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13 PACIFIC DISTRIBUTING, INC.

14  
15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
16  
17 **FOR THE COUNTY OF TULARE**

18 KEVIN BECERRA, RIGOBERTO  
19 BENAVIDEZ, RAFI CAMPBELL, and  
20 MANUEL VARGAS HERNANDEZ,  
21 individually, and on behalf of all others  
22 similarly situated,

23  
24 Plaintiffs,

25 v.

26 PACIFIC DISTRIBUTING, INC., a California  
27 corporation; and DOES 1 through 10,  
28 inclusive,

Defendants.

Case No.: VCU293519

**CLASS AND PAGA ACTION**

**JOINT STIPULATION OF CLASS AND  
PAGA ACTION SETTLEMENT AND  
RELEASE**

Honorable David C. Mathias  
Dept. 1

Complaint filed: September 27, 2022

Trial date: None set

**JOINT STIPULATION OF CLASS AND PAGA ACTION SETTLEMENT AND  
RELEASE**

IT IS HEREBY STIPULATED, by and among Kevin Becerra, Rigoberto Benavidez, Rafi Campbell, and Manuel Vargas Hernandez (collectively, “Plaintiffs”), on behalf of themselves and the Settlement Class Members, on the one hand, and Pacific Distributing, Inc. (“PDI”), on the other hand (together with Plaintiffs, the “Parties”), and subject to the approval of the Court, that the above-captioned action is hereby being compromised and settled pursuant to the terms and conditions set forth in this Joint Stipulation of Class Action Settlement and Release (the “Settlement Agreement” or “Settlement”).

**1. DEFINITIONS**

Capitalized terms used in this Settlement shall have the meanings set forth below:

1.1. “Action” means the putative class action entitled *KEVIN BECERRA, et al. v. PACIFIC DISTRIBUTING, INC.*, pending in the Superior Court of the State of California, County of Tulare, and designated as Case No. VCU293519.

1.2. “Class Member” means “Plaintiffs and all other persons who have been employed by Defendant in California as an hourly-paid or non-exempt employee during the statute of limitations period applicable,” September 27, 2018 through the date the Court Preliminarily Approves this settlement.

1.3. “PAGA Member(s)” means all non-exempt, hourly paid employees currently and formerly employed by Defendant in the state of California from November 20, 2021 through the date the Court Preliminarily Approves this settlement.

1.4. “Settlement Administrator” means ILYM Group, Inc.

1.5. “Settlement Administration Costs” means the amount to be paid to the third-party Settlement Administrator from the Gross Settlement Amount for the administration of the Settlement. The Settlement Administration Costs amount is not to exceed Eight Thousand Dollars and Zero Cents (\$8,000.00). Any portion of the requested Settlement Administration Costs that is not awarded to the Settlement Administrator shall be part of the Net Settlement Amount.

1.6. “Class Counsel” means Justin F. Marquez, Christina M. Le, and Zachary D.

Greenberg of the Wilshire Law Firm.

1.7. “Class Counsel Fees” means reasonable attorneys’ fees for Class Counsel’s litigation and resolution of this Action, in the amount of One Hundred Forty-Six Thousand Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$141,666.67) (or 33 1/3% of the Gross Settlement Amount). The Court shall determine the amount of the Class Counsel Fees, and it shall be paid from the Gross Settlement Amount. Any portion of the requested Class Counsel Fees that is not awarded to Class Counsel shall be part of the Net Settlement Amount.

1.8. “Class Counsel Costs” means actual expenses incurred by Class Counsel for Class Counsel’s litigation and resolution of this Action, as supported by declaration, in an amount not to exceed Thirty Thousand Dollars and Zero Cents (\$30,000.00). The Court shall determine the amount of the Class Counsel Costs, and it shall be paid from the Gross Settlement Amount. Any portion of the requested Class Counsel Costs that is not awarded to Class Counsel shall be part of the Net Settlement Amount.

1.9. “Class Information” means information regarding Settlement Class Members that Defendant will in good faith compile from its records and provide to the Settlement Administrator. Class Information shall be provided as a Microsoft Excel spreadsheet and shall include: each Settlement Class Member’s full name; last known address; last known home telephone number; social security number; all start and end dates of employment during the Class Period, and the total number of weeks each Settlement Class Member worked for Defendant during the Class Period. The number of weeks worked shall be calculated using Defendant’s payroll data during the Class Period whenever the hours worked for the work week was greater than zero. Because social security numbers are included in the Class Information, the Settlement Administrator shall maintain the Class Information in confidence; access shall be limited to those with a need to use the Class Information as part of the administration of the Settlement, and transmission shall be through use of a secure, password-protected file.

1.10. “Class Period” means the period from September 27, 2018 through the date the Court Preliminarily Approves this settlement.

1.11. “PAGA Class Period” means the period from November 20, 2021 through the date

1 the Court Preliminarily Approves this settlement.

2 1.12. "PAGA Released Claims" shall mean all claims, demands, rights, liabilities and  
3 causes of action for penalties under California Labor Code Private Attorneys General Act of 2004  
4 against the Released Parties, based on the letter to the Labor & Workforce Development Agency  
5 on November 14, 2021, that arose during the PAGA Class Period, including but not limited to  
6 claims for civil penalties for violations of Labor Code sections 210, 226.3, 1174.5, 1197.1, and  
7 2699, and all related claims for attorneys' fees and costs.

8 1.13. "Class Representative Service Award" means the amount that the Court authorizes  
9 to be paid to each of the Plaintiffs, not to exceed Ten Thousand Dollars and Zero Cents  
10 (\$10,000.00), in addition to each of the Plaintiffs' Individual Settlement Payments. The Class  
11 Representative Service Award to each of the Plaintiffs is in exchange for the Released Claims,  
12 Plaintiffs' General Released Claims, and for Plaintiffs' efforts and risks in assisting with the  
13 prosecution of the Action. The Class Representative Service Award shall be paid from the Gross  
14 Settlement Amount. Any portion of the requested Class Representative Service Award that is not  
15 awarded to Plaintiffs shall be part of the Net Settlement Amount.

16 1.14. "Court" means the Superior Court of the State of California for the County of  
17 Tulare.

18 1.15. "Defendant" means PACIFIC DISTRIBUTING, INC., and each of its parent  
19 companies, subsidiaries, related companies, affiliates, dbas, current and former management  
20 companies, shareholders, members, agents (including any investment bankers, accountants, insurers,  
21 reinsurers, attorneys and any past, present or future officers, directors and employees) predecessors,  
22 successors, and assigns or any related entity that was the "employer" of the Settlement Class  
23 Members.

24 1.16. "Defendant's Counsel" means Nina Huerta and Eve Tilley-Coulson of Locke Lord  
25 LLP.

26 1.17. "Effective Date" means the date that the Gross Settlement Amount is fully funded.

27 1.18. "Employee Taxes" means the employee's share of any and all applicable federal,  
28 state, and local payroll taxes on the portion of Settlement Class Members' Individual Settlement

1 Payment that constitutes wages. The Employee Taxes shall be paid out of the Net Settlement  
2 Amount.

3 1.19. "Employer Taxes" means the employer's share of any and all applicable federal,  
4 state, and local payroll taxes on the portion of Settlement Class Members' Individual Settlement  
5 Payment that constitutes wages. The Employer Taxes shall be paid by Defendant separately and  
6 not out of the Gross Settlement Amount or Net Settlement Amount.

7 1.20. "Final Approval Hearing" means the hearing held on the motion for final approval  
8 of the Settlement.

9 1.21. "Final Approval Date" means the date which the Court grants final approval of the  
10 Settlement.

11 1.22. "Final Judgment" means the Court's entry of an order of judgment in this Action  
12 following the Court's final approval of the Settlement.

13 1.23. "Gross Settlement Amount" means the maximum amount Defendant shall have to  
14 pay in connection with this Settlement, by way of a common fund, which shall be inclusive of all  
15 Individual Settlement Amounts to Settlement Class Members, Class Counsel Fees, Class Counsel  
16 Costs, Settlement Administrator Costs, Class Representative Service Awards, Employee Taxes  
17 and PAGA Allocation. Subject to Court approval and the terms of this Settlement, the Gross  
18 Settlement Amount Defendant shall be required to pay is Four Hundred and Twenty-Five  
19 Thousand Dollars and Zero Cents (\$425,000.00). No portion of the Gross Settlement Amount  
20 will revert to Defendant, and the Settlement does not require Settlement Class Members to submit  
21 claims as a prerequisite to receiving their Individual Settlement Payment. This settlement sum is  
22 based on Defendant's representation that the number of total Workweeks during the Class Period  
23 through November 6, 2023 was Ten Thousand, Five Hundred and Seventy-Three weeks (10,573).  
24 Defendant shall not be required to pay more than the Gross Settlement Amount as long as the  
25 actual number of Workweeks during the Class Period through the date the Court Preliminarily  
26 Approves this settlement is no more than ten percent (10%) greater than Defendant's estimate. If  
27 the actual number of Workweeks during the Class Period through the date the Court Preliminarily  
28 Approves this settlement is more than ten percent (10%) greater than the estimate, the Gross

1 Settlement Amount shall increase proportionately to the increase in the number of Workweeks  
2 over the ten percent (10%) grace amount— e.g., if the number of Workweeks increases by eleven  
3 percent (11%), the Gross Settlement Amount shall increase by one percent (1%); if the number  
4 of Workweeks increases by twelve percent (12%), the Gross Settlement Amount shall increase  
5 by two percent (2%), and so forth. Under no other circumstances shall Defendant be required to  
6 pay more than the Gross Settlement Amount except as provided for in this section of the  
7 Settlement Agreement.

8 1.24. “Individual Settlement Payment” means the amount payable to each Settlement  
9 Class Member, as calculated pursuant to Paragraph 3.12.1 of the Settlement, from the Net  
10 Settlement Amount. Checks for Individual Settlement Payments shall specifically indicate that  
11 they are void if not negotiated within one hundred eighty (180) days of their issuance.

12 1.25. “PAGA Allocation” means Twenty Thousand Dollars and Zero Cents  
13 (\$20,000.00), allocated from the Gross Settlement Amount for the compromise of claims brought  
14 under the Labor Code Private Attorney General Act of 2004 (“PAGA”). Per California Labor  
15 Code section 2699(i), Fifteen Thousand Dollars and Zero Cents (\$15,000.00), representing 75%  
16 of the PAGA Allocation, shall be paid to California’s Labor Workforce Development Agency.  
17 The remaining Five Thousand Dollars and Zero Cents (\$5,000.00), representing 25% of the  
18 PAGA Allocation, shall be part of the Net Settlement Amount and shall be distributed to PAGA  
19 Members.

20 1.26. “LWDA” shall mean the California Labor and Workforce Development Agency.

21 1.27. “LWDA PAGA Allocation” means Fifteen Thousand Dollars and Zero Cents  
22 (\$15,000.00), representing 75% of the PAGA Allocation, and is the amount payable from the  
23 Gross Settlement Amount to California’s Labor Workforce Development Agency.

24 1.28. “PAGA Member Allocation” means Five Thousand Dollars and Zero Cents  
25 (\$5,000.00), representing 25% of the PAGA Allocation, and is the amount payable to PAGA  
26 Members. The PAGA Member Allocation shall be distributed in its entirety to PAGA Members  
27 pursuant to paragraph 3.13.

28 1.29. “Net Settlement Amount” means the Gross Settlement Amount, less the Class

Counsel Fees, the Class Counsel Costs, the Class Representative Service Awards, the Settlement Administration Costs, the LWDA PAGA Allocation, and the PAGA Member Allocation. The Net Settlement Amount shall be distributed in its entirety to Settlement Class Members, as provided for in this Settlement.

1.30. “Notice of Objection” means a written statement of objection to the Settlement, made and signed by a Settlement Class Member and includes the following: (1) the full name of the Settlement Class Member; (2) the dates of employment of the Settlement Class Member; (3) the last four digits of the Settlement Class Member’s Social Security number and/or the entire Employee ID number; (4) the basis for the objection; and, (5) whether the Settlement Class Member intends to appear at the Final Approval Hearing.

1.31. “Notice of Settlement” means the Notice of Proposed Class Action Settlement and Notice of Private Attorney General Act Settlement.

1.32. “Notice Packet” means the Notice of Proposed Class Action Settlement, Notice of Private Attorney General Act Settlement, Class Workweek Dispute Form, and the Request for Exclusion Form to be provided in English and Spanish.

1.33. “Parties” means Plaintiffs and Defendant collectively; and “Party” shall mean any Defendant or Plaintiffs, individually.

1.34. “PAGA Members” means all non-exempt employees, currently and formerly employed by Defendant in the State of California at any time during the PAGA Class Period.

1.35. “Plaintiffs” means Kevin Becerra, Rigoberto Benavidez, Rafi Campbell, and Manuel Vargas Hernandez.

1.36. “Plaintiffs’ General Released Claims” includes the Released Claims, and/or any claims on behalf of Plaintiffs, their agents, spouses, executors, representatives, heirs, successors, assigns, and estates, in exchange for the terms and conditions of this Settlement. Including, as of the Effective Date, Plaintiffs fully and forever release the Released Parties, to the full extent permitted by law, of and from any and all claims arising from their employment with Defendant, known and unknown, asserted and unasserted, which Plaintiffs had or may have had against the Released Parties, whether sounding in tort, in contract, in law, in equity or otherwise, and

1 including but not limited to all claims for violation of any local, state, or federal statute, rule, or  
2 regulation. Plaintiffs expressly waive and relinquish all rights and benefits afforded by section  
3 1542 of the Civil Code of the State of California and do so understanding and acknowledging the  
4 significance of such specific waiver of section 1542. Section 1542 of the Civil Code of the State  
5 of California states as follows:

6 **A general release does not extend to claims that the creditor or releasing party does**  
7 **not know or suspect to exist in his or her favor at the time of executing the release**  
8 **and that, if known by him or her, would have materially affected his or her**  
9 **settlement with the debtor or released party.**

10 Notwithstanding the above, Plaintiffs' General Released Claims do not include any  
11 workers' compensation claims, and claims that cannot be waived as a matter of law by signing  
12 this agreement, or enforcing this agreement.

13 1.37. "Preliminary Approval Date" means the date the Court enters the Preliminary  
14 Approval Order for the Settlement.

15 1.38. "Preliminary Approval Order" means the proposed order (filed concurrently with  
16 this Settlement and Plaintiffs' motion for preliminary approval of the Settlement), as may be  
17 amended by the Court, for preliminary approval of the Settlement.

18 1.39. "Released Claims" means any and all claims during the Class Period which were  
19 or could have been raised based on the facts, conduct, and/or omissions alleged in the Action,  
20 including all wage and hour claims, demands, rights, liabilities, and causes of action for unpaid  
21 wages, including minimum wage payments, regular wages, overtime wages; failure to pay wages  
22 during employment; failure to pay all wages due upon separation of employment; failure to  
23 maintain and provide accurate records; meal and rest break violations; meal and rest break  
24 premiums; wage statement violations, failure to reimburse for necessary business expenditures,  
25 violation of the Private Attorney General Act (California Labor Code section 2698, et seq.), civil  
26 and statutory penalties, interest, liquidated damages, attorney's fees and costs, claims under  
27 California Labor Code sections 201-204, 226, 226.7, 512, 1194, 1194.2, 1197, 1198, 2699, 2802  
28 and applicable Industrial Welfare Commission Wage Order, and claims under California Business



1 & Professions Code sections 17200-17204. It is understood and agreed that Released Claims do  
2 not include claims for workers' compensation, unemployment, or disability benefits of any nature,  
3 nor any claims, actions, or causes of action which may be possessed by Settlement Class Members  
4 under state or federal discrimination statutes, including, without limitation, the California Fair  
5 Employment and Housing Act, California Government Code section 12940, *et seq.*; the Unruh  
6 Civil Rights Act, California Civil Code section 51, *et seq.*; the California Constitution; Title VII  
7 of the Civil Rights Act of 1964, 42 U.S.C. § 2000, *et seq.*; the Americans with Disabilities Act,  
8 as amended, 42 U.S.C. § 12101, *et seq.*; the Employee Retirement Income Security Act of 1974,  
9 as amended, 29 U.S.C. § 1001, *et seq.*; and all of their implementing regulations and interpretive  
10 guidelines.

11 1.40. "Released Parties" means Pacific Distributing, Inc., and each of its parent  
12 companies, subsidiaries, related companies, affiliates, dbas, current and former management  
13 companies, shareholders, members, officers, directors, employees, agents (including any investment  
14 bankers, accountants, insurers, reinsurers, attorneys and any past, present or future officers, directors  
15 and employees) predecessors, successors, and assigns, or any related entity that was the "employer"  
16 of Class Members.

17 1.41. "Pacific Distributing, Inc.'s Release of Claims Against Plaintiffs" means Pacific  
18 Distributing, Inc., forever releases Plaintiffs Kevin Becerra, Rigoberto Benavidez, Rafi Campbell,  
19 and Manuel Vargas Hernandez from any and all charges, complaints, claims, liabilities,  
20 obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights,  
21 demands, costs, losses, debts, and expenses (including attorneys' fees and costs actually incurred)  
22 of any nature whatsoever, from the beginning of time through the date of their signature on this  
23 Settlement Agreement, known or unknown, suspected or unsuspected, including but not limited  
24 to all claims arising out of, based upon, or relating to Plaintiffs' employment with Defendant and  
25 related to this Lawsuit.

26 1.42. In so far as Pacific Distributing, Inc.'s claims against Plaintiffs Kevin Becerra,  
27 Rigoberto Benavidez, Rafi Campbell, and Manuel Vargas Hernandez, Pacific Distributing, Inc.  
28 expressly waives and relinquishes all rights and benefits afforded by section 1542 of the Civil

1 Code of the State of California and does so understanding and acknowledging the significance of  
2 the specific waiver of section 1542. Section 1542 of the Civil Code of the State of California  
3 states as follows:

4 **A general release does not extend to claims that the creditor or releasing party**  
5 **does not know or suspect to exist in his or her favor at the time of executing**  
6 **the release and that, if known by him or her, would have materially affected**  
7 **his or her settlement with the debtor or released party.**

8 1.43. Thus, subject to and in accordance with this Settlement Agreement, even if Pacific  
9 Distributing, Inc. hereafter discovers facts in addition to or different from those they now know  
10 or believe to be true, Pacific Distributing, Inc. shall be deemed to have fully, finally, and forever  
11 settled and released any and all claims against Plaintiffs Kevin Becerra, Rigoberto Benavidez,  
12 Rafi Campbell, and Manuel Vargas Hernandez that could have been alleged against them, as well  
13 as any other claims, whether known or unknown, suspected or unsuspected, contingent or non-  
14 contingent, that now exist, upon any theory of law or equity, including without limitation, conduct  
15 which is negligent, intentional, with or without malice, or a breach of any duty, law, or rule,  
16 without regard to the subsequent discovery or existence of such different or additional facts.

17 1.44. “Response Deadline” means the date sixty (60) days after the Settlement  
18 Administrator mails the Notice Packets to Settlement Class Members, and shall be the last date  
19 on which Settlement Class Members may: (a) postmark Requests for Exclusion from the  
20 Settlement, or (b) postmark Objections to the Settlement.

21 1.45. The “Settlement Agreement” or “Settlement” means this Joint Stipulation of Class  
22 Action Settlement and Release.

23 1.46. “Settlement Class Member(s)” or “Settlement Class” or “Class Member(s)” means  
24 all non-exempt employees, currently and formerly employed by Defendant in the State of  
25 California at any time during the Class Period.

26 1.47. “Workweeks” shall mean the number of weeks each Class Member worked for  
27 Defendant as an hourly-paid and/or non-exempt employee in California during the Class Period.  
28 The Settlement Administrator will calculate the number of Workweeks by calculating the number  
of days each Class Member worked at Pacific Distributing, Inc. was employed during the Class  
Period, and dividing by seven (7).

## 2. RECITALS

2.1. Class Certification. The Parties stipulate and agree to the conditional certification of this Action for purposes of this Settlement only. Should, for whatever reason, the Settlement not become final and effective, conditional Class Certification shall immediately be set aside (subject to further proceedings on motion of any Party to certify or decertify thereafter). The Parties' willingness to stipulate to conditional Class Certification as part of the Settlement shall have no bearing on and shall not be admissible or considered in connection with the issue of whether a class should be certified in a non-settlement context in this Action, and shall have no bearing on and shall not be admissible or considered in connection with the issue of whether a class should be certified in any other lawsuit. Defendant expressly reserves its right to oppose class certification should this Settlement be modified or reversed on appeal or otherwise not become final and effective for any reason.

2.2. Procedural History. On November 14, 2022, Plaintiffs submitted their PAGA letter to the LWDA alleging Defendant violated, among other provisions of the California Labor Code and applicable wage law, Labor Code sections 210, 226.3, 1174.5, 1197.1, 2699, 2699(a), and 2699.3. On September 27, 2022, Plaintiffs filed a lawsuit in the Superior Court of California for the County of Tulare as a proposed class action on behalf of all current and former non-exempt California employees of Defendant during the period of September 27, 2018 through the date notice is sent to the class. In their initial complaint Plaintiffs alleged that Defendant (1) failed to pay minimum and straight time wages; (2) failed to pay overtime wages; (3) failed to provide meal periods; (4) failed to authorize and permit rest periods; (5) failed to timely pay final wages at termination; (6) failed to provide accurate itemized wage statements; (7) failed to indemnify employees for expenditures; and engaged in (8) unfair business practices. Plaintiffs sought recovery under the California Labor Code, the applicable Industrial Welfare Commission Wage Order, and the California Business & Professions Code. On January 24, 2023, Plaintiffs filed an amended complaint alleging claims under the Labor Code Private Attorneys General Act of 2004 ("PAGA").

2.3. Settlement Negotiations. On November 6, 2023, the Parties participated in a full-

1 day private mediation session with mediator Hon. Amy Hogue (Ret.). Prior to the mediation,  
2 Defendant provided time records and corresponding pay records for a sample of putative class  
3 members, as well as other documents, allowing Class Counsel to construct a damages analysis.  
4 Based on the information obtained through informal discovery, the Parties reached an agreement  
5 in principal to the basic terms of the Settlement. The Settlement is the result of an informed and  
6 detailed evaluation of the total exposure and potential liability, in relation to the costs and risks  
7 associated with continued litigation of the Action. The Parties have engaged in sufficient  
8 discovery and investigation to assess the relative merits of the claims, defenses, and contentions  
9 of the Parties.

10 2.4. Benefits of Settlement to Settlement Class Members. Plaintiffs and Class Counsel  
11 recognize the length of continued proceedings necessary to litigate the Parties' disputes through  
12 certification, trial, and any possible appeal. Plaintiffs and Class Counsel have also taken into  
13 account the uncertainty and risk of the outcome of further litigation, the difficulties and delays  
14 inherent in such litigation, including, but not limited to, the risks related to a contested motion for  
15 class certification, potential motions for decertification, trial, and appeal. Plaintiffs and Class  
16 Counsel are also aware of the burdens of proof necessary to establish liability for the claims  
17 asserted in the Action and the difficulties in establishing damages for the Class Members.  
18 Plaintiffs and Class Counsel have also taken into account Defendant's agreement to enter into a  
19 settlement that confers substantial relief upon Class Members. Based on the foregoing, Plaintiffs  
20 and Class Counsel have determined that this Settlement is fair, adequate, and reasonable, and is  
21 in the best interests of the Class Members.

22 2.5. Defendant's Denial of Wrongdoing and Liability and Reasons for Settlement.  
23 Defendant has denied and continue to deny each and all of the claims and contentions alleged in  
24 the Action. Defendant has repeatedly asserted, and continues to assert, defenses thereto, and has  
25 expressly denied, and continues to deny, any wrongdoing or legal liability arising out of any of  
26 the facts, conduct, and/or omissions alleged in the Action. Defendant has also denied, and  
27 continues to deny, *inter alia*, the allegations that the Class Members have suffered damage.  
28 Without limiting the foregoing, Defendant contends that the Class Members were properly and

1 timely paid all wages owed, including, but not limited to, all straight and overtime pay; were  
2 provided timely and uninterrupted meal and rest periods as required under California law; were  
3 properly and timely paid all wages upon separation of employment or otherwise when due; were  
4 properly and timely provided accurate itemized wage statements as required under California law;  
5 were properly reimbursed for any expenses required to incur; and that Defendant has not engaged  
6 in any unlawful, unfair, or fraudulent business practices in violation of California law. However,  
7 Defendant has concluded that any further defense of this litigation would be protracted and  
8 expensive for all Parties. Substantial amounts of time, energy, and resources of Defendant has  
9 been and, unless the Settlement is approved, will continue to be devoted to the defense of the  
10 claims asserted by Plaintiffs and Class Members. Defendant has also taken into account the  
11 uncertainty and risks inherent in any litigation, especially in complex cases such as this Action.  
12 Based on the foregoing, Defendant has concluded that it is desirable and beneficial that the Action  
13 be fully and finally settled in the manner and upon the terms and conditions set forth in the  
14 Settlement. This will allow Defendant to dispose of burdensome and protracted litigation, permit  
15 the operation of Defendant's business without further expensive litigation, and put an end to the  
16 distraction and diversion of its personnel regarding matters at issue in the Action.

17       2.6. No Admissions. The Parties understand and agree that the Settlement is the result  
18 of a good faith compromise of disputed claims and allegations, and Defendant is entering into the  
19 Settlement solely to resolve disputed matters. No part of the Settlement or any conduct or written  
20 or oral statements made in connection with the Settlement, whether or not the Settlement is finally  
21 approved and/or consummated, is or may be offered as or construed to be an admission or  
22 concession of any kind by any of the Parties. In particular, but without limiting the generality of  
23 the foregoing, nothing about the Settlement shall be offered or construed as an admission that  
24 Defendant violated any of its obligations under the California Labor Code, applicable Industrial  
25 Welfare Commission Wage Orders, Business and Professions Code or Private Attorneys General  
26 Act, or of liability in general, or any wrongdoing, impropriety, responsibility, or fault whatsoever  
27 on the part of Defendant and/or the Released Parties. In addition, this Settlement shall not be  
28 offered or be admissible in evidence against any of the Parties or any of the Released Parties,

except in any action or proceeding brought by or against Plaintiffs, Class Members, or Defendant to enforce the Settlement's terms, or by Defendant in defense of any claims brought by Plaintiffs or Class Members. The provisions of this paragraph shall become effective when this Settlement is signed by all Parties, and shall be binding on the Parties and their counsel regardless of whether the Settlement is preliminarily and/or finally approved or terminated for any reason, or rendered null and void.

2.7. Class Members' Claims. Plaintiffs claim that the Released Claims have merit and give rise to liability on the part of Defendant. This Settlement is a compromise of disputed claims. Nothing contained in this Settlement, and no documents referred to herein, nor any action taken to carry out this Settlement, may be construed or used as an admission by or against the Plaintiffs, Class Members or Class Counsel as to the merits or lack thereof of the claims asserted in the Action.

2.8. Defendant's Defenses. Defendant has denied and continues to deny each and all of the allegations, claims, and contentions of wrongdoing alleged by Plaintiffs in the Action. Defendant has expressly denied and continues to deny all charges of wrongdoing or liability against it arising out of any of the conduct, statements, acts, or omissions alleged in the Action. Defendant contends that it complied in good faith with California and federal wage-and-hour laws and has dealt legally and fairly with Plaintiffs and Class Members. Defendant further denies that, for any purpose other than settling this Action, these claims are appropriate for class or representative treatment.

### **3. TERMS OF SETTLEMENT**

The Parties agree as follows:

3.1. Binding Settlement. This Settlement shall bind the Parties and all Settlement Class Members, subject to the terms and conditions set forth in the Settlement and the Court's approval.

3.2. Release As To All Settlement Class Members and Plaintiffs.

3.2.1. Release As To All Settlement Class Members. As of the Effective Date, all Settlement Class Members, including Plaintiffs, will be deemed to have fully, finally and forever released, settled, compromised, relinquished, and discharged the Released Parties from the

Released Claims during the Class Period. This release shall be binding on all Settlement Class Members, including each of their respective attorneys, agents, executors, representatives, guardians ad litem, heirs, successors, and assigns, and shall inure to the benefit of the Released Parties, who shall have no further or other liability or obligation to any Class Member with respect to the Released Claims, except as expressly provided herein. All PAGA Members, regardless of whether they submit timely and valid Requests for Exclusion from the Settlement, will release all PAGA Released Claims, as well as claims that could have been premised on the claims, causes of action or legal theories alleged in the Action, during the PAGA Class Period. Plaintiffs on behalf of the State of California and the LWDA will also release all PAGA Released Claims.

3.3. Tax Liability. The Parties understand and agree that the Parties are not providing tax or legal advice. Defendant shall be responsible for any Employer Taxes due as a result of the Settlement. These payments shall be separate and shall not be made from the Gross Settlement Amount or the Net Settlement Amount. Settlement Class Members shall remain responsible for any Employee Taxes due as a result of the Settlement. Settlement Class Members will assume any employee tax obligations or consequences that may arise from this Settlement and should consult with a tax expert if they have questions. However, Individual Settlement Payments will be allocated as follows: 33% as wages (for which an IRS Form W-2 will be issued) and 67% as interest and penalties (for which an IRS Form 1099 will be issued). Any required payroll deductions will be based on this apportionment. The Parties agree that, in the event that any taxing body determines that additional employee taxes are due from any Settlement Class Member, such Settlement Class Member assumes all responsibility for the payment of such taxes.

3.4. Circular 230 Disclaimer. The Parties acknowledge and agree that (1) no provision of this Settlement, and no written communication or disclosure between or among the Parties, Class Counsel or Defendant's Counsel and other advisers, is or was intended to be, nor shall any such communication or disclosure constitute or be construed, or be relied upon, as tax advice within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) the acknowledging Party (a) has relied exclusively upon his, her, or its own,

1 independent legal and tax counsel for advice (including tax advice) in connection with this  
2 Settlement, (b) has not entered into this Settlement based upon the recommendation of any other  
3 Party or any attorney or advisor to any other Party, and (c) is not entitled to rely upon any  
4 communication or disclosure by any attorney or adviser to any other Party to avoid any tax penalty  
5 that may be imposed on the acknowledging Party; and (3) no attorney or adviser to any other  
6 Party has imposed any limitation that protects the confidentiality of any such attorney's or  
7 adviser's tax strategies (regardless of whether such limitation is legally binding) upon disclosure  
8 by the acknowledging Party of the tax treatment or tax structure of any transaction, including any  
9 transaction contemplated by this Settlement.

10       3.5.   Settlement Approval and Implementation Procedures. As part of this Settlement,  
11 the Parties agree to the following procedures for obtaining the Court's preliminary approval of  
12 the Settlement: conditionally certifying the Settlement Class, notifying Settlement Class Members  
13 of the Settlement and distributing the PAGA Payment, obtaining the Court's final approval of the  
14 Settlement, and processing the Individual Settlement Payments, as set forth below.

15             3.5.1. Preliminary Approval and Certification. As soon as practicable after  
16 execution of this Settlement, pending the Court's availability, Plaintiffs will submit this  
17 Settlement to the Court for preliminary approval of the Settlement, in accordance with California  
18 Rules of Court, Rule 3.769(c). Such submission will include this Settlement, the proposed Notice  
19 Packet, the proposed Preliminary Approval Order, and any memoranda and evidence as may be  
20 necessary for the Court to determine that this Settlement is fair, adequate, and reasonable. The  
21 Parties agree to request the Court to enter an order conditionally certifying the Settlement Class  
22 after the preliminary approval hearing, in accordance with California Rules of Court, Rule  
23 3.769(d).

24             3.5.2. Class Information. No more than twenty-one (21) calendar days after the  
25 entry of the Preliminary Approval Order by the Court, Defendant shall provide the Settlement  
26 Administrator with the Class Information for purposes of mailing Notice Packets to Class  
27 Members. Defendant shall also provide the Settlement Administrator a separate list of PAGA  
28 Members and dates of PAGA Members' employment with Defendant.



1                   3.5.3. Notice by First Class U.S. Mail. Upon receipt of the Class Information,  
2 the Settlement Administrator will perform a search on the National Change of Address database  
3 to update the Class Members' addresses. No more than ten (10) calendar days after receiving the  
4 Class Information from Defendant, as provided herein, the Settlement Administrator shall mail  
5 copies of the Notice Packet to all Settlement Class Members by regular First-Class U.S. Mail.  
6 The Settlement Administrator shall exercise its best judgment to determine the current mailing  
7 address for each Class Member. The address identified by the Settlement Administrator as the  
8 current mailing address shall be presumed to be the best mailing address for each Class Member.  
9 It will be conclusively presumed that if an envelope so mailed has not been returned within twenty  
10 (20) days of the mailing that the Class Member received the Notice Packet.

11                   3.5.4. Undeliverable Notices. Any Notice Packets returned to the Settlement  
12 Administrator as undeliverable on or before the Response Deadline shall be re-mailed to the  
13 forwarding address affixed thereto or as described in paragraph 3.5.5 of this Settlement.

14                   3.5.5. For each Class Member whose Notice Packet is returned, and a forwarding  
15 address is not affixed thereto, there will be one skip trace by the Settlement Administrator. If an  
16 updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet  
17 to the Class Member at the updated mailing address so identified. One supplemental Notice  
18 Packet shall be mailed to each Class Member whose original Notice Packet is returned as  
19 undeliverable to the Settlement Administrator, if a forwarding or updated address can be  
20 identified. Such re-mailing shall be made within five (5) business days of the Settlement  
21 Administrator receiving notice that the respective Notice Packet was undeliverable. Any requests  
22 to Defendant's Counsel by the Settlement Administrator for documents or information from  
23 Defendant must be responded to within a reasonable amount of time by Defendant's Counsel. It  
24 is the intent of the Parties that reasonable means be used to locate the Class Members and apprise  
25 them of their rights.

26                   3.5.6. Class Members to whom Notice Packets are resent after having been  
27 returned undeliverable to the Settlement Administrator shall have an additional fourteen (14)  
28 calendar days after the Response Deadline has expired to mail the Request for Exclusion or a

1 Notice of Objection. Notice Packets that are resent shall inform the recipient of this adjusted  
2 deadline. The date of the postmark on the return envelope shall be the exclusive means used to  
3 determine whether a Class Member has returned his or her Request for Exclusion on or before  
4 the adjusted deadline. It will be conclusively presumed that if an envelope so mailed has not been  
5 returned within thirty (30) days of the mailing, that the Class Member received the Notice Packet.  
6 If a Class Member's Notice Packet is returned to the Settlement Administrator more than once as  
7 undeliverable, then an additional Notice Packet shall not be re-mailed.

8 3.5.7. Compliance with the procedures specified in paragraphs 3.5.3 through  
9 3.5.6 of this Settlement shall constitute due and sufficient notice to Class Members of this  
10 Settlement and shall satisfy the requirement of due process. Nothing else shall be required of, or  
11 done by, the Parties, Class Counsel, and Defendant's Counsel to provide notice of the proposed  
12 Settlement.

13 3.6. Disputes. Class Members will have the opportunity during the 45-day response  
14 period, should they disagree with Defendant's records regarding their weeks worked during the  
15 Class Period, to provide documentation and/or an explanation to show contrary weeks worked.  
16 If there is a dispute, the Settlement Administrator will consult with the Parties to determine  
17 whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility  
18 for, and the amounts of, any Individual Settlement Payments under the terms of this Settlement.  
19 The Settlement Administrator's determination of the eligibility for and amount of any Individual  
20 Settlement Payment shall be binding upon the Class Member and the Parties.

21 3.7. Exclusions (Opt-Outs). The Notice Packet shall state that Class Members who  
22 wish to exclude themselves from the Settlement must submit a Request for Exclusion Form by  
23 the Response Deadline. A Class Member may submit a Request To Be Excluded From Settlement  
24 form or a writing that contains: (1) the name, address, and the last four digits of the Social Security  
25 number and/or the entire Employee ID number of the Class Member requesting exclusion; (2) a  
26 clear statement requesting to be excluded from the Class Settlement; (3) the signature of the Class  
27 Member; and (4) a postmark by the Response Deadline and returned to the Settlement  
28 Administrator at the specified address. If the Request for Exclusion does not contain the

information listed in (1)-(3), it will not be deemed a valid Request for Exclusion from this Settlement. The date of the postmark on the return mailing envelope shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Class Member who requests to be excluded from the Settlement in accordance with the provisions of this paragraph will not be entitled to any recovery under the Settlement and will not be bound by the terms of the Settlement. Class Members who receive a Notice Packet but fail to submit a valid and timely Request for Exclusion on or before the Response Deadline, which is forty-five (45) days from the date of the mailing of the Notice Packet, shall be bound by all terms of the Settlement and any Final Judgment entered in this Action if the Settlement is approved by the Court. Any Class Member who does not request exclusion as set forth above is deemed to have released all claims, including Released Claims against Released Parties, as set forth herein and therefore by operation will be deemed a Settlement Class Member. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage members of the Class to submit Requests for Exclusion from the Settlement. Class Counsel shall not represent any Class Member with respect to any such Request for Exclusion. Class Members who submit a valid Request for Exclusion may not also submit a Notice of Objection. PAGA Members cannot opt out or submit a Request for Exclusion

3.8. Objections. The Notice Packet shall state that Class Members who wish to object to the Settlement shall submit a written statement of objection (“Notice of Objection”) by the Response Deadline, which is forty-five (45) days from the date of the mailing of the Notice Packet, to the Settlement Administrator. The Notice of Objection must be signed by the Class Member and state: (1) the full name of the Class Member; (2) the dates of employment of the Class Member; (3) the last four digits of the Class Member’s Social Security number and/or the entire Employee ID number; (4) the basis for the objection; and, (5) whether the Class Member intends to appear at the Final Approval Hearing. The Notice of Objection must be postmarked by the Response Deadline and returned to the Settlement Administrator at the specified address. Within five (5) days of receiving a Notice of Objection from a Settlement Class Member, the Settlement Administrator shall forward the Notice of Objection to Class Counsel and Defendant’s

1 Counsel. The Parties shall thereafter lodge the Class Member's Notice of Objection with the  
2 Court. Class Members, regardless of whether or not they submit a timely Notice of Objection,  
3 will have a right to appear at the Final Approval Hearing, with or without an attorney, and have  
4 their objections heard by the Court. At no time shall any of the Parties or their counsel seek to  
5 solicit or otherwise encourage Class Members to file or serve written objections to the Settlement  
6 or to appeal from the Final Judgment. Class Counsel shall not represent any Class Member with  
7 respect to any such objection.

8 3.9. No Solicitation of Settlement Objections or Exclusions. The Parties and their  
9 counsel agree to use their best efforts to carry out the terms of this Settlement. At no time shall  
10 any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to submit  
11 Notices of Objection to the Settlement or Requests for Exclusion from the Settlement, or to appeal  
12 from the Court's Final Judgment.

13 3.10. Funding of the Gross Settlement Amount. This is a non-reversionary Settlement  
14 in which Defendant is required to pay the entire Gross Settlement Amount. No portion of the  
15 Gross Settlement Amount will revert to Defendant. Defendant is separately and solely  
16 responsible for any employer payroll taxes owed as a result of the Settlement. Defendant shall  
17 fund the Gross Settlement Amount By no later than twenty-one (21) calendar days after the Final  
18 Approval Date. No release in this Settlement shall be effective until the Gross Settlement Amount  
19 is fully funded.

20 3.10.1. No more than five (5) business days after Defendant makes the Gross  
21 Settlement Amount payment, the Settlement Administrator shall provide the Parties with an  
22 accounting of all anticipated payments from the Gross Settlement Amount. The Net Settlement  
23 Amount shall be calculated by deducting from the Gross Settlement Amount the anticipated  
24 payments for (1) Class Representative Service Award, as specified in this Settlement and  
25 approved by the Court; (2) Class Counsel Fees, as specified in this Settlement and approved by  
26 the Court; (3) Class Counsel Costs, as specified in this Settlement and approved by the Court;  
27 (4) Settlement Administration Costs, as specified in this Settlement and approved by the Court;  
28 and (5) the LWDA PAGA Allocation, as specified in this Settlement and approved by the Court.

1 The Net Settlement Amount shall be distributed in Individual Settlement Payments in accordance  
2 with Paragraphs 3.12, 3.12.1 and 3.13.

3 3.11. Individual Settlement Payments. Each Settlement Class Member shall be eligible  
4 to receive an Individual Settlement Payment, which is a share of the Net Settlement Amount,  
5 based on the number of weeks worked by the Settlement Class Member for Defendant during the  
6 Class Period, as a proportion of all weeks worked by all Class Members for Defendant during the  
7 Class Period. Individual Settlement Payments shall be paid by check pursuant to the formula set  
8 forth in Paragraph 3.12.1 and 3.13 below. Individual Settlement Payments shall be mailed by  
9 regular First-Class U.S. Mail to Settlement Class Members' last known mailing address no later  
10 than fifteen (15) calendar days after Defendant makes the payment of the Gross Settlement  
11 Amount. Individual Settlement Payments shall specifically indicate that they are void if not  
12 negotiated within one hundred eighty (180) days of their issuance. Individual Settlement  
13 Payments reflect settlement of a dispute regarding wages, interest, and penalties. Individual  
14 Settlement Payments will be allocated as follows: 33% as wages; and 67% as interest and  
15 penalties. The "wage" portion of each Individual Settlement Payment will be reduced by any  
16 Employee Taxes. The Settlement Administrator shall issue the appropriate tax documents  
17 associated with the Individual Settlement Payments, including an IRS Form W-2 for the amounts  
18 allocated as "wages" and an IRS Form 1099 for the amounts allocated as "interest" or "penalties."

19 3.11.1. Individual Settlement Payment Formula. After deducting the Class Counsel Fees  
20 and Class Counsel Costs, the PAGA Payment, Class Representative Service Awards, and  
21 Settlement Administration Costs, the remaining funds (the "Net Settlement Amount"), shall be  
22 distributed as follows: The Settlement Administrator shall divide the Net Settlement Amount by  
23 the total number of workweeks Class Members worked for Defendant during the Class Period in  
24 order to determine the amount each Settlement Class Member is entitled to for each workweek  
25 he or she worked for Defendant (the "Weekly Amount") during the Class Period. The Settlement  
26 Administrator shall multiply the Weekly Amount by the estimated total number of workweeks  
27 that each Settlement Class Member worked for Defendant during the Class Period. The product  
28 of each calculation represents the gross Individual Settlement Payment for the respective

1 Settlement Class Member. The Settlement Administrator shall then deduct Employee Taxes  
2 attributable to wages to arrive at the net Individual Settlement Payment for each respective Class  
3 Member. Within twenty-one (21) calendar days after Preliminary Approval, Defendant shall  
4 provide the Settlement Administrator with any information reasonably necessary to perform the  
5 calculation of number of workweeks for each Class Member, and any other reasonably required  
6 information the Settlement Administrator requests to perform the calculations required under  
7 this Settlement. Defendant shall have no responsibility for deciding the validity of any  
8 Individual Settlement Payment or any other payments made pursuant to this Settlement, shall  
9 have no involvement in or responsibility for the determination or payment of Employee Taxes,  
10 and shall have no liability for any errors made with respect to such Employee Taxes.

11       **3.12. PAGA Allocation & Related Release.** Out of the Maximum Settlement Amount  
12 that is ultimately preliminarily approved, Defendant shall pay a total of \$20,000.00 to resolve the  
13 PAGA Claims (as defined below) of the Settlement Class (the “PAGA Payment”). Of this amount,  
14 75% will be paid to the LWDA and 25% (i.e. \$5,000.00) will be distributed on a pro rata per pay  
15 period basis to the PAGA Members who worked at any time from November 20, 2021 through  
16 the date the Court Preliminarily Approves this settlement. Each PAGA Member’s Individual  
17 PAGA Payment will be calculated based on the total number of pay periods he or she worked  
18 during the PAGA Class Period. To establish the pay period value, the Settlement Administrator  
19 will first determine the total number of pay periods worked by PAGA Members during the PAGA  
20 Class Period. 25% of the PAGA Settlement Fund will then be divided by the total number of pay  
21 periods worked by PAGA Members during the PAGA Class Period to determine the pay period  
22 value. The PAGA Member Allocation represents the portion of civil penalties awarded directly  
23 under PAGA, and shall be allocated as 100% penalties. The Settlement Administrator will report  
24 the PAGA Payments on IRS 1099 Forms. PAGA Members will not be required to submit a claim  
25 form in order to be issued a check for their share of the PAGA Payment. The PAGA Members  
26 will not have the opportunity to opt out of, or object to, the PAGA Payment and release of the  
27 PAGA Claims. Upon receipt of the PAGA Payment, PAGA Members shall be deemed to have  
28 released the PAGA claims as to civil and statutory penalties, and any other interest, liquidated

1 damages, attorney's fees and costs related to PAGA.

2 3.12.1. Settlement Class Members are not eligible to receive any compensation  
3 other than the Individual Settlement Payment (and PAGA Payment for PAGA Members), and  
4 they may only receive an Individual Settlement Payment if they do not submit a valid and timely  
5 Request for Exclusion to opt out of the Settlement. PAGA Members will receive their portion  
6 of the PAGA Payment regardless of whether they submit a valid and timely Request for  
7 Exclusion to opt out of the Settlement. Plaintiffs, however, are also eligible to receive a Class  
8 Representative Service Award.

9 3.12.2. No benefit, including but not limited to pension benefits, shall increase or  
10 accrue as a result of any payment made pursuant to this Settlement.

11 3.12.3. If an Individual Settlement Payment is returned to the Settlement  
12 Administrator as undeliverable and does not have a forwarding address, the Settlement  
13 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace  
14 search. If the returned Individual Settlement Payment has a forwarding address, or another  
15 address is identified, the Settlement Administrator shall mail the Individual Settlement Payment  
16 to the forwarding, or newly-identified, address. If an Individual Settlement Payment is returned  
17 to the Settlement Administrator a second time as undeliverable, the Settlement Administrator  
18 shall not attempt any further re-mailing of that Individual Settlement Payment, but shall hold  
19 such Individual Settlement Payment until it becomes void. Any settlement checks that remain  
20 uncashed one hundred eighty (180) calendar days after issuance shall be void ("Voided  
21 Checks").

22 3.12.4. Any settlement checks that are not cashed within one hundred eighty (180)  
23 days after mailing shall thereafter be paid to the California State Controller in the name of the  
24 Class Member who did not cash his or her check.

25 3.13. Class Representative Service Award. Defendant agrees not to oppose or object to  
26 any application or motion by Plaintiffs for a Class Representative Service Award, not to exceed  
27 Ten Thousand Dollars and Zero Cents (\$10,000.00) for each Plaintiff, as consideration for  
28 Plaintiffs' time and effort in bringing and prosecuting this matter. The Class Representative

1 Service Award shall be paid to Plaintiffs from the Gross Settlement Amount no later than fifteen  
2 (15) calendar days after Defendant funds the Gross Settlement Amount. The Settlement  
3 Administrator shall issue an IRS Form 1099 — MISC to Plaintiffs for their Class Representative  
4 Service Award. Plaintiffs shall be solely and legally responsible for payment of all applicable  
5 taxes on their Class Representative Service Award and shall hold Defendant harmless from any  
6 claim or liability for taxes, penalties, or interest arising as a result of their Class Representative  
7 Service Award. The Class Representative Service Award shall be in addition to Plaintiffs'  
8 Individual Settlement Payments as Settlement Class Members. In the event that the Court awards  
9 lesser amounts than the Class Representative Service Award requested, then any portion of the  
10 requested amount not awarded to Plaintiffs shall be added to the Net Settlement Amount.  
11 Plaintiffs shall not have the right to revoke this agreement to the Settlement on the grounds the  
12 Court does not approve any or all of their request for a Class Representative Service Award; it  
13 shall remain binding. Any adjustments made by the Court to the requested Class Representative  
14 Service Award shall not be deemed a material modification of this Agreement.

15 3.14. Class Counsel Fees and Costs. Defendant agrees not to oppose or object to any  
16 application or motion by Class Counsel for Class Counsel Fees in the amount of One Hundred  
17 Forty-Six Thousand Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$146,666.67) and  
18 Class Counsel Costs not to exceed Thirty Thousand Dollars and Zero Cents (\$30,000.00) from  
19 the Gross Settlement Amount. The Class Counsel Fees and Class Counsel Costs shall be paid no  
20 later than fifteen (15) calendar days after the Defendant funds the Gross Settlement Amount.  
21 Class Counsel shall be solely and legally responsible to pay all applicable taxes on the payments  
22 made pursuant to this paragraph. The Settlement Administrator shall issue an IRS Form 1099 —  
23 MISC to Class Counsel for the payments made pursuant to this paragraph. This Settlement is not  
24 contingent upon the Court awarding Class Counsel any particular amount in attorneys' fees and  
25 costs. Any amount requested by Class Counsel for the Class Counsel Fees and Class Counsel  
26 Costs and not granted by the Court shall become part of the Net Settlement Amount.

27 3.15. PAGA Allocation. Subject to Court approval, the Parties shall allocate a total of  
28 Twenty Thousand Dollars and Zero Cents (\$20,000.00) from the Gross Settlement Amount for



1 the compromise of claims brought under the Labor Code Private Attorney's General Act of 2004  
2 (the "PAGA Allocation").

3 3.16. LWDA PAGA Allocation. The LWDA PAGA Allocation shall be Fifteen  
4 Thousand Dollars and Zero Cents (\$15,000.00), representing 75% of the PAGA Allocation, and  
5 shall be paid to California's Labor Workforce Development Agency ("LWDA") from the Gross  
6 Settlement Amount by the Settlement Administrator no later than fifteen (15) calendar days after  
7 Defendant funds the Gross Settlement Amount. The remaining Five Thousand Dollars and Zero  
8 Cents (\$5,000.00), representing 25% of the PAGA Allocation, shall be distributed to PAGA  
9 Members.

10 3.17. Defendant's Option to Terminate Settlement. If, after the Response Deadline and  
11 before the Final Approval Hearing, ten percent (10%) or more of the Settlement Class Members  
12 submit timely and valid Requests for Exclusion from the Settlement, Defendant shall have, in its  
13 sole discretion, the option to terminate this Settlement. Defendant shall exercise its option to  
14 terminate, if they wish, prior to the Final Approval Hearing, provided the Settlement  
15 Administrator has provided Defendant the number and percentage of valid and timely Requests  
16 for Exclusion no later than fourteen (14) calendar days prior to the Final Approval Hearing. If  
17 Defendant decides to void the Settlement, then the Settlement and conditional class certification  
18 shall be considered void, and neither the Settlement, conditional class certification, nor any of the  
19 related negotiations or proceedings, shall be of any force or effect, and the Parties shall stand in  
20 the same position, without prejudice, as if this Settlement had been neither entered into nor filed  
21 with the Court. Should Defendant void the Settlement under this paragraph, Defendant shall be  
22 responsible for all Settlement Administration Costs incurred by the Settlement Administrator  
23 through the date that Defendant notifies the Settlement Administrator that they are exercising the  
24 option to terminate the Settlement.

25 3.18. Settlement Administration Costs. The Settlement Administrator shall be paid for  
26 the costs of administration of the Settlement from the Gross Settlement Amount. Such costs of  
27 administration are not to exceed Eight Thousand Dollars and Zero Cents (\$8,000.00), unless the  
28 court approves a higher amount. No fewer than twenty (20) days prior to the Final Approval

Hearing, the Settlement Administrator shall provide the Parties with a statement detailing the costs of administration. The Settlement Administrator, on Defendant's behalf, shall have the authority and obligation to make payments, credits and disbursements, including payments and credits in the manner set forth in this Settlement, to Settlement Class Members, calculated in accordance with the methodology set out in this Settlement and orders of the Court. The Parties agree to cooperate in the administration of the Settlement and to make all reasonable efforts to control and minimize the costs and expenses incurred in administration of the Settlement. The Parties each represent they do not have any financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest. The Settlement Administrator shall be responsible for: processing and mailing all payments described in the Settlement to the Plaintiffs, Class Counsel, Settlement Class Members, the LWDA, tax authorities; printing and mailing the Notice Packets to the Settlement Class Members as called for in this Settlement and ordered by the Court; receiving and reporting Notice of Objections and Requests for Exclusion submitted by Class Members; providing declaration(s) as necessary in support of preliminary and/or final approval of this Settlement; and other tasks as the Parties mutually agree or the Court orders the Settlement Administrator to perform. The Settlement Administrator shall keep the Parties timely apprised of the performance of all Settlement Administrator responsibilities. Any legally mandated tax reports, tax forms, tax filings, or other tax documents required by administration of this Settlement shall be prepared by the Settlement Administrator. Any expenses incurred in connection with such preparation shall be Settlement Administration Costs. The Settlement Administrator shall be paid the Settlement Administration Costs no later than fifteen (15) calendar days after the Defendant funds the Gross Settlement Amount.

3.19. Final Approval Hearing. At a reasonable time following the Response Deadline, the Court shall hold the Final Approval Hearing, where objections, if any, may be heard, and the Court shall determine amounts properly payable for (i) the Class Counsel Fees, (ii) the Class Counsel Costs, (iii) the Class Representative Service Awards, (iv) the PAGA Allocation; and (v) the Settlement Administration Costs.

1           3.20. Entry of Final Judgment. If the Court approves this Settlement at the Final  
2 Approval Hearing, the Parties shall request that the Court enter the Final Judgment after the Gross  
3 Settlement Amount has been fully funded, with the Court retaining jurisdiction over the Parties  
4 to enforce the terms of the judgment. If the Court grants Final Approval to the Settlement, notice  
5 of Final Approval shall be posted on the Settlement Administrator's website.

6           3.21. No Effect on Employee Benefits. Amounts paid to Plaintiffs or other Settlement  
7 Class Members pursuant to this Settlement will not count as earnings or compensation for  
8 purposes of any benefits (e.g., pensions or retirement plans) sponsored by Defendant. It is  
9 expressly understood and agreed that the receipt of Individual Settlement Payments and/or PAGA  
10 Payments shall not entitle any Settlement Class Member to additional compensation or benefits  
11 under any collective bargaining agreement or under any bonus, contest, or other compensation or  
12 benefit plan or agreement in place during the period covered by the Settlement, nor shall it entitle  
13 any Settlement Class Member to any increased pension and/or retirement, or other deferred  
14 compensation benefits. It is the intent of the Parties that payments from Net Settlement Amount  
15 provided for in this Settlement are the sole payments to be made by Defendant to Settlement Class  
16 Members in connection with this Settlement, with the sole exception of Plaintiffs' Class  
17 Representative Service Award, and that the Settlement Class Members are not entitled to any new  
18 or additional compensation or benefits as a result of having received funds from the Net  
19 Settlement Amount. Furthermore, the receipt of Individual Settlement Payments by Settlement  
20 Class Members shall not, and does not, by itself establish any general, special, or joint  
21 employment relationship between and among the Settlement Class Member(s) and Defendant

22           3.22. Nullification of Settlement. In the event: (i) the Court does not enter the  
23 Preliminary Approval Order as specified herein; (ii) the Court does not grant final approval of the  
24 Settlement as provided herein; (iii) the Court does not enter a Final Judgment as provided herein;  
25 or (iv) the Settlement does not become final for any other reason, this Settlement shall be null and  
26 void and any order or judgment entered by the Court in furtherance of this Settlement shall be  
27 treated as void from the beginning. In such a case, the Parties and any funds to be awarded under  
28 this Settlement shall be returned to their respective statuses as of the date and time immediately

1 prior to the execution of this Settlement, and the Parties shall proceed in all respects as if this  
2 Settlement had not been executed. In the event an appeal is filed from the Court's Final Judgment,  
3 or any other appellate review is sought, administration of the Settlement shall be stayed pending  
4 final resolution of the appeal or other appellate review.

5       3.23. No Admission by the Parties. Defendant denies any and all claims alleged in this  
6 Action and denies all wrongdoing whatsoever. This Settlement is not a concession or admission,  
7 and shall not be used against Defendant as an admission or indication, with respect to any claim,  
8 of any fault, concession, or omission by Defendant. Neither this Settlement, nor any of its terms  
9 and conditions, nor any of the negotiations connected with it, is a concession or admission, and  
10 none shall be used against Defendant as an admission or indication with respect to any claim of  
11 any fault, concession, or omission by Defendant, or that class certification is proper under the  
12 standard applied to contested certification motions. The Parties stipulate and agree to the  
13 certification of the Settlement for settlement purposes only. The Parties further agree that this  
14 Settlement will not be admissible in this or any other proceeding as evidence that either: (i) a class  
15 action should be certified or (ii) Defendant is liable to Plaintiffs or any Class Member, other than  
16 according to the terms of this Settlement.

17       3.24. Dispute Resolution. Except as otherwise set forth herein, all disputes concerning  
18 the interpretation, calculation or payment of settlement claims, or other disputes regarding  
19 compliance with this Settlement shall be resolved as follows:

20               3.24.1. If Plaintiffs or Class Counsel, on behalf of Plaintiffs or any Settlement  
21 Class Members, or Defendant at any time believe that the other Party or Parties have breached or  
22 acted contrary to the Settlement, that Party shall notify the other Party or Parties in writing of the  
23 alleged violation.

24               3.24.2. Upon receiving notice of the alleged violation or dispute, the responding  
25 Party shall have ten (10) days to correct the alleged violation and/or respond to the initiating Party  
26 with the reasons why the Party disputes all or part of the allegation.

27               3.24.3. If the response does not address the alleged violation to the initiating  
28 Party's satisfaction, the Parties shall negotiate in good faith for up to ten (10) days to resolve their

1 differences.

2 3.24.4. Prior to the Court's involvement pursuant to paragraph 3.35, if the Parties  
3 still cannot resolve a dispute, the Parties shall utilize the services of the Hon. Amy Hogue (Ret.)  
4 (Mediator) in a good-faith attempt to mediate and resolve the dispute.

5 3.24.5. If the Parties are unable to resolve their differences after twenty (20) days,  
6 either Party may file an appropriate motion for enforcement with the Court.

7 3.25. Headings. The descriptive headings of any paragraphs or sections of this  
8 Settlement are inserted for convenience of reference only and do not constitute a part of this  
9 Settlement.

10 3.26. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the  
11 Action and thereafter implement and complete the Settlement.

12 3.27. Amendment or Modification. This Settlement may be amended or modified only  
13 by a written instrument signed by all the Parties and counsel for all Parties or their successors-in-  
14 interest.

15 3.28. Entire Settlement. This Settlement constitutes the entire agreement among these  
16 Parties, and no oral or written representations, warranties, or inducements have been made to any  
17 Party concerning this Settlement, other than the representations, warranties, and covenants  
18 contained and memorialized in the Settlement. No other prior or contemporaneous written or oral  
19 agreements may be deemed binding on the Parties.

20 3.29. Authorization to Enter into Settlement. Counsel for all Parties warrant and  
21 represent they are expressly authorized by the Parties whom they represent to negotiate this  
22 Settlement and to take all appropriate actions required or permitted to be taken by such Parties  
23 pursuant to this Settlement to effectuate its terms, and to execute any other documents required  
24 to effectuate the terms of this Settlement. The Parties and their counsel will cooperate with each  
25 other and use their best efforts to affect the implementation of the Settlement. In the event the  
26 Parties are unable to reach agreement on the form or content of any document needed to  
27 implement the Settlement, or on any supplemental provisions that may become necessary to  
28 effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve

1 such disagreement. The person signing this Settlement on behalf of Defendant represents and  
2 warrants that he or she is authorized to sign this Settlement on behalf of Defendant. Plaintiffs  
3 represent and warrant each is authorized to sign this Settlement and that they have not assigned  
4 any claim, or part of a claim, covered by this Settlement to a third-party.

5 3.30. No Prior Assignments. The Parties and their counsel represent, covenant, and  
6 warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported  
7 to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand,  
8 action, cause of action or right herein released and discharged.

9 3.31. California Law Governs. All terms of this Settlement shall be governed by and  
10 interpreted according to the laws of the State of California.

11 3.32. This Settlement is Fair, Adequate and Reasonable. The Parties believe this  
12 Settlement is a fair, adequate, and reasonable settlement of the Action and have arrived at this  
13 Settlement after extensive arms-length negotiations, taking into account all relevant factors,  
14 present and potential.

15 3.33. Jurisdiction of the Court. In accordance with California Rule of Court 3.769(h),  
16 the Parties agree that the Court shall retain jurisdiction with respect to the interpretation,  
17 implementation, and enforcement of the terms of this Settlement and all orders and judgments  
18 entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction  
19 of the Court for purposes of interpreting, implementing, and enforcing this Settlement and all  
20 orders and judgments entered in connection therewith.

21 3.34. Invalidity of Any Provision. Before declaring any provision of this Settlement  
22 invalid, the Court shall first attempt to construe the provision to be valid to the fullest extent  
23 possible, consistent with applicable precedents.

24 3.35. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to  
25 conditional class certification for purposes of this Settlement only.

26 3.36. Cooperation. The Parties agree to cooperate fully with one another to accomplish  
27 and implement the terms of this Settlement. Such cooperation shall include, but not be limited  
28 to, execution of such other documents and the taking of such other action as may be reasonably

1 necessary to fulfill the terms of this Settlement. The Parties to this Settlement shall use their best  
2 efforts, including all efforts contemplated by this Settlement and any other efforts that may  
3 become necessary by Court order, or otherwise, to effectuate this Settlement and its terms.

4 3.37. Publicity. Plaintiffs agrees not to disclose or publicize the Settlement Agreement  
5 contemplated herein, the facts of the Settlement Agreement, its terms or contents, or the  
6 negotiations underlying the Settlement Agreement, in any manner or form, directly or indirectly,  
7 to any person or entity, except to Settlement Class members and as shall be contractually required  
8 to effectuate the terms of the Settlement Agreement as set forth herein. However, for the limited  
9 purpose of allowing Class Counsel to prove adequacy as class counsel in other actions, Class  
10 Counsel may disclose the names of the Parties in this Action, the venue/case number of this  
11 Action, and a general description of the Action, to a court in a declaration by Class Counsel. Class  
12 Counsel may also include a general description of the Settlement on their respective websites, but  
13 may not include the name(s) of any of the Parties, including the Defendant, or any of the Released  
14 Parties, or the case name or case number of the Action.

15 3.38. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms  
16 and conditions of this Settlement. Accordingly, this Settlement will not be construed more strictly  
17 against one party than another merely by virtue of the fact that it may have been prepared by  
18 counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations  
19 between the Parties, all Parties have contributed to the preparation of this Settlement.

20 3.39. Representation by Counsel. The Parties acknowledge that they have been  
21 represented by counsel throughout all negotiations that preceded the execution of this Settlement,  
22 and that this Settlement has been executed with the consent and advice of counsel, and reviewed  
23 in full. Further, Plaintiffs and Class Counsel warrant and represent that there are no liens on the  
24 Settlement.

25 3.40. All Terms Subject to Final Court Approval. All amounts and procedures described  
26 in this Stipulation are subject to final Court approval.

27 3.41. Notices. Unless otherwise specifically provided, all notices, demands or other  
28 communications in connection with this Settlement shall be: (1) in writing; (2) deemed given on

the third business day after mailing; and (3) sent via United States registered or certified mail, return receipt requested, addressed as follows:

**To Plaintiffs:**

Justin F. Marquez, Esq.  
Christina M. Le, Esq.  
Zachary D. Greenberg, Esq.  
WILSHIRE LAW FIRM  
3055 Wilshire Blvd., 12<sup>th</sup> Floor  
Los Angeles, California 90010  
Telephone: (213) 784-3030  
Facsimile: (213) 381-9989

**To Defendant:**

Nina Huerta, Esq.  
Eve Tilley-Coulson, Esq.  
LOCKE LORD LLP  
300 South Grand Avenue, Suite 2600  
Los Angeles, CA 90071  
Tel.: (213) 485-1500  
Fax: (213) 485-1200

3.42. Execution by Settlement Class Members. It is agreed that it is impossible or impractical to have each Settlement Class Member execute this Settlement. The Notice of Settlement will advise all Settlement Class Members of the binding nature of the release and such shall have the same force and effect as if each Settlement Class Member executed this Settlement.

3.43. Execution by Plaintiffs and Defendant. Plaintiffs and Defendant, by signing this Settlement, are bound by the terms herein.

3.44. Binding Agreement. The Parties warrant that they understand and have full authority to enter into this Settlement, and further intend that this Settlement will be fully enforceable and binding on all Parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

3.45. Counterparts. This Settlement shall become effective upon its execution by all of the undersigned. Plaintiffs and Defendant may execute this Settlement in counterparts, and execution of counterparts shall have the same force and effect as if each had signed the same instrument. Copies of the executed Settlement shall be effective for all purposes as though the signatures contained therein were original signatures.

3.46. The Parties, Class Counsel and Defendant's Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.



On behalf of Pacific Distributing, Inc.


Dated: \_\_\_\_\_, 2024

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Kevin Becerra

DocuSigned by:

  
A8AABB29141B4F8...

Dated: 2/8/2024, 2024

Rigoberto Benavidez

DocuSigned by:

  
2F04BDC4F639474...

Dated: 2/6/2024, 2024

Rafi Campbell

DocuSigned by:

  
21C1511E51C9421...

Dated: 2/6/2024, 2024

Manuel Vargas Hernandez

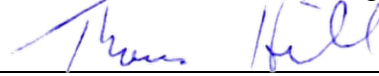
DocuSigned by:

  
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Dated: 2/6/2024, 2024

1  
2 Dated: February 10, 2024  
3

On behalf of Pacific Distributing, Inc.



4 Printed: Thomas Hill

5 Title: CEO  
6  
7  
8

9 Kevin Becerra

10 Dated: \_\_\_\_\_, 2024  
11

12 Rigoberto Benavidez

13 Dated: \_\_\_\_\_, 2024  
14

15 Rafi Campbell

16 Dated: \_\_\_\_\_, 2024  
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18 Manuel Vargas Hernandez

19 Dated: \_\_\_\_\_, 2024  
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