | 114. |                     |                       |
| 93.  |                     |                       | 115. |                     |                       |
| 94.  |                     |                       | 116. |                     |                       |
| 95.  |                     |                       | 117. |                     |                       |
| 96.  |                     |                       | 118. |                     |                       |
| 97.  |                     |                       | 119. |                     |                       |
| 98.  |                     |                       | 120. |                     |                       |
| 99.  |                     |                       | 121. |                     |                       |
| 100. |                     |                       | 122. |                     |                       |
| 101. |                     |                       | 123. |                     |                       |
| 102. |                     |                       | 124. |                     |                       |
| 103. |                     |                       | 125. |                     |                       |
| 104. |                     |                       | 126. |                     |                       |
| 105. |                     |                       | 127. |                     |                       |
| 106. |                     |                       | 128. |                     |                       |
| 107. |                     |                       | 129. |                     |                       |
| 108. |                     |                       | 130. |                     |                       |
| 109. |                     |                       | 131. |                     |                       |
| 110. |                     |                       | 132. |                     |                       |

| #    | Candidate ID        | Last Name, First Name | #    | Candidate ID        | Last Name, First Name |
|------|---------------------|-----------------------|------|---------------------|-----------------------|
| 133. | (b) (6), (b) (7)(C) |                       | 156. | (b) (6), (b) (7)(C) |                       |
| 134. |                     |                       | 157. |                     |                       |
| 135. |                     |                       | 158. |                     |                       |
| 136. |                     |                       | 159. |                     |                       |
| 137. |                     |                       | 160. |                     |                       |
| 138. |                     |                       | 161. |                     |                       |
| 139. |                     |                       | 162. |                     |                       |
| 140. |                     |                       | 163. |                     |                       |
| 141. |                     |                       | 164. |                     |                       |
| 142. |                     |                       | 165. |                     |                       |
| 143. |                     |                       | 166. |                     |                       |
| 144. |                     |                       | 167. |                     |                       |
| 145. |                     |                       | 168. |                     |                       |
| 146. |                     |                       | 169. |                     |                       |
| 147. |                     |                       | 170. |                     |                       |
| 148. |                     |                       | 171. |                     |                       |
| 149. |                     |                       | 172. |                     |                       |
| 150. |                     |                       | 173. |                     |                       |
| 151. |                     |                       | 174. |                     |                       |
| 152. |                     |                       | 175. |                     |                       |
| 153. |                     |                       | 176. |                     |                       |
| 154. |                     |                       | 177. |                     |                       |
| 155. |                     |                       | 178. |                     |                       |

| #    | Candidate ID        | Last Name, First Name | #    | Candidate ID        | Last Name, First Name |
|------|---------------------|-----------------------|------|---------------------|-----------------------|
| 179. | (b) (6), (b) (7)(C) |                       | 201. | (b) (6), (b) (7)(C) |                       |
| 180. |                     |                       | 202. |                     |                       |
| 181. |                     |                       | 203. |                     |                       |
| 182. |                     |                       | 204. |                     |                       |
| 183. |                     |                       | 205. |                     |                       |
| 184. |                     |                       | 206. |                     |                       |
| 185. |                     |                       | 207. |                     |                       |
| 186. |                     |                       | 208. |                     |                       |
| 187. |                     |                       | 209. |                     |                       |
| 188. |                     |                       | 210. |                     |                       |
| 189. |                     |                       | 211. |                     |                       |
| 190. |                     |                       | 212. |                     |                       |
| 191. |                     |                       | 213. |                     |                       |
| 192. |                     |                       | 214. |                     |                       |
| 193. |                     |                       | 215. |                     |                       |
| 194. |                     |                       | 216. |                     |                       |
| 195. |                     |                       | 217. |                     |                       |
| 196. |                     |                       | 218. |                     |                       |
| 197. |                     |                       | 219. |                     |                       |
| 198. |                     |                       | 220. |                     |                       |
| 199. |                     |                       | 221. |                     |                       |
| 200. |                     |                       | 222. |                     |                       |

| #    | Candidate ID        | Last Name, First Name | #    | Candidate ID        | Last Name, First Name |
|------|---------------------|-----------------------|------|---------------------|-----------------------|
| 223. | (b) (6), (b) (7)(C) |                       | 234. | (b) (6), (b) (7)(C) |                       |
| 224. |                     |                       | 235. |                     |                       |
| 225. |                     |                       | 236. |                     |                       |
| 226. |                     |                       | 237. |                     |                       |
| 227. |                     |                       | 238. |                     |                       |
| 228. |                     |                       | 239. |                     |                       |
| 229. |                     |                       | 240. |                     |                       |
| 230. |                     |                       | 241. |                     |                       |
| 231. |                     |                       | 242. |                     |                       |
| 232. |                     |                       | 243. |                     |                       |
| 233. |                     |                       |      |                     |                       |

**Attachment B: List of Affected Individuals – Swedesboro, NJ**

| #   | Candidate ID        | Last Name, First Name | #   | Candidate ID        | Last Name, First Name |
|-----|---------------------|-----------------------|-----|---------------------|-----------------------|
| 1.  | (b) (6), (b) (7)(C) |                       | 28. | (b) (6), (b) (7)(C) |                       |
| 2.  |                     |                       | 29. |                     |                       |
| 3.  |                     |                       | 30. |                     |                       |
| 4.  |                     |                       | 31. |                     |                       |
| 5.  |                     |                       | 32. |                     |                       |
| 6.  |                     |                       | 33. |                     |                       |
| 7.  |                     |                       | 34. |                     |                       |
| 8.  |                     |                       | 35. |                     |                       |
| 9.  |                     |                       | 36. |                     |                       |
| 10. |                     |                       | 37. |                     |                       |
| 11. |                     |                       | 38. |                     |                       |
| 12. |                     |                       | 39. |                     |                       |
| 13. |                     |                       | 40. |                     |                       |
| 14. |                     |                       | 41. |                     |                       |
| 15. |                     |                       | 42. |                     |                       |
| 16. |                     |                       | 43. |                     |                       |
| 17. |                     |                       | 44. |                     |                       |
| 18. |                     |                       | 45. |                     |                       |
| 19. |                     |                       | 46. |                     |                       |
| 20. |                     |                       | 47. |                     |                       |
| 21. |                     |                       | 48. |                     |                       |
| 22. |                     |                       | 49. |                     |                       |
| 23. |                     |                       | 50. |                     |                       |
| 24. |                     |                       | 51. |                     |                       |
| 25. |                     |                       | 52. |                     |                       |
| 26. |                     |                       | 53. |                     |                       |
| 27. |                     |                       | 54. |                     |                       |

| #   | Candidate ID        | Last Name, First Name | #    | Candidate ID        | Last Name, First Name |
|-----|---------------------|-----------------------|------|---------------------|-----------------------|
| 55. | (b) (6), (b) (7)(C) |                       | 82.  | (b) (6), (b) (7)(C) |                       |
| 56. |                     |                       | 83.  |                     |                       |
| 57. |                     |                       | 84.  |                     |                       |
| 58. |                     |                       | 85.  |                     |                       |
| 59. |                     |                       | 86.  |                     |                       |
| 60. |                     |                       | 87.  |                     |                       |
| 61. |                     |                       | 88.  |                     |                       |
| 62. |                     |                       | 89.  |                     |                       |
| 63. |                     |                       | 90.  |                     |                       |
| 64. |                     |                       | 91.  |                     |                       |
| 65. |                     |                       | 92.  |                     |                       |
| 66. |                     |                       | 93.  |                     |                       |
| 67. |                     |                       | 94.  |                     |                       |
| 68. |                     |                       | 95.  |                     |                       |
| 69. |                     |                       | 96.  |                     |                       |
| 70. |                     |                       | 97.  |                     |                       |
| 71. |                     |                       | 98.  |                     |                       |
| 72. |                     |                       | 99.  |                     |                       |
| 73. |                     |                       | 100. |                     |                       |
| 74. |                     |                       | 101. |                     |                       |
| 75. |                     |                       | 102. |                     |                       |
| 76. |                     |                       | 103. |                     |                       |
| 77. |                     |                       | 104. |                     |                       |
| 78. |                     |                       | 105. |                     |                       |
| 79. |                     |                       | 106. |                     |                       |
| 80. |                     |                       | 107. |                     |                       |
| 81. |                     |                       | 108. |                     |                       |

| #    | Candidate ID        | Last Name, First Name | #    | Candidate ID        | Last Name, First Name |
|------|---------------------|-----------------------|------|---------------------|-----------------------|
| 109. | (b) (6), (b) (7)(C) |                       | 136. | (b) (6), (b) (7)(C) |                       |
| 110. |                     |                       | 137. |                     |                       |
| 111. |                     |                       | 138. |                     |                       |
| 112. |                     |                       | 139. |                     |                       |
| 113. |                     |                       | 140. |                     |                       |
| 114. |                     |                       | 141. |                     |                       |
| 115. |                     |                       | 142. |                     |                       |
| 116. |                     |                       | 143. |                     |                       |
| 117. |                     |                       | 144. |                     |                       |
| 118. |                     |                       | 145. |                     |                       |
| 119. |                     |                       | 146. |                     |                       |
| 120. |                     |                       | 147. |                     |                       |
| 121. |                     |                       | 148. |                     |                       |
| 122. |                     |                       | 149. |                     |                       |
| 123. |                     |                       | 150. |                     |                       |
| 124. |                     |                       | 151. |                     |                       |
| 125. |                     |                       | 152. |                     |                       |
| 126. |                     |                       | 153. |                     |                       |
| 127. |                     |                       | 154. |                     |                       |
| 128. |                     |                       | 155. |                     |                       |
| 129. |                     |                       | 156. |                     |                       |
| 130. |                     |                       | 157. |                     |                       |
| 131. |                     |                       | 158. |                     |                       |
| 132. |                     |                       | 159. |                     |                       |
| 133. |                     |                       | 160. |                     |                       |
| 134. |                     |                       | 161. |                     |                       |
| 135. |                     |                       | 162. |                     |                       |

| #    | Candidate ID        | Last Name, First Name | #    | Candidate ID        | Last Name, First Name |
|------|---------------------|-----------------------|------|---------------------|-----------------------|
| 163. | (b) (6), (b) (7)(C) |                       | 190. | (b) (6), (b) (7)(C) |                       |
| 164. |                     |                       | 191. |                     |                       |
| 165. |                     |                       | 192. |                     |                       |
| 166. |                     |                       | 193. |                     |                       |
| 167. |                     |                       | 194. |                     |                       |
| 168. |                     |                       | 195. |                     |                       |
| 169. |                     |                       | 196. |                     |                       |
| 170. |                     |                       | 197. |                     |                       |
| 171. |                     |                       | 198. |                     |                       |
| 172. |                     |                       | 199. |                     |                       |
| 173. |                     |                       | 200. |                     |                       |
| 174. |                     |                       | 201. |                     |                       |
| 175. |                     |                       | 202. |                     |                       |
| 176. |                     |                       | 203. |                     |                       |
| 177. |                     |                       | 204. |                     |                       |
| 178. |                     |                       | 205. |                     |                       |
| 179. |                     |                       | 206. |                     |                       |
| 180. |                     |                       | 207. |                     |                       |
| 181. |                     |                       | 208. |                     |                       |
| 182. |                     |                       | 209. |                     |                       |
| 183. |                     |                       | 210. |                     |                       |
| 184. |                     |                       | 211. |                     |                       |
| 185. |                     |                       | 212. |                     |                       |
| 186. |                     |                       | 213. |                     |                       |
| 187. |                     |                       | 214. |                     |                       |
| 188. |                     |                       | 215. |                     |                       |
| 189. |                     |                       | 216. |                     |                       |

| #    | Candidate ID        | Last Name, First Name | #    | Candidate ID        | Last Name, First Name |
|------|---------------------|-----------------------|------|---------------------|-----------------------|
| 217. | (b) (6), (b) (7)(C) |                       | 223. | (b) (6), (b) (7)(C) |                       |
| 218. |                     |                       | 224. |                     |                       |
| 219. |                     |                       | 225. |                     |                       |
| 220. |                     |                       | 226. |                     |                       |
| 221. |                     |                       | 227. |                     |                       |
| 222. |                     |                       | 228. |                     |                       |

**Attachment C: List of Affected Individuals – Albany, NY**

| #   | Candidate ID        | Last Name, First Name | #   | Candidate ID        | Last Name, First Name |
|-----|---------------------|-----------------------|-----|---------------------|-----------------------|
| 1.  | (b) (6), (b) (7)(C) |                       | 28. | (b) (6), (b) (7)(C) |                       |
| 2.  |                     |                       | 29. |                     |                       |
| 3.  |                     |                       | 30. |                     |                       |
| 4.  |                     |                       | 31. |                     |                       |
| 5.  |                     |                       | 32. |                     |                       |
| 6.  |                     |                       | 33. |                     |                       |
| 7.  |                     |                       | 34. |                     |                       |
| 8.  |                     |                       | 35. |                     |                       |
| 9.  |                     |                       | 36. |                     |                       |
| 10. |                     |                       | 37. |                     |                       |
| 11. |                     |                       | 38. |                     |                       |
| 12. |                     |                       | 39. |                     |                       |
| 13. |                     |                       | 40. |                     |                       |
| 14. |                     |                       | 41. |                     |                       |
| 15. |                     |                       | 42. |                     |                       |
| 16. |                     |                       | 43. |                     |                       |
| 17. |                     |                       | 44. |                     |                       |
| 18. |                     |                       | 45. |                     |                       |
| 19. |                     |                       | 46. |                     |                       |
| 20. |                     |                       | 47. |                     |                       |
| 21. |                     |                       | 48. |                     |                       |
| 22. |                     |                       | 49. |                     |                       |
| 23. |                     |                       | 50. |                     |                       |
| 24. |                     |                       | 51. |                     |                       |
| 25. |                     |                       | 52. |                     |                       |
| 26. |                     |                       | 53. |                     |                       |
| 27. |                     |                       | 54. |                     |                       |

### Attachment D: Timeline

|     | Activity  | Number of Days<br>from Effective<br>Date | Due Date          |
|-----|---|--|-------------------|
| 1.  | US Foods sends copies of all the Notice Documents, including a postage-paid return envelope, by first class mail to the best available mailing address for each Affected Individual.            | 30                                       | October 30, 2023  |
| 2.  | US Foods sends results of the mailing, which have been returned undeliverable, to OFCCP.  | 45                                       | November 13, 2023 |
| 3.  | US Foods sends OFCCP a list of the Affected Individuals who did not respond to the first Notice Documents and notifies OFCCP of any deficiencies in submitted forms (missing signatures, etc.). | 60                                       | November 28, 2023 |
| 4.  | The parties will meet and confer to assess the results of the initial mail notice and to ensure that the second round of mail notice maximizes the potential response rate.                     | 70                                       | December 8, 2023  |
| 5.  | OFCCP provides US Foods with updated addresses for Affected Individuals.  | 90                                       | December 28, 2023 |
| 6.  | US Foods sends second Notice Documents to Affected Individuals for whom OFCCP found updated addresses who failed to respond to the first mail notice.   | 100                                      | January 8, 2024   |
| 7.  | Postmark Deadline for Affected Individuals to reply to Notice Documents.  | 130                                      | February 6, 2024  |
| 8.  | US Foods sends application link via e-mail to Affected Individuals who have expressed an interest in employment.  | 140                                      | February 16, 2024 |
| 9.  | OFCCP reviews and approves a Final List and determination amounts.  | 160                                      | March 7, 2024     |
| 10. | US Foods issues checks to each Eligible Individuals on Final List.  | 200                                      | April 16, 2024    |
| 11. | US Foods notifies OFCCP of disbursement of monetary settlement and any payments returned undelivered.   | 230                                      | May 16, 2024      |

|     |  |     |                    |
|-----|--|-----|--------------------|
| 12. | OFCCP attempts to contact individuals with returned checks and provides best available contact information for returned checks.                                      | 250 | June 5, 2024       |
| 13. | US Foods reissues checks to updated addresses OFCCP provides.  | 270 | June 25, 2024      |
| 14. | US Foods notifies OFCCP of any uncashed checks.  | 300 | July 25, 2024      |
| 15. | OFCCP attempts to contact individuals with uncashed checks and provides US Foods with any updated addresses if applicable.   | 320 | August 14, 2024    |
| 16. | US Foods provides OFCCP with copies of cancelled checks or electronic documentation of all payments to Eligible Individuals  | 350 | September 13, 2024 |
| 17. | US Foods provides OFCCP with copies of letter or email notifying Eligible Individuals whose monies was deposited with the state agency in charge of unclaimed funds. | 465 | January 6, 2025    |

## Attachment E-1: Notice to Affected Individuals

Dear [name]: [Affected Individual's Name]  
[Affected Individual's Address]

Dear [name]:

US Foods, Inc. (Contractor) and the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) have entered into a Conciliation Agreement (Agreement) to remedy alleged violations of Executive Order 11246 (E.O. 11246), as amended, that OFCCP found during a compliance review of US Foods located at 1051 Amboy Avenue, Perth Amboy, NJ; 300 Berkeley Drive, Swedesboro, NJ; and 755 Pierce Rd., Albany, NY. OFCCP's analysis of US Foods' hiring process and selection procedures revealed that as early as January 1, 2019, there was a disparity in the hiring of Selectors based on gender. US Foods has not admitted to any violation of E.O. 11246 and there has not been any adjudicated finding that US Foods violated any laws. OFCCP and US Foods entered into the Agreement to resolve the matter without resorting to further legal proceedings. You have been identified as an individual who applied for a Selector position but was not hired.

As part of this Agreement, you are eligible to receive a distribution of at least \$[insert minimum equal distribution from applicable settlement fund] less lawful payroll deductions. Under the terms of this Agreement, it may take up to eight (8) months from the date of this letter before you receive your distribution. In order to be eligible for a payment, you must complete, sign, and return the enclosed Information Verification and Employment Interest Form and Release of Claims Form. The forms should be mailed as soon as possible to the address below. **In order for you to be eligible to participate in the settlement, your documents must be received by [insert date by which class members must respond].**

[Name]  
[US Foods Position]  
US Foods, Inc.  
[US Foods Address]

You may use the enclosed postage-paid return envelope to return the completed and signed Information Verification and Employment Interest Form, and Release of Claims Form.

In addition to the monetary distribution, US Foods will be making job offers for Selector positions to a limited number of individuals receiving this notification, provided they meet the basic minimum qualifications for the job. It is not certain that you will receive a job offer. If you are still interested in employment with US Foods, please check the appropriate box on the enclosed Information Verification and Employment Interest Form. After submitting the form, you will receive an email with an electronic application. Those receiving this notice will be considered for Selector positions in the order that they complete the employment application. If you have any questions you may call [insert

name] at US Foods at [insert phone number], or OFCCP Compliance Officer (b) (6), (b) (7)(C) at (908) (b) (6), (b) (7)(C). Your call will be returned as soon as possible.

**IF YOU FAIL TO COMPLETE AND RETURN THE ENCLOSED DOCUMENTS TO US FOODS BY [insert date by which individual must respond], YOU WILL NOT BE ELIGIBLE TO RECEIVE A PAYMENT OR TO BE CONSIDERED FOR A JOB OFFER.**

Sincerely,

[US Foods Name]

Enclosures

Information Verification and Employment Interest Form  
Release of Claims Form

**Attachment E-2: Information Verification and Employment Interest Form**

**You must complete this form in order to be eligible for the monetary payment and/or employment opportunities under the terms of the Conciliation Agreement (“Agreement”) between US Foods, Inc. and the Department of Labor’s Office of Federal Contract Compliance Programs. Please print legibly, except for the signature.**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Nos.: Home: \_\_\_\_\_ Cell: \_\_\_\_\_ Work: \_\_\_\_\_

Email: \_\_\_\_\_

Notify US Foods at the address below if your address, email address or phone number changes within the next twelve (12) months.

[US Foods Name]  
[US Foods Address]

Please indicate below whether you are currently interested in employment in a Selector position with US Foods. If you complete, sign, and return this Information Verification and Employment Interest Form, you remain eligible for the monetary payment whether or not you are interested in employment at this time.

[ ☐ ] Yes, I am still interested in employment with US Foods as a Selector in one of the following locations (please check below):

[ ☐ ] Perth Amboy, NJ; [ ☐ ] Swedesboro, NJ; or [ ☐ ] Albany, NY

[ ☐ ] No, I am not currently interested in employment with US Foods as a Selector.

**IF YOU FAIL TO COMPLETE AND RETURN THE ENCLOSED DOCUMENTS TO THE ADDRESS BELOW BY [insert date individual must respond], YOU WILL NOT BE ELIGIBLE TO RECEIVE A PAYMENT OR TO BE CONSIDERED FOR A JOB OFFER.**

[Name]  
[Address]

I, (print name) \_\_\_\_\_, certify the above is true and correct.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Attachment E-3: Release of Claims

**RELEASE OF CLAIMS UNDER EXECUTIVE ORDER 11246, AS AMENDED**

*PLEASE CAREFULLY READ THE ENCLOSED NOTICE BEFORE COMPLETING THIS RELEASE. YOU MUST RETURN A SIGNED RELEASE TO RECEIVE MONEY FROM THE SETTLEMENT.*

This Release of Claims (Release) under Executive Order 11246 as amended, is a legal document. This document states that in return for US Foods, Inc. (US Foods) paying you money, you agree that you will not file any lawsuit against US Foods for allegedly violating Executive Order 11246, as amended, in connection with its selection procedures for applicants for Selector positions. It also says that US Foods does not admit it violated any laws. This Release says you had sufficient time to look at the document, to talk with others about the document, including an attorney if you choose, and that no one pressured you into signing the document. Finally, it says that if you do not sign and return the document by a certain date, you will not receive any money.

In consideration of the payment of at least \$ [insert minimum equal distribution from applicable settlement fund] (less deductions required by law) by US Foods to me, which I agree is acceptable, I, (print name) \_\_\_\_\_, agree to the following:

**I.**

I hereby waive, release and forever discharge US Foods, its predecessors, successors, related entities, parents, subsidiaries, affiliates and organizations, and its and their shareholders, directors, officers, employees, agents, successors, and assigns, of and from any and all actions, causes of action, damages, liabilities, and claims arising out of or actionable under Executive Order 11246, as amended, which I or my representatives (heirs, executors, administrators, or assigns) have or may have had which relate to my non selection for employment as a Selector on the basis of my gender at any time through the effective date of this Release. By signing this agreement, I agree that I have been made whole for any claim that could have been brought under Executive Order 11246, as amended, relating to my non selection with US Foods through the Effective Date of this Release.

**II.**

I understand that US Foods denies that it treated me unlawfully or unfairly in any way and that US Foods entered into a Conciliation Agreement with the U.S. Department of Labor, Office of Federal Contract Compliance Programs (OFCCP) and agreed to make the payment described above to resolve alleged disparities in hiring and to resolve the matter without further legal proceedings in the compliance review initiated by OFCCP. I further agree that the payment of the aforesaid sum by US Foods to me is not to be construed as an admission of any liability by US Foods.

**III.**

I declare that I have read this Release and that I have had a full opportunity to consider and understand its terms and to consult with my advisors and seek legal advice. I further declare that I have decided of my own free will to sign this Release.

**IV.**

I understand that if I do not sign this Release and return it to the contact listed on the enclosed Notice to Affected Individuals, by the deadline listed on the Notice, I will not be entitled to receive any payment (less deductions required by law) from US Foods.

IN WITNESS WHEREOF, I have signed this document on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature