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*Via electronic mail*

December 13, 2024

The Honorable Rosa DeLauro  
US House of Representatives  
Washington, DC 20515

Dear Rep. DeLauro:

On behalf of Boar's Head Provisions Co., Inc. and Delicatessen Services Company LLC (collectively, "Boar's Head" or the "Company"), we respectfully submit this response to your September 30, 2024 letter addressed to Chief Operating Officer Larry Helfant and General Counsel Kevin S. MacKinnon. Boar's Head appreciates your inquiry related to the recall, stemming from the facility located in Jarratt, Virginia, which was one of five manufacturing facilities then operated by the Company. These events were the first of their kind for the Company in its more than 100-year existence. Boar's Head shares the concerns and frustration raised by you and the other Members of Congress over the outbreak associated with the liverwurst product produced at the Jarratt facility. Boar's Head may seek to further supplement this letter with additional information at a later date.

Boar's Head acknowledges, with profound regret and sadness, that the liverwurst product at issue did not meet the high standards that have underscored the Company's business since its founding in 1905. Boar's Head notes that after being notified of the connection between the liverwurst product and the outbreak strain, the Company took immediate and decisive action on July 25, 2024, when it issued its initial recall of its liverwurst product, thereby helping to contain the incident and prevent additional illnesses. On July 29, 2024, in the interest of public health and safety, the Company voluntarily enacted a broader recall of all products manufactured at the Jarratt facility even though the data indicated that the issue was solely related to the liverwurst incident. The Jarratt facility has remained closed since that time.

Throughout this process, the Company has worked collaboratively with the United States Department of Agriculture ("USDA") and state government regulatory agencies, and it has partnered with leading industry food safety experts to assist in matters related to the recall. The Company continues to review and analyze its processes and procedures—not just at the Jarratt, Virginia facility where liverwurst was manufactured, but at all Boar's Head production facilities.

Boar's Head has also been working tirelessly on steps to ensure that consumers can justifiably continue to trust the Boar's Head brand. As part of these steps, the Company appointed the renowned food safety expert Frank Yiannas, MPH as Boar's Head's Chief Food Safety Advisor. Mr. Yiannas previously served as the Deputy Commissioner for Food Policy & Response at the Food and Drug Administration ("FDA") and has held safety leadership roles at major companies like Walmart and Disney. He is chairing the recently formed Boar's Head Food Safety Advisory Council comprising independent industry-leading food safety experts.<sup>1</sup> The Council was created to help enhance safety practices, set a new standard for food safety in the industry, foster a "safety first" culture, and reinforce consumer confidence in the Company's brands and products. The Company has committed to taking further action to ensure that it is operating safely and responsibly across its network of facilities, and the Company is committed to getting it right.

Boar's Head wants to assure you and the other signatories of the September 30, 2024 letter that the Company, including its management team, is deeply remorseful for the events of this past summer and for the effects it had on its consumers who placed their trust in the Company. Nothing is more important to Boar's Head than the safety and quality of the food it manufactures. Although the outbreak stemming from the Jarratt facility has been declared over by the U.S. Centers for Disease Control & Prevention ("CDC"), the commitment by Boar's Head to reach new food safety heights remains unwavering.

The Company provides below its further responses to the issues raised in your September 30, 2024 letter.

\* \* \* \* \*

I. USDA Regulatory Oversight

As you indicate in your September 30, 2024 letter, Boar's Head operates its meat establishments under grants of inspection from the USDA's Food Safety and Inspection Service ("FSIS"), which means that government inspectors are present daily during operations at the Company's manufacturing facilities, as was the case with the Jarratt facility when it was still in operation. Prior to its closure, the inspectors at the Jarratt facility were officials from the Virginia Department of Agriculture and Consumer Services who were delegated authority under inspectional programs that FSIS has recognized as comparable to federal inspection. See 21 U.S.C. § 454 and 21 U.S.C. § 661 (granting USDA the authority to cooperate with State agencies in developing and administering Meat and Poultry Inspection programs).<sup>2</sup> The Company has existing Hazard Analysis and Critical

<sup>1</sup> Appendix A includes summaries of the biographies for the members of the Boar's Head Food Safety Advisory Council.

<sup>2</sup> Virginia is one of 29 states with a meat or poultry inspection program. See FSIS, "States With and Without Inspection Programs," USDA Food Safety Inspection Service (Oct. 4, 2022)

Control Point (“HACCP”) plans and Sanitation Standard Operating Procedures (“SSOPs”) for all of its establishments, including the Jarratt facility, as required by FSIS regulations.

The widely-accepted industry understanding is that food which is exposed to the processing environment after cooking and before packaging poses a potential risk for exposure to *Listeria monocytogenes* (“Lm”) in the food processing environment. *Listeria* is ubiquitous in the environment and Lm is the one species of *Listeria* that can cause illness if ingested.

The Company’s historical sanitation control programs, including specific programs related to Lm, were based on FSIS regulations and long-standing industry practices, and were designed to prevent the introduction of Lm into the processing environment. The Company’s program was also designed to detect and eliminate Lm to prevent it from posing a risk of product contamination. Although the Company submits that its Lm control program reflected prevailing practices, the Company fully appreciates that it did not detect and prevent this particular outbreak from occurring. Boar’s Head is applying the lessons it learned from this situation to its other facilities.

FSIS has historically approved of numerous ways for companies, such as Boar’s Head, to control the potential for Lm contamination from the processing environment, and FSIS oversees a comprehensive regulatory program that encompasses a variety of permissible approaches. FSIS originally developed its approach in a 2003 interim final rule, later reaffirmed in 2015 (the “Lm Control Rule,” codified at 9 CFR § 430.4). The regulation is supported by comprehensive agency guidance for industry in the form of the FSIS Compliance Guideline: Controlling *Listeria monocytogenes* in Post-lethality Exposed Ready-to-Eat Meat and Poultry Products (January 2014) (the “Lm Control Guidance”) and numerous FSIS Directives providing detailed instructions to inspectors for enforcing the rule.

## II. Alternative 3 as an Available Sanitation Model

More than two decades ago, as a central component of its Lm control efforts, FSIS embraced in the Lm Control Rule the concept of different permissible “Alternatives” for effective Lm control. Recognizing that different products and processes present different considerations for companies in this industry, FSIS identified a series of Alternative Lm control measures that allow establishments to choose among the various Alternatives as appropriate for their processes. The Alternatives differ in how Lm risks are controlled; some of them, including Alternative 3, require food contact surface testing to verify that Lm is being effectively controlled in the processing environment. Importantly, FSIS has determined that each of the different Alternatives can be an effective approach, including

available at <https://www.fsis.usda.gov/inspection/state-inspection-programs/states-and-without-inspection-programs>.

Alternative 3, and it has historically indicated its own understanding that companies should weigh multiple factors in determining which Alternative to utilize.<sup>3</sup>

Because the Alternatives differ in their approach, FSIS regulations require that establishments using Alternative 2 or Alternative 3 conduct food contact surface testing for *Listeria* to verify their programs are effective, whereas this testing is merely recommended for the other Alternatives. This testing must be performed pursuant to a written plan. Boar's Head has historically provided FSIS or the Commonwealth of Virginia access to the testing results of the Jarratt facility, and FSIS has been able to conduct its own testing at the facility.

FSIS inspectional policy likewise prioritizes agency oversight for these Alternatives. Through multiple directives, FSIS requires inspectors to critically examine any establishment's Lm control plan, including ensuring that: the establishment's HACCP plan properly accounts for potential *Listeria* risks; the establishment has developed and implements appropriate corrective actions in response to any positive tests; the SSOPs or other prerequisite programs support environmental control of *Listeria*; and the establishment is following an appropriate *Listeria* sampling plan. See, e.g., FSIS Directive 10,240.4. FSIS uses other tools, such as Food Safety Assessments and intensified sampling, to verify that establishments operating under any of the Alternatives are effectively controlling their processing environments.

Given the regulatory background summarized above, the deli meat industry produces a wide array of products using a variety of formulations and practices, with commensurate variation in how Lm is controlled. It is estimated that more than 50 percent of the deli meat industry currently operates under Alternative 3. Consistent with this approach and regulatory guidance and oversight, Boar's Head had produced its liverwurst and many of its other deli meat products under Alternative 3, focusing under that standard on a robust sanitation process and testing to control Lm in the

<sup>3</sup> In issuing its initial 2003 interim final rule, FSIS recognized "that different validation or verification testing regimes are appropriate for different types of products or process control programs." 63 Fed. Reg. 34208, 34215 (June 6, 2003). FSIS intended for this approach to provide food manufacturing establishments with the latitude "to implement the type of HACCP or sanitation program that is most appropriate for their production situation," rather than imposing rigid requirements not well tailored to specific products or processes. *Id.* To allow for this latitude while ensuring appropriate regulatory oversight, FSIS introduced in its 2003 rule the concept of different Lm control Alternatives. Importantly, in describing its approach, FSIS "recognize[d] that there are alternative, effective ways to ensure that post-lethality exposed RTE products do not become contaminated with *L. monocytogenes*," and emphasized that among the various Alternatives codified in the rule, "each approach can be effective in preventing such contamination." *Id.* at 34221. Twelve years later (2015), in affirming the 2003 interim final rule, FSIS looked back on more than a decade of data and concluded that its multi-Alternative approach was "successfully carrying out its mission to protect public health." 80 Fed. Reg. 35178, 35179 (June 19, 2015).

processing environment. FSIS was aware of the approach taken by Boar's Head at the Jarratt facility, and the plant profile in FSIS's inspectional database for the Jarratt facility indicated it was operating under Alternative 3.

### III. Food Safety Decisions

The top priority for Boar's Head is the safety of its products, and the Company has a long heritage—with the recall at Jarratt the singular exception in 120 years—of manufacturing high quality products in a manner that ensures consumers can enjoy them safely. The Company has been working hard on enhancements to ensure that consumers can continue to trust the Boar's Head brand.

As indicated above, Boar's Head appointed food safety expert Frank Yiannas, MPH, as Boar's Head's Chief Food Safety Advisor, on an interim basis. He chairs the recently formed Boar's Head Food Safety Advisory Council comprising independent industry-leading food safety experts, which, in coordination with Company management, is responsible for providing guidance and support to the Company's adoption and implementation of enhanced quality food safety programs moving forward.

Boar's Head has made the decision to permanently discontinue its production of liverwurst, which was the source of this outbreak. It is important to note that the liverwurst process at the Jarratt facility was a unique manufacturing process that was separate and distinct from the manufacturing processes for all other Boar's Head products at the facility. Only the liverwurst was produced using this unique manufacturing process. It is the Company's understanding based on its ongoing review that its liverwurst product was the only product that was impacted during the manufacturing process by the outbreak strain.

The Jarratt facility has been closed indefinitely, a decision the Company did not take lightly given the impact on the people who worked there. If the facility reopens at some future date, Boar's Head commits to assuring that the facility will be able to manufacture food products that are safe, and to enhancing existing policies and procedures to tighten the Company's food safety and quality program. Any future plans to reopen the facility would also entail close coordination with the USDA.

### IV. Management of Recall

Once it became aware of a potential food safety issue, Boar's Head moved swiftly and in coordination with USDA to make data-driven decisions to recall product, communicate those decisions to the public, and minimize public health impact. First, on July 25, 2024, after being notified that an intact sample of Strassburger Brand Liverwurst pulled from a retail location in Maryland had tested positive for Lm, the Company initiated a voluntary recall of all Strassburger Brand Liverwurst, as well as nine other products that were manufactured on the same line and the same day as the product that tested positive. Second, on July 29, 2024, after being notified that the Whole Genome Sequence ("WGS") result for the liverwurst product matched a strain of Lm that the

CDC was tracking as part of an outbreak, and in an abundance of caution, Boar's Head voluntarily expanded the recall to include all items manufactured in the Jarratt facility, regardless of whether the products were in any other way connected with the liverwurst product.

Throughout this process, the Company communicated the status of its recall to customers through the Company website and other communications. The Company also worked closely with FSIS and state government regulatory agencies, providing FSIS with detailed information about the products being recalled and coordinating with FSIS on the issuance of FSIS's press releases announcing the recall and subsequent expansion. Boar's Head also took additional steps to communicate with the public, including placing a prominent notification on the main page of the Company website.

In executing the recall, Boar's Head identified and contacted the distributors and retailers that received the recalled product, and Boar's Head also shared distribution information with FSIS. FSIS was closely involved in monitoring the recall execution, including following up to make sure that these distributors and retailers had in fact been notified about the recall and that recalled product had been removed from store shelves and distribution channels. In summary, Boar's Head recalled over 7 million pounds of product, of which approximately 2.7 million pounds were disposed of by Boar's Head or its distributors and customers.

Based on this and other information, on November 1, 2024, FSIS notified Boar's Head that the agency had concluded the recall was "effective" per FSIS Directive 8080, and FSIS has further indicated that the recall is closed. On November 21, 2024, the CDC officially declared that the outbreak associated with the liverwurst product was over.

#### V. Consumer Confidence

Boar's Head is proud to have a 120-year history of delivering safe, delicious food to the people who love our products. The recall at the Jarratt facility does not reflect the high standards and values that have guided the Company for more than a century.

Following the recall, the Company is taking significant actions to ensure it lives up to Boar's Head's—and its consumers'—high expectations around safety and quality:

- As noted, the Company appointed Frank Yiannas, MPH, as Chief Food Safety Advisor and established the Boar's Head Food Safety Advisory Council comprising leading food safety authorities.
- Mr. Yiannas and the Council, along with Boar's Head leadership team, conducted a comprehensive review of the recall stemming from the Jarratt facility, as well as of the conditions and safety practices across the Company's facilities.

- The Council will make recommendations on enhancing the already strict and robust safety and quality practices across the Company's facilities.
- Boar's Head is reassessing and strengthening food safety procedures and programs including environmental monitoring, sanitation procedures, and GMP procedures.
- The Company has also expanded its training programs and retrained employees to ensure they are equipped and empowered to operate at the highest levels.
- In addition, Boar's Head is reinforcing the high standards to which it holds suppliers through rigorous production requirements, vetting, monitoring, and audits.
- The company plans to hold an internal Boar's Head Food Safety Promise Day, where it will pause production at each of its plants for Boar's Head employees to participate in training, reaffirm the Company's commitment to a strong food safety culture, and learn about *Listeria* control at Boar's Head meat and poultry processing facilities.

The Company wants to assure its consumers that Boar's Head has in place rigorous processes and procedures, including in-depth supplier vetting, monitoring and audits, advanced technologies designed to uphold the highest safety standards, strict sanitation practices, comprehensive safety training for employees, certifications from leading food safety authorities, and ongoing third-party inspections to ensure constant compliance. To that end, Boar's Head has launched [boarshead.com/FoodSafety](https://boarshead.com/FoodSafety), a new webpage dedicated to the Company's unwavering commitment to food safety and ensuring that consumers nationwide can enjoy Boar's Head food with confidence.

Boar's Head is committed to prioritizing safety at every step of making high-quality food—from sourcing and production to delivery—and providing the trusted quality that customers expect from the Boar's Head brand.

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The submission of this information does not waive, nor is it intended to waive, any rights, privileges, or immunities of the Company with respect to this matter, including any applicable attorney-client, work product, or other privilege or immunity. The Company expressly reserves any applicable privileges and immunities to which it is entitled under applicable law, as well as the right to supplement or amend the content of this letter, including as additional information becomes available.

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Respectfully submitted on behalf of Boar's Head,



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cc: Senator Cory A. Booker  
Senator Richard Blumenthal  
Rep. Eleanor Holmes Norton  
Rep. Grace Meng  
Rep. Jennifer L. McClellan  
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Rep. Rashida Tlaib  
Rep. Dan Goldman  
Rep. Bonnie Watson Coleman  
Rep. David Scott  
Rep. John B. Larson  
Rep. Jan Schakowsky  
Rep. Nydia M. Velaquez  
Rep. Raja Krishnamoorthi  
Rep. Julia Brownley  
Rep. Barbara Lee  
Rep. Jamie Raskin  
Rep. Danny K. Davis  
Rep. Sanford D. Bishop, Jr.  
Rep. Sheila Cherfilus-McCormick

APPENDIX A: Summaries for the “Boar’s Head Food Safety Advisory Council”

Frank Yiannas, MPH, is the former Deputy Commissioner for Food Policy & Response at the U.S. Food and Drug Administration (“FDA”) and brings a wealth of experience in regulatory oversight and public health. His leadership in implementing the FDA’s Food Safety Modernization Act (“FSMA”) has significantly improved food safety standards across the nation. A renowned food safety expert, microbiologist, and author, Mr. Yiannas has also held food safety leadership roles at Walmart and Disney. He is a past president of the International Association for Food Protection and a past vice-chairman of the Global Food Safety Initiative, as well as an adjunct Professor in the Food Safety Program at Michigan State University. Mr. Yiannas’s vast experience in building effective food safety management systems through innovative ways and his foundational work on building a food safety culture will be pivotal in shaping the Company’s food safety programs going forward.

David Acheson, M.D., F.R.C.P., has a distinguished career in food safety and has served as the President and Chief Executive Officer of The Acheson Group since founding the global food safety consulting group in 2013. Previously, he served as a Partner and Managing Director of Leavitt Partners, where he founded and managed the firm’s food safety services business. Prior to his industry roles, Dr. Acheson served at the U.S. Food and Drug Administration (“FDA”) for eight years, progressing from Chief Medical Officer of the Center for Food Safety and Applied Nutrition to Associate Commissioner for Foods. His expertise in international food safety standards and risk assessment is invaluable to the Council.

Mindy Brashears, Ph.D., is a leading food safety expert and academic. Dr. Brashears was the former U.S. Department of Agriculture (“USDA”) Under Secretary for Food Safety and is currently a professor of Food Safety and Public Health and the Director of the International Center for Food Industry Excellence at Texas Tech University. She has made significant contributions to the field of food microbiology and public health with her research on foodborne pathogens, prevention, and food safety education that have made lasting impacts on the industry and will be instrumental in guiding the Council’s efforts.

Martin Wiedmann, Dr. med. vet., Ph.D., is a renowned food microbiologist and academic, who is a Cornell University Gellert Family Professor in Food Safety and the co-director of the New York State Integrated Food Safety Center of Excellence. With training as both a veterinarian and food scientist, Dr. Wiedmann’s programs focus on a comprehensive and interdisciplinary farm-to-table approach to food safety and quality. He has conducted extensive research on foodborne pathogens and their prevention, with notable insights into emerging food safety threats and cutting-edge technologies that will contribute significantly to the Council’s work.