

JOINT STIPULATION AND SETTLEMENT AGREEMENT

Subject to final approval by the Court, this Settlement Agreement is between Plaintiff Braulio Javier ("Plaintiff") and Defendant Helena Agri-Enterprises, LLC ("Defendant"). Plaintiff and Defendant collectively are referred to in this Agreement as the "Parties."

I. DEFINITIONS

In addition to the other terms defined in this Agreement, the terms below have the following meaning:

- A. **Administration Costs**: The costs incurred by the Settlement Administrator to administer this Settlement, which is currently estimated at \$11,000 shall not exceed \$15,000. All Administration Costs shall be paid from the Qualified Settlement Fund.
- B. **Agreement, Settlement Agreement, Joint Stipulation, or Settlement**: The settlement agreement reflected in this document, titled "Joint Stipulation and Settlement Agreement."
- C. **Attorney Fee Award**: The amount, not to exceed 35% of the Gross Settlement Amount (estimated approximately \$210,000.00), finally approved by the Court and awarded to Class Counsel. The Attorney Fee Award shall be paid from the Qualified Settlement Fund and will not be opposed by Defendant.
- D. **Case or Class Action**: The lawsuit filed by Plaintiff Braulio Javier on July 27, 2022, entitled *Braulio Javier v. Helena Agri-Enterprises, LLC, et al.* Case No. 22CECG02269 in the State of California, Fresno County Superior Court.
- E. **Class**: All current and former non-exempt employees, employed by Defendant within the State of California during the Class Period.
- F. **Class Counsel**: James R. Hawkins, and Christina M. Lucio of JAMES HAWKINS APLC.
- G. **Class Member**: Each person eligible to participate in this Settlement who is a member of the Class as defined above.
- H. **Class Notice or Notice**: The Notice of Class Action Settlement, substantially similar to the form attached hereto as **Exhibit A**, subject to Court approval.
- I. **Class Period**: For claims covered by the class settlement in *Jorge Proctor v. Helena Agri-Enterprises, LLC*, San Diego County Superior Court Case No. 37-2018-00057894-CU-OE-CTL ("*Proctor*"), the time period is from March 2, 2020 through January 20, 2024. For claims not covered by the class settlement in *Proctor*, the Class Period will be a time period from July 29, 2018 through January

20, 2024.

- J. **Class Representative or Plaintiff:** Braulio Javier.
- K. **Class Representative Service Award Payment:** The amount the Court awards to Plaintiff Braulio Javier for his services as a Class Representative, which will not exceed \$10,000. These payments shall be paid from the Qualified Settlement Fund and will not be opposed by Defendant. This Service Award is subject to approval of the Court. If the Court awards less than the amount requested, any amount not awarded will become part of the Net Settlement Amount for distribution to Participating Class Members.
- L. **Complaint:** The complaint filed by Plaintiff Braulio Javier in the case entitled *Braulio Javier v. Helena Agri-Enterprises, LLC et al.*, Case No. 22CECG02269 in the State of California, Fresno County Superior Court, which include the original complaint filed on July 27, 2022, the First Amended Complaint.
- M. **Cost Award:** The amount that the Court orders Defendant to pay Class Counsel for payment of actual litigation costs, which shall not exceed \$20,000.00. The Cost Award will be paid from the Qualified Settlement Fund and will not be opposed by Defendant. The Cost Award is subject to Court approval. If the Court awards less than the amount request, any amount not awarded will become part of the Net Settlement Amount for distribution to Participating Class Members.
- N. **Counsel for Defendant:** Attorneys John E. Fitzsimmons and Rochelle L. Calderon of Barnes & Thornburg LLP (US).
- O. **Court:** The State of California, Fresno County Superior Court.
- P. **Defendant:** Helena Agri-Enterprises, LLC
- Q. **Effective Final Settlement Date:** The effective date of this Settlement will be when the Final Approval of the Settlement can no longer be appealed, or, if there are no objectors and no Plaintiff in intervention at the time the Court grants Final Approval of the Settlement, the date the court enters judgment granting Final Approval of the Settlement.
- R. **Eligible Aggrieved Employees:** The aggrieved employees eligible to recover the PAGA payment shall consist of all current and former non-exempt employees who worked for Defendant within the State of California between July 27, 2021, through January 20, 2024 ("PAGA Period").



- S. **Exclusion Form**: The Election Not To Participate or Opt-out Form, substantially similar to the form attached hereto as **Exhibit B**, subject to Court approval.
- T. **Judgment or Final Approval**: The final order entered by the Court finally approving this Agreement.
- U. **Gross Settlement Amount or GSA**: The total value of the Settlement is a non-reversionary Six Hundred Thousand Dollars and Zero Cents (\$600,000.00). This is the gross amount Defendant can be required to pay under this Settlement Agreement, which includes without limitation: (1) the Net Settlement Amount to be paid to Participating Class Members; (2) Attorney Fee Award and Cost Award to Class Counsel for attorneys' fees and costs, as approved by the Court; (3) the Class Representative Service Award payment paid to the Class Representative, as approved by the Court; (4) Administration Costs, as approved by the Court; and (5) the PAGA Payment to the LWDA and to Participating Class Members, as approved by the Court. Defendant's portion of payroll taxes as the Class Members' current or former employer is not included in the GSA and will be a separate obligation of Defendant. No portion of the Gross Settlement Amount will revert to Defendant for any reason.
- V. **Individual Settlement Share(s)**: The amount payable to each Participating Class Member under the terms of this Settlement Agreement. Class Members are not required to submit a claim form to receive their Individual Settlement Shares pursuant to this Agreement. Rather, Participating Class Members will receive an Individual Settlement Share automatically, without the return of a claim form.
- W. **LWDA**: California Labor and Workforce Development Agency.
- X. **Net Settlement Amount or NSA**: The total amount of money available for payout to Participating Class Members, which is the GSA less the Attorney Fee Award, Cost Award, Class Representative Service Award, the portion of the PAGA Payment paid to the LWDA and aggrieved employees, and Administration Costs. In other words, the NSA is the portion of the GSA that will be distributed to Class Members who do not request exclusion from the Settlement.
- Y. **PAGA**: The California Labor Code Private Attorneys General Act of 2004 (Cal. Labor Code §§ 2698 *et seq.*).
- Z. **PAGA Payment**: The PAGA Payment consists of \$16,000.00 of the Gross Settlement Amount allocated to satisfy the PAGA penalties claim as alleged in the Class Action. Seventy-five percent (75%) of the PAGA Payment (\$12,000.00) shall be paid to the LWDA, and twenty-five percent (25%) (\$4,000.00) of the

PAGA Payment shall be distributed to Eligible Aggrieved Employees, on a pro-rata basis, as set forth below.

- AA. **Participating Class Members**: All Class Members who do not submit a valid and timely request to exclude themselves from this Settlement.
- BB. **Parties**: Plaintiff Braulio Javier as an individual and as Class Representative, and Defendant Helena Agri-Enterprises, LLC.
- CC. **Preliminary Approval or Preliminary Approval Order**: The Court's order preliminarily approving the proposed Settlement.
- DD. **Qualified Settlement Fund or QSF**: A fund within the meaning of Treasury Regulation § 1.46B-1, 26 C.F.R. § 1.468B-1 et seq., that is established by the Settlement Administrator for the benefit of Participating Class Members, Plaintiff, and Class Counsel.
- EE. **Released Claims**: Upon Defendant's fulfillment of their payment obligations under Section III (K)(9)(a) below, the claims that Plaintiff and the other Participating Class Members are releasing in exchange for the consideration provided for by this Agreement are all claims, demands, rights, liabilities and causes of action that were asserted in the operative Complaint or that could have been asserted based on the factual allegations in the operative Complaint. The release only applies to periods of time when Class Members were members of the Class (i.e., excluding periods of time in an exempt position). Provided, however, that as to Plaintiff Braulio Javier, nothing in this paragraph shall be construed to limit the scope of Plaintiff's full general release of all claims as set forth in Section II(N) below.
- FF. **Released Parties**: Defendant and their past or present officers, directors, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, and their respective successors and predecessors in interest, subsidiaries, affiliates, parents, and attorneys.
- GG. **Response Deadline**: Forty-five (45) calendar days from the initial mailing of the Notice.
- HH. **Settlement Administration**: The Settlement Administrator will conduct a review of the National Change of Address Database for the address of all former employee Class Members. The Settlement Administrator will mail the Notice by first class U.S. mail to all Class Members at the address Defendant has on file for those Class Members and to all former employee Class Members at the address resulting from the review of the National Change of Address Database. The Notice will inform Class Members that they have until the Response Deadline to either object to the Settlement or to opt-out of the Settlement. Any Class Member who does not receive Notice after the steps outlined above have been taken will still be bound by the Settlement and/or Judgment.

II. **Settlement Administrator:** The third-party administrator agreed upon by Parties to administer this Settlement is ILYM Group, Inc.

JJ. **Superior Court:** The State of California, Fresno County Superior Court.

II. **RECITALS**

- A. Prior to the mediation, the Parties conducted significant investigation and discovery of the facts and law both before and after the Class Action was filed. Prior to mediation, Defendant produced hundreds of documents relating to its policies, practices, and procedures regarding paying non-exempt employees for all hours worked, meal and rest period policies, and payroll and operational policies. As part of Defendant's production, Plaintiff also reviewed time records, pay records, and information relating to the size and scope of the Class, as well as data permitting Plaintiff to understand the number of pay periods in the Class Period. Plaintiff also interviewed dozens of Class Members who worked for Defendant throughout the Class Period. The Parties agree that the above-described investigation and evaluation, as well as the information exchanged during the settlement negotiations, are more than sufficient to assess the merits of the respective Parties' positions and to compromise the issues on a fair and equitable basis.
- B. **Benefits of Settlement to Class Members.** Plaintiff and Class Counsel recognize the expense and length of continued proceedings necessary to continue the litigation against Defendant through trial and through any possible appeals. Plaintiff and Class Counsel also have taken into account the uncertainty and risk of further litigation, the potential outcome, and the difficulties and delays inherent in such litigation. Plaintiff and Class Counsel have conducted extensive settlement negotiations, including formal mediation on November 7, 2023. Based on the foregoing, Plaintiff and Class Counsel believe the Settlement set forth in this Agreement is a fair, adequate, and reasonable settlement, and is in the best interests of the Class Members.
- C. **Defendant's Reasons for Settlement.** Defendant recognizes that the defense of this litigation will be protracted and expensive. Substantial amounts of time, energy, and resources of Defendant have been and, unless this Settlement is made, will continue to be devoted to the defense of the claims asserted by Plaintiff. Defendant, therefore, has agreed to settle in the manner and upon the terms set forth in this Agreement to put to rest the Released Claims.
- D. **Defendant's Denial of Wrongdoing.** Defendant generally and specifically denies any and all liability or wrongdoing of any sort with regard to any of the claims alleged makes no concessions or admissions of liability of any sort and contends that for any purpose other than settlement, the Class Action is not appropriate for class treatment. Defendant asserts a number of defenses to the



claims and has denied any wrongdoing or liability arising out of any of the alleged facts or conduct in the Class Action. Neither this Agreement, nor any document referred to or contemplated herein, nor any action taken to carry out this Agreement, is or may be construed as, or may be used as an admission, concession, or indication by or against Defendant or any of the Released Parties of any fault, wrongdoing, or liability whatsoever. Nor should the Agreement be construed as an admission that Plaintiff can serve as an adequate Class Representative. There has been no final determination by any court as to the merits of the claims asserted by Plaintiff against Defendant or as to whether a class or classes should be certified, other than for settlement purposes only.

- E. Plaintiff's Claims.** Plaintiff asserts that Defendant's defenses are without merit. Neither this Agreement nor any documents referred to or contemplated herein, nor any action taken to carry out this Agreement is, may be construed as, or may be used as an admission, concession or indication by or against Plaintiff, Class Members, or Class Counsel as to the merits of any claims or defenses asserted, or lack thereof, in the Class Action. However, in the event that this Settlement is finally approved by the Court, none of Plaintiff, Class Members, or Class Counsel will oppose Defendant's efforts to use this Agreement to prove that Plaintiff and Class Members have resolved and are forever barred from re-litigating the Released Claims.

III. SETTLEMENT TERMS AND CONDITIONS

- A. Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the maximum Gross Settlement Amount, excluding payroll taxes, that Defendant is obligated to pay under this Settlement Agreement is Six Hundred Thousand Dollars and Zero Cents (\$600,000).
- B. Notice to the Labor and Workforce Development Agency ("LWDA").** On July 22, 2022, Plaintiff filed and served their Notice of Labor Code Violations Pursuant to Labor Code Section 2699.3 Thus, Plaintiff has satisfied their notice obligations under the PAGA.
- C. Class Certification.** Solely for the purposes of this Settlement, the Parties stipulate and agree to certification of the claims asserted on behalf of Class Members. As such, the Parties stipulate and agree that in order for this Settlement to occur, the Court must certify the Class as defined in this Agreement.
- D. Conditional Nature of Stipulation for Certification.** The Parties stipulate and agree to the certification of the claims asserted on behalf of Plaintiff and Class Members for purposes of this Settlement only. If the Settlement does not become effective, the fact that the Parties were willing to stipulate to certification as part of the Settlement shall not be admissible or used in any way in connection with, the question of whether the Court should certify any claims

in a non-settlement context in this Class Action or in any other lawsuit. If the Settlement does not become effective, Defendant reserves the right to contest any issues relating to class certification and liability.

- E. Appointment of Class Representative.** Solely for the purposes of this Settlement, the Parties stipulate and agree Plaintiff shall be appointed as the representative for the Class.
- F. Appointment of Class Counsel.** Solely for the purpose of this Settlement, the Parties stipulate and agree that the Court shall appoint Class Counsel to represent the Class.
- G. Individual Settlement Share.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will pay an Individual Settlement Share from the Net Settlement Amount to each Participating Class Member.

1. Calculation.

- a. Individual Settlement Share Calculation.** Each Participating Class Member will receive a proportionate share of the Net Settlement Amount that is equal to (i) the number of points he or she earned during the Class Period based on the Class data provided by Defendant, divided by (ii) the total number of points earned by any and all Participating Class Members collectively, during the Class Period based on the same Class data, which is then multiplied by the Net Settlement Amount. Each pay period in which at least one day was worked will be credited as a pay period for purposes of this calculation. For each pay period a Participating Class Member worked during the period from July 29, 2018 through March 1, 2020, he or she will earn one (1) point. For each pay period a Participating Class Member worked during the period from March 2, 2020 through January 20, 2024, he or she will earn three (3) points. Therefore, the value of each Participating Class Member's Individual Settlement Share ties directly to the number of pay periods that he or she worked.

- 2. Tax Withholdings.** Each Participating Class Member's Individual Settlement Share will be apportioned as follows: 20% wages and 80% as interest, penalties, and reimbursement of expenses. The amounts paid as wages shall be subject to all tax withholdings customarily made from an employee's wages and all other authorized and required withholdings and shall be reported by W-2 forms. Payment of all amounts will be made subject to backup withholding unless a duly executed W-9 form is received from the payee(s). The amounts paid as penalties and interest shall be subject to all authorized and required withholdings other than the tax withholdings customarily made from employees' wages and shall be reported by IRS 1099 forms. The employees' share of payroll tax withholdings shall be withheld from each persons' Individual Settlement



Share.

H. Settlement Disbursement. Subject to the terms and conditions of this Agreement, the Settlement Administrator will make the following payments out of the Gross Settlement Amount:

- 1. To the Plaintiff, Braulio Javier** In addition to his respective Individual Settlement Share, and subject to the Court's approval, Plaintiff Braulio Javier will receive up to Ten Thousand Dollars and Zero Cents (\$10,000.00) as a Class Representative Service Award Payment. The Settlement Administrator will pay the Class Representative Service Award Payment out of the Qualified Settlement Fund. Payroll tax withholdings and deductions will not be taken from the Class Representative Service Award Payments. An IRS Form 1099 will be issued to Plaintiff with respect to his Class Representative Service Award Payments. In the event the Court does not approve the entirety of the application for the Class Representative Service Award Payments, the Settlement Administrator shall pay whatever amount the Court awards, and neither Defendant nor the Settlement Administrator shall be responsible for paying the difference between the amount requested and the amount awarded. If the amount awarded is less than the amount requested by Plaintiff, the difference shall become part of the NSA and be available for distribution to Participating Class Members.
- 2. To Class Counsel.** Class Counsel will apply to the Court for, and Defendant agrees not to oppose, a total Attorney Fee Award not to exceed thirty-five percent (35%) (estimated approximately \$210,000.00) of the GSA and a Cost Award not to exceed \$20,000.00. The Settlement Administrator will pay the court-approved amounts for the Attorney Fee Award and Cost Award out of the Gross Settlement Amount. The Settlement Administrator may purchase an annuity to utilize US treasuries and bonds or other attorney fee deferral vehicles for Class Counsel. Payroll tax withholding and deductions will not be taken from the Attorney Fee Award or the Cost Award. IRS Forms 1099 will be issued to Class Counsel with respect to these payments. In the event the Court does not approve the entirety of the application for the Attorney Fee Award and/or Cost Award, the Settlement Administrator shall pay whatever amount the Court awards, and neither Defendant nor the Settlement Administrator shall be responsible for paying the difference between the amount requested and the amount awarded. If the amount awarded is less than the amount requested by Class Counsel for the Attorney Fee Award and/or Cost Award, the difference shall become part of the NSA and be available for distribution to Participating Class Members.
- 3. To the Responsible Tax Authorities.** The Settlement Administrator will pay the amount of the Participating Class Members' portion of normal payroll withholding taxes out of each person's Individual Settlement Share. The Settlement Administrator will calculate the amount of the Participating Class Members' and Defendant's portion of payroll withholding taxes. The Settlement Administrator will submit Defendant's portion of payroll

withholding tax calculation to Defendant for additional funding and forward those amounts along with each person's Individual Settlement Share withholdings to the appropriate taxing authorities.

4. **To the Settlement Administrator.** The Parties will obtain bids from at least three potential third-party settlement administrators. The parties will agree to a mutually agreeable neutral third-party administrator. The Settlement Administrator – ILYM Group, Inc. - will pay to itself Administration Costs (reasonable fees and expenses) approved by the Court not to exceed \$11,000. This will be paid out of the Qualified Settlement Fund. If the actual amount of Administration Costs is less than the amount estimated and/or requested, the difference shall become part of the NSA and be available for distribution to Participating Class Members.
 5. **To Class Members.** The Settlement Administrator will pay Participating Class Members according to the Individual Settlement Share calculations set forth above. All payments to Participating Class Members shall be made from the Qualified Settlement Fund.
 6. **To Eligible Aggrieved Employees.** The Settlement Administrator shall pay each eligible aggrieved employee according to their proportional share, which will be based upon the total number of pay periods he or she was employed during the PAGA Period. The individual share will be calculated by determining the total number of pay periods the Eligible Aggrieved Employees were employed during the PAGA Period (i.e., the sum of all pay periods of employment for each eligible aggrieved employee), and dividing that number into the \$4,000 amount allocated to Eligible Aggrieved Employees to determine the monetary value assigned to each pay period. That number will then be multiplied by the individual eligible aggrieved employee's total number of pay periods employed during the PAGA Period to determine that individual's proportional share. Settlement checks issued to the Eligible Aggrieved Employees pursuant to this Joint Stipulation and Settlement Agreement shall expire 180 days from the date they are issued by Defendant. Any unclaimed funds after the 180 days shall be remitted to the California State Controller.
- I. **Appointment of Settlement Administrator.** Solely for the purposes of this Settlement, the Parties stipulate and agree that ILYM Group, Inc. shall be retained to serve as Settlement Administrator. The Settlement Administrator shall be responsible for preparing, printing, and mailing the Notice to the Putative Class Members; keeping track of any objections or requests for exclusion from Class Members; performing skip traces and re-mailing Notices and Individual Settlement Shares to Class Members; calculating any and all payroll tax deductions as required by law; calculating each Class Member's Individual Settlement Share; providing weekly status reports to Defendant's Counsel and Class Counsel, which is to include updates on any objections or requests for exclusion that have been received; providing a due diligence declaration for submission to the Court prior to the Final Approval hearing; mailing Individual Settlement Shares to Participating Class

Members; calculating and mailing the aggrieved employees Payment to the LWDA; distributing the Attorney Fee Award and Cost Award to Class Counsel; printing and providing Class Members and Plaintiff with W-2s and 1099 forms as required under this Agreement and applicable law; providing a due diligence declaration for submission to the Superior Court upon the completion of the Settlement; sending any funds remaining in the QSF as a result of uncashed checks to the State Controller's Unclaimed Property Fund; and for such other tasks as the Parties mutually agree. The Parties each represent that they do not have any financial interest in ILYM Group, Inc. or otherwise have a relationship with ILYM Group, Inc. that could create a conflict of interest.

J. CIRCULAR 230 DISCLAIMER. Each Party to this Agreement (for purposes of this section, the "Acknowledging Party" and each Party to this Agreement other than the Acknowledging Party, an "Other Party") acknowledges and agrees that:

- (1) No provision of this Agreement, and no written communication or disclosure between or among the Parties or their attorneys and other advisors 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 U.S. Treasury Dept. Circular 230 (31 C.F.R. Part 10, as amended);
- (2) The Acknowledging Party (a) has relied exclusively upon his, her or its own, independent legal and tax counsel for advice (including tax advice) in connection with this Agreement, (b) has not entered into this Agreement based upon the recommendation of any Other Party or any attorney or advisor to any Other Party, and (c) is not entitled to rely upon any communication or disclosure by any attorney or advisor to any Other Party to avoid any tax penalty that may be imposed on the Acknowledging Party; and
- (3) No attorney or advisor to any Other Party has imposed any limitation that protects the confidentiality of any such attorney's or adviser's tax strategies (regardless of whether such limitation is legally binding) upon disclosure by the Acknowledging Party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Agreement.

K. Procedure for Approving Settlement.

1. Motion for Preliminary Approval and Conditional Certification.

- a. Plaintiff will move for an order conditionally certifying the Class for settlement purposes only, giving Preliminary Approval of the Settlement, setting a date for the Final Approval Hearing, and approving the Class Notice and Exclusion Form. Class counsel will submit to Defendant's counsel for review drafts of the motions for Preliminary Approval of settlement, Class Notice and Exclusion Form ("notice packets") to class members. Defendant's counsel shall have five business days to review the Motion and related documents. Defendant's counsel will not unreasonably withhold approval and will provide any suggested edits within five business days. Plaintiff's counsel will not submit motions to the Court for Preliminary

Approval, or notice packets, without providing Defendant at least five business days to review the Motion and related documents before filing.

- b. At the Preliminary Approval Hearing, the Plaintiff will appear, support the granting of the motion, and submit a proposed order granting conditional certification of the Class and Preliminary Approval of the Settlement; appointing the Class Representative, Class Counsel, and Settlement Administrator; approving the Class Notice; and setting the Final Approval Hearing.
 - c. Should the Court decline to conditionally certify the Class or to Preliminarily Approve all material aspects of the Settlement, the Settlement will be null and void, and the Parties will have no further obligations under it. Provided, however, that the amounts of the Attorney Fee Award, Cost Award, Administration Costs, and Class Representative Service Award shall be determined by the Court, and the Court's determination on these amounts shall be final and binding, and that the Court's approval or denial of any amount requested for these items are not conditions of this Settlement Agreement, and are to be considered separate and apart from the fairness, reasonableness, and adequacy of the Settlement. Any order or proceeding relating to an application for the Attorney Fee Award, Cost Award, Administration Costs, and Class Representative Service Award shall not operate to terminate or cancel this Settlement Agreement. Nothing in this Agreement shall limit Plaintiff's or Class Counsel's ability to appeal any decision by the Court to award less than the requested Attorney Fee Award, Cost Award, Administration Costs, and Class Representative Service Awards.
2. **Notice to Class Members.** After the Court enters its Preliminary Approval Order, every Class Member will be provided with the Class Notice in accordance with the following procedure:
- a. Within Fifteen (15) calendar days after entry of the Preliminary Approval Order, Defendant shall deliver to the Settlement Administrator an electronic database, which will list for each Class Member: (1) first and last name; (2) last known mailing address; (3) social security number; (4) hire and termination dates; and (5) the total number of pay periods during which the Class Member performed any actual work during the Class Period as a member of the Class ("Database"). If any or all of this information is unavailable to Defendant, Defendant will so inform Class Counsel and the Parties will make their best efforts to reconstruct or otherwise agree upon how to deal with the unavailable information. The Settlement Administrator will update each Class Member's mailing address using the National Change of Address Database. The Database shall be based on Defendant's

payroll, personnel, and other business records. The Settlement Administrator shall maintain the Database and all data contained within the Database as private and confidential.

- b. Within twenty-one (21) calendar days after entry of the Preliminary Approval Order, the Settlement Administrator will mail the Class Notice to all identified Class Members via first-class regular U.S. Mail, using the mailing address information provided by Defendant and the results of a review of the National Change of Address Database.
- c. If a Class Notice is returned because of an incorrect address, within ten (10) days from receipt of the returned Notice, the Settlement Administrator will conduct a search for a more current address for the Class Member and re-mail the Class Notice to the Class Member. The Settlement Administrator will use the National Change of Address Database and skip traces to attempt to find the current address. The Settlement Administrator will be responsible for taking reasonable steps to trace the mailing address of any Class Member for whom a Class Notice is returned by U.S. Postal Service as undeliverable. These reasonable steps shall include, at a minimum, the tracking of all undelivered mail; performing address searches for all mail returned without a forwarding address, and promptly re-mailing to Class Members for whom new addresses are found. If the Settlement Administrator is unable to locate a better address, the Class Notice shall be re-mailed to the original address. If the Class Notice is re-mailed, the Settlement Administrator will note for its own records the date and address of each re-mailing. Those Class Members who receive a re-mailed Class Notice, whether by skip- trace or forwarded mail, will have between the later of (a) an additional ten (10) days or (b) the Response Deadline to postmark an Exclusion Form, or file and serve an objection to the Settlement. The Settlement Administrator shall mark on the envelope whether the Class Notice is a re-mailed notice.
- d. Class Members may dispute the information provided in their Class Notice but must do so in writing, via first-class mail, and it must be postmarked by the Response Deadline. To the extent Class Members dispute the number of pay periods to which they have been credited or the amount of their Individual Settlement Share, Class Members must produce evidence to the Settlement Administrator showing that such information is inaccurate. Absent evidence rebutting Defendant's records, Defendant's



records will be presumed determinative. However, if a Class Member produces evidence to the contrary, the Parties will evaluate the evidence submitted by the Class Member and will make the final decision as to the number of eligible pay periods that should be applied and/or the Individual Settlement Share to which the Class Member may be entitled.

- e. If any Exclusion Form received is incomplete or deficient, the Settlement Administrator shall send a letter informing the Class Member of the deficiency and allow fourteen (14) days to cure the deficiency. If after the cure period the Exclusion Form is not cured, it will be determined that the Class Member did not exclude himself or herself from the Settlement and will be bound by the Settlement.
- f. The Settlement Administrator shall provide a weekly status report to the Parties. As part of its weekly status report, the Settlement Administrator will inform Class Counsel and Defendant's Counsel of the number of Notice Packets mailed, the number of Notice Packets returned as undeliverable, the number of Notice Packets re-mailed, and the number of Exclusion Forms received.
- g. No later than fourteen (14) calendar days after the Response Deadline, the Settlement Administrator will serve on the Parties a declaration of due diligence setting forth its compliance with its obligations under this Agreement. The declaration from the Settlement Administrator shall also be filed with the Court by Class Counsel no later than ten (10) calendar days before the Final Approval Hearing. Before the Final Approval Hearing, the Settlement Administrator will supplement its declaration of due diligence if any material changes occur from the date of the filing of its prior declaration.

3. Objections to Settlement. The Class Notice will provide that the Class Members who wish to object to the Settlement must do so in writing, signed, dated, and mailed to the Settlement Administrator postmarked no later than the Response Deadline. The timeframe to submit an objection will not be increased for returned mailings.

- a. **Format.** Any Objections shall state: (a) the objecting person's full name, address, and telephone number; (b) the words "Notice of Objection" or "Formal Objection;" (c) describe, in clear and concise terms, the legal and factual arguments supporting the objection; (d) list identifying witness(es) the objector may call to testify at the Final Approval hearing; (e) signature of the Objector and (f) provide true and

correct copies of any exhibit(s) the objector intends to offer at the Final Approval Hearing.

- b. **Notice of Intent to Appear.** Class Members who timely file valid objections to the Settlement may (though are not required to) appear at the Final Approval Hearing, either in person or through the objector's own counsel, provided the objector has first notified the Settlement Administrator by sending his/her written objections to the Settlement Administrator, postmarked no later than the Response Deadline.

- 4. **Request for Exclusion from the Settlement ("Opt-Out").** The Class Notice will provide that Class Members who wish to exclude themselves from the Settlement must mail to the Settlement Administrator an Exclusion Form. The written request for exclusion must: (a) include the Class Member's name, address, and last four digits of the social security number; (b) be addressed to the Settlement Administrator; (c) be signed by the Class Member or his or her lawful representative; and (d) be postmarked no later than the Response Deadline.

- a. **Confirmation of Authenticity.** If there is a question about the authenticity of a signed request for exclusion, the Settlement Administrator may demand additional proof of the Class Member's identity. Any Class Member who returns a timely, valid and executed Exclusion Form will not participate in or be bound by the Settlement and Judgment and will not receive an Individual Settlement Share. A Class Member who does not complete and mail a timely Exclusion Form will automatically be included in the Settlement, will receive an Individual Settlement Share, and be bound by all terms and conditions of the Settlement, if the Settlement is approved by the Court, and by the Judgment, regardless of whether he or she has objected to the Settlement.

- b. **Report.** No later than seven (7) calendar days after the Response Deadline, the Settlement Administrator will provide the Parties with a complete and accurate accounting of the number of Notices mailed to Class Members, the number of Notices returned as undeliverable, the number of Notices re-mailed to Class Members, the number of re-mailed Notices returned as undeliverable, the number of Class Members who objected to the Settlement and copies of their submitted objections, the number of Class Members who returned valid requests for exclusion, and the number of Class Members who returned invalid requests for exclusion.

c. Defendant's Option to Terminate. If more than five percent (5%) of the Class Members submit Exclusion Forms, Defendant, at its sole option, may withdraw from the Settlement and this Agreement is null and void. To exercise this option Defendant must do so within thirty (30) days after the expiration of the Response Deadline.

5. No Solicitation of Objection or Requests for Exclusion. Neither the Parties nor their respective counsel will solicit or otherwise encourage directly or indirectly any Class Member to object to the Settlement, request exclusion from the Settlement, or appeal from the Judgment.

6. Motion for Final Approval.

a. Class Counsel will file unopposed motions and memorandums in support thereof for Final Approval of the Settlement and the following payments in accord with the terms of the Settlement: (1) the Attorney Fee Award; (2) the Cost Award; (3) Administrative Costs; (4) the Class Representative Service Award; and (5) PAGA Payment. Class Counsel will also move the Court for and order of Final Approval (and associated entry of Judgment) releasing and barring any Released Claims of the Class Members who do not opt-out of the Settlement.

b. If the Court does not grant Final Approval of the Settlement, or if the Court's Final Approval of the Settlement is reversed or materially modified on appellate review, then this Settlement will become null and void. If that occurs, the Parties will have no further obligations under the Settlement, including any obligation by Defendant to pay the Gross Settlement Amount or any amounts that otherwise would have been owed under this Agreement. Further, should this occur, the Parties agree they shall be equally responsible for the Settlement Administrator's Administration Costs through that date. An award by the Court of a lesser amount than sought by Plaintiff and Class Counsel for the Class Representative Service Award, the Attorney Fee Award, and/or the Cost Award, will not constitute a material modification to the Settlement within the meaning of this paragraph.

c. Upon Final Approval of the Settlement, the Parties shall present to the Court a proposed Final Approval Order, approving the Settlement and entering Judgment in accordance therewith. After entry of Judgment, the Court shall have continuing jurisdiction over the Class Action for purposes of: (1) enforcing this Settlement Agreement; (2) addressing settlement administration



matters, and (3) addressing such post-Judgment matters as may be appropriate under Court rules and applicable law.

7. **Waiver of Right to Appeal.** Provided that the Judgment is consistent with the terms and conditions of this Agreement, if Class Members do not timely object to the Settlement, then the Parties and their respective counsel waive any and all rights to appeal from the Judgment, including, but not limited to, all rights to any post-judgment proceeding and appellate proceeding, such as a motion to vacate or set aside judgment, and any extraordinary writ, and the Judgment will become non-appealable at the time it is entered. The waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceeding, or post-judgment proceeding.
8. **Vacating, Reversing, or Modifying Judgment on Appeal.** If, after a notice of appeal, the reviewing court vacates, reverses, or modifies the Judgment such that there is a material modification to the Settlement, and that court's decision is not completely reversed and the Judgment is not fully affirmed on review by a higher court, then this Settlement will become null and void and the Parties will have no further obligations under it. A material modification would include, but not necessarily be limited to, any alteration of the Gross Settlement Amount, an alteration in the calculation of the Net Settlement Amount, and any change to the calculation of the Individual Settlement Share.
9. **Disbursement of Settlement Shares and Payments.** Subject to the Court finally approving the Settlement, the Settlement Administrator shall distribute funds pursuant to the terms of this Agreement and the Superior Court's Final Approval Order and Judgment. The maximum amount Defendant can be required to pay under this Settlement for any purpose is the Gross Settlement Amount and the employer-side payroll taxes for the wage portion of the Settlement. The Settlement Administrator shall keep Defendant's Counsel and Class Counsel apprised of all distributions from the Gross Settlement Amount. The Settlement Administrator shall respond to questions from Defendant's Counsel and Class Counsel. No person shall have any claim against Defendant, Defendant's Counsel, Plaintiff, Class Counsel, or the Settlement Administrator based on the distributions and payments made in accordance with this Agreement.
 - a. **Funding the Settlement:** No later than sixty-five (65) calendar days after the Effective Final Settlement Date, Defendant shall deposit the Gross Settlement Amount of Six Hundred Thousand Dollars (\$600,000) and additional funds needed to pay the entire GSA and associated taxes by wiring the funds into a QSF set up and controlled by the Settlement Administrator. In the event there are objectors to the Joint Stipulation and Settlement Agreement, payment shall be made within sixty-five (65) calendar days after the time to appeal has run or all appeals have been

exhausted, whichever occurs later. Defendant shall also at this time provide any tax information that the Settlement Administrator may need to calculate each Participating Class Members' Individual Settlement Share.

- b. **Disbursement:** Within fourteen (14) calendar days after the Funding of the Settlement, the Settlement Administrator shall calculate and pay all payments due under the Settlement Agreement, including all Individual Settlement Shares, the Attorney Fee Award, the Cost Award, the Class Representative Service Awards, the PAGA Payment, and the Administration Costs. The Settlement Administrator will forward a check for 75% of the PAGA Payment to the LWDA for settlement of the PAGA claim. After such payment, Defendant shall have no liability for PAGA claims by or on behalf of Aggrieved Employees during the PAGA Period, which are released under this Agreement.
- c. **QSF:** The Parties agree that the QSF is intended to be a "Qualified Settlement Fund" under Section 468B of the Code and Treasury Regulations § 1.4168B-1, 26 C.F.R. § 1.468B-1 *et seq.* and will be administered by the Settlement Administrator as such. The Parties and Settlement Administrator shall treat the QSF as coming into existence as a Qualified Settlement Fund on the earliest date permitted as set forth in 26 C.F.R. § 1.468B-1, and such election statement shall be attached to the appropriate returns as required by law.

10. Uncashed Checks. Participating Class Members must cash or deposit their Individual Settlement Share checks within one hundred eighty (180) calendar days after the checks are mailed to them. If any checks are not redeemed or deposited within ninety (90) calendar days after mailing, the Settlement Administrator will send a reminder postcard indicating that unless the check is redeemed or deposited in the next ninety (90) calendar days, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced. If any checks remain uncashed or not deposited by the expiration of the 90-day period after mailing the reminder notice, the Settlement Administrator will, within two hundred (200) calendar days after the checks are mailed, pay the amount of the Individual Settlement Share to State of California Controller's Unclaimed Property Fund to be held in the name of the participating Class Member.

11. Final Report by Settlement Administrator. Within ten (10) calendar days after the disbursement of all funds, the Settlement Administrator will serve on the Parties a declaration providing a final report on the disbursements of all funds.



12. Defendant's Legal Fees. Defendant is responsible for paying for all of Defendant's own legal fees, costs, and expenses incurred in this Class Action outside of the Gross Settlement Amount.

- L. Release of Claims.** As of the Effective Final Settlement Date and Defendant's fully funding the GSA, Class Members, who do not submit a timely and valid request for exclusion, hereby release, remise and forever discharge the Released Parties from the Released Claims during the Class Period. Participating Class Members agree not to sue or otherwise make a claim against any of the Released Parties for any of the Released Claims.
- M. Release of PAGA Claims.** As of the Effective Final Date and Defendant's fully funding the GSA, the LWDA and each Eligible Aggrieved Employee, including Plaintiff, individually and on behalf of their heirs, executors, administrators, representatives, attorneys, successors and assigns hereby voluntarily and knowingly releases and forever discharges any and all claims seeking civil penalties under the California Labor Code predicated on the PAGA Claims asserted in the Action, during the PAGA Period against Defendant and/or any other Released Party.
- N. Plaintiff's Release of Claims and General Release.** As of the Effective Final Settlement Date and Defendant's fully funding the GSA, and in exchange for the Class Representative Service Award Payment to the Plaintiff in an amount not to exceed \$10,000.00 (Ten Thousand Dollars and No Cents), in recognition of his work and efforts in obtaining the benefits for the Class, undertaking the risk for the payment of costs in the event this matter had not successfully resolved and in exchange for a General Release. In connection with this Settlement, Plaintiff hereby provides a general release of claims for himself and his spouse, heirs, successors and assigns, and forever releases, remises, and discharges the Released Parties from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, penalties and expenses of any nature whatsoever, arising from the beginning of time through the date Plaintiff executes this Agreement, known or unknown, suspected or unsuspected, whether in tort, contract, equity, or otherwise, for violation of any federal, state or local statute, rule, ordinance or regulation, including but not limited to all claims arising out of, based upon, or relating to their employment with Defendant or the remuneration for, or termination of, such employment. Plaintiff's Release of Claims also includes a waiver of California Civil Code section 1542, which provides as follows:

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

The foregoing release is intended to be as broad as the Parties can possibly create and includes but is not limited to any liability whatsoever:



- which arises directly or indirectly out of or is in any manner related to Plaintiff's employment by Defendant;
- which arises directly or indirectly out of or is in any manner related to the causes of action or injuries or damages alleged in the Action; or
- which arises directly or indirectly out of or is in any manner related to any of the matters, occurrences or transactions which were raised or could have been raised in the Action, including without limitation, any and all claims for compensatory, economic, non-economic, punitive or other damages.

If any claim is not subject to release, Plaintiff waives any right or ability to be a class or collective action representative or to otherwise participate in any putative or certified class, collective or multi-party action or proceeding based on such a claim in which Defendant or any of the other Released Parties identified in this Settlement Agreement is a party.

O. Miscellaneous Terms

- 1. No Admission of Liability.** Defendant makes no admission of liability or wrongdoing by virtue of entering into this Agreement. Additionally, Defendant reserves the right to contest any issues relating to class certification and liability if the Settlement is not approved. Defendant denies that it has engaged in any unlawful activity, has failed to comply with the law in any respect, has any liability to anyone under the claims asserted in the Class Action, or that but for the Settlement, a Class should be certified in the Class Action. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant of liability or wrongdoing. This Settlement and Plaintiff's and Defendant's willingness to settle the Class Action will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with this Settlement).
- 2. No Effect on Employee Benefits.** The Class Representative Service Award Payments and/or Individual Settlement Shares paid to Plaintiff and Participating Class Members shall not be deemed to be pensionable earnings and shall not have any effect on the eligibility for, or calculation of, any of the employee benefits (*e.g.*, vacation, holiday pay, retirement plans, etc.) of Plaintiff or the Participating Class Members. The Parties agree that any Class Representative Service Awards and/or Individual Settlement Shares paid to Plaintiff or the Participating Class Members under the terms of this Agreement do not represent any modification of Plaintiff's or Participating Class Members' previously credited hours of service or other eligibility criteria under any employee pension benefit plan or

employee welfare benefit plan sponsored by Defendant. Further, any Class Representative Service Award Payments shall not be considered "compensation" in any year for purposes of determining eligibility for, or benefit accrual within, an employee pension benefit plan or employee welfare benefit plan sponsored by Defendant.

3. **No Solicitation of Individual Settlements.** Defendant and its Counsel agree that until and unless the Court does not grant Final Approval of the Settlement and/or the Settlement Agreement becomes null and void, Defendant and its Counsel will not attempt to procure any individual settlements from the Class Members. Should this clause be violated, Plaintiff reserves the right to terminate the Settlement Agreement. Plaintiff and their counsel agree that until and unless the Court does not grant Final Approval of the Settlement and/or the Settlement Agreement becomes null and void, Plaintiff and their counsel shall not attempt to procure from Class Members any requests for exclusion from the Settlement. Should this clause be violated, Defendant reserves the right to terminate the Settlement Agreement.
4. **Publicity.** Class Counsel and Plaintiff agree to discuss the terms of this Settlement only in declarations submitted to a court to establish Class Counsel's adequacy to serve as class counsel, in declarations submitted to a court in support of motions for preliminary approval, Final Approval, for attorneys' fees/costs, and any other pleading filed with the Court in conjunction with the Settlement, and in discussions with Class Members in the context of administering this Settlement until the Preliminary Approval Order is issued. The Parties and their Counsel agree to decline to respond to any media inquiries concerning the Settlement.
5. **Integrated Agreement.** After this Agreement is signed and delivered by all Parties and their counsel, this Agreement and its exhibits will constitute the entire Agreement between the Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties, covenants, or inducements have been made to any party concerning this Agreement or its exhibits, other than the representations, warranties, covenants, and inducements expressly stated in this Agreement and its exhibits.
6. **Authorization to Enter Into Settlement Agreement.** Class Counsel and Defendant's Counsel warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties under this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement this Agreement, or

on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties will seek the assistance of the Court, and in all cases, all such documents, supplemental provisions, and assistance of the Court will be consistent with this Agreement.

7. **Exhibits and Headings.** The terms of this Agreement include the terms set forth in the attached exhibits, which are incorporated by this reference as though fully set forth herein. Any exhibits to this Agreement are an integral part of the Settlement and must be approved substantially as written. The descriptive headings of any paragraphs or sections of this Agreement are inserted for convenience of reference only and do not constitute a part of this Agreement.
8. **Interim Stay of Proceedings.** The Parties agree to stay and hold all proceedings in the Class Action in abeyance, except such proceedings necessary to implement and complete the Settlement, pending the Final Approval Hearing to be conducted by the Court.
9. **Amendment or Modification of Agreement.** This Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by counsel for all Parties or their successors-in-interest.
10. **Agreement Binding on Successors and Assigns.** This Agreement will be binding upon and inure to the benefit of, the successors and assigns of the Parties, as previously defined.
11. **No Prior Assignment.** Plaintiff hereby represents, covenants, and warrants that he has not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged.
12. **Applicable Law.** All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the laws of the State of California, without giving effect to any conflict of law principles or choice of law principles.
13. **Fair, Adequate, and Reasonable Settlement.** The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Class Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, current and potential.
14. **No Tax or Legal Advice.** The Parties understand and agree that the Parties are neither providing tax or legal advice, nor making representations

regarding tax obligations or consequences, if any, related to this Agreement, and that Class Members will assume any such tax obligations or consequences that may arise from this Agreement, and that Class Members shall not seek any indemnification from the Parties or any of the Released Parties in this regard. The Parties agree that, in the event that any taxing body determines that additional taxes are due from any Class Member, such Class Member assumes all responsibility for the payment of such taxes.

- 15. Jurisdiction of the Superior Court.** The Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Agreement and all orders and judgment entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Superior Court for purposes of interpreting, implementing, and enforcing the Settlement embodied in this Agreement and all orders and judgments in connection therewith.
- 16. Invalidity of Any Provision; Severability.** Before declaring any provision of this Agreement invalid, the Parties request that the Court first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents, so as to define all provisions of this Agreement valid and enforceable. In the event any provision of this Agreement shall be found unenforceable, the unenforceable provision shall be deemed deleted, and the validity and enforceability of the remaining provisions shall not be affected thereby.
- 17. Cooperation in Drafting.** The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 18. Execution in Counterpart.** This Agreement may be executed in one or more counterparts. All executed counterparts, and each of them will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves original signed counterparts. Facsimile or PDF signatures will be accepted. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 19. Class Size Pro-Rata Escalator.** Defendant provided data which Plaintiff analyzed as indicating that the class includes approximately 678 employees with 56,321 workweeks from March 2, 2020 through November 7, 2023. If the actual number of total workweeks from March 2, 2020 through January 20, 2024 exceeds ten percent (10%) or more greater than the 56,321 workweeks represented by Defendant, i.e., more than 61,953 work weeks, the GSA shall be subject to a pro-rata increase.

IV. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel execute this Agreement.

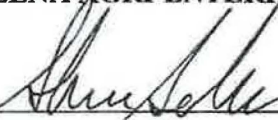
Dated: 04/01/2024

BRAULIO JAVIER

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Dated: 4/2/2024

HELENA AGRI-ENTERPRISES, LLC



Signature

By: Sherrie Scardino

Its: HR Director

Dated: 04.01.2024

JAMES HAWKINS APLC


James R. Hawkins, Esq.

Christina M. Lucio, Esq.

*Attorneys for Plaintiff, individually and on behalf of all other
Class Members and Aggrieved Employees*

Dated: 4/2/2024

BARNES & THORNBURG LLP


John E. Fitzsimmons, Esq.

Rochelle L. Calderon, Esq.

Attorneys for Helena Agri-Enterprises, LLC

Exhibit A

COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL

Braulio Javier v. Helena Agri-Enterprises, LLC, et al.
Fresno Superior Court Case No. 22CECG02269

The Superior Court for the State of California authorized this Notice. Read it carefully!
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.

You may be eligible to receive money from an employee class action lawsuit (“Action”) against Helena Agri-Enterprises, LLC (“Defendant”) for alleged wage and hour violations. The Action was filed by a former employee of Defendant, Braulio Javier (“Plaintiff”) and seeks payment of (1) unpaid minimum wages and overtime, meal and rest period premiums, civil penalties, and other relief for a class of current and former non-exempt employees who worked for Defendant in California during the Class Period (defined below); and (2) penalties under the California Private Attorneys General Act (“PAGA”) for all current and former non-exempt employees who worked for Defendant in California from July 27, 2021 through January 20, 2024 (“Eligible Aggrieved Employees”).

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendant to fund Individual Settlement Shares, and (2) a PAGA Settlement requiring Defendant to fund Individual PAGA Shares and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on Defendant’s records, and the Parties’ current assumptions, **your Individual Settlement Share is estimated to be \$ [REDACTED] (less withholding) and your Individual PAGA Share is estimated to be \$ [REDACTED]**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Share, then according to Defendant’s records you are not eligible for an Individual PAGA Share under the Settlement because you didn’t work during the PAGA Period.)

The above estimates are based on Defendant’s records showing that **you worked [REDACTED] workweeks** during the Class Period and **you worked [REDACTED] workweeks** during the PAGA Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff’s attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires Defendant to make payments under the Settlement and requires Class Members and Eligible Aggrieved Employees to give up their rights to assert certain claims against Defendant.

If you worked for Defendant during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

(1) **Do Nothing.** You don’t have to do anything to participate in the proposed Settlement and be eligible for an Individual Settlement Share and/or an Individual PAGA Share. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Defendant.

(2) Opt-Out of the Class Settlement. You can exclude yourself from the Class Settlement (opt-out) by submitting a written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt out of the Settlement, you will not receive an Individual Settlement Share. You will, however, preserve your right to personally pursue Class Period wage claims against Defendant, and, if you are an Eligible Aggrieved Employee, remain eligible for an Individual PAGA Share. You cannot opt-out of the PAGA portion of the proposed Settlement.

Defendant will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Settlement Share and an Individual PAGA Share (if any). In exchange, you will give up your right to assert the wage claims against Defendant that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is _____	<p>If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Settlement Share. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.</p> <p>You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Shares to all Eligible Aggrieved Employees and the Eligible Aggrieved Employees must give up their rights to pursue Released PAGA Claims (defined below).</p>
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by _____	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the _____ Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on _____. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods	The amount of your Individual Settlement Share and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay

Written Challenges Must be Submitted by [REDACTED]	Periods you worked according to Defendant's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by [REDACTED]. See Section 4 of this Notice.
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1.WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee of Defendant. The Action accuses Defendant of violating California labor laws by failure to pay minimum wages and overtime, failure to provide meal and rest periods, failure to timely pay wages, waiting time penalties, failure to provide accurate itemized wage statements, failure to reimburse necessary business expenses, and unfair competition . Based on the same claims, Plaintiff have also asserted a claim for civil penalties under PAGA.

Plaintiff is represented by attorneys James R. Hawkins and Christina M. Lucio of James Hawkins APLC.

Defendant strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

2.WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether Defendant or Plaintiff is correct on the merits. In the meantime, Plaintiff and Defendant hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an end to the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Defendant have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merits of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendant has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Eligible Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3.WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. **Defendant Will Pay \$600,000.00 as the Gross Settlement Amount (Gross Settlement).** Defendant has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Settlement Shares, Individual PAGA Shares, Class Representative Service Award Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the LWDA. Assuming the Court grants Final Approval, Defendant will fund the Gross Settlement not more than 65 days after the Effective Final Settlement Date.

2. **Court Approved Deductions from Gross Settlement.** At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:

A. Up to \$210,000.00 (35% of the Gross Settlement) to Class Counsel for attorneys' fees and up to \$20,000 for litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.

B. Up to \$10,000.00 as a Class Representative Service Award Payment to Plaintiff for filing the Action, working with Class Counsel in representing the Class, and agreeing to a general release against Defendant. A Class Representative Service Award Payment will be the only monies Plaintiff will receive other than Plaintiff's Individual Settlement Share and any Individual PAGA Share.

C. Up to \$11,000.00 to the Administrator for services administering the Settlement.

D. Up to \$16,000.00 for PAGA Penalties, allocated 75% to the Labor and Workforce Development Agency ("LWDA") and 25% in Individual PAGA Shares to the Eligible Aggrieved Employees based on their PAGA Period Pay Periods. Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Amount Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") by paying Individual Settlement Shares to Participating Class Members based on their Class Period Workweeks.

4. Taxes Owed on Payments to Class Members. Plaintiff and Defendant are asking the Court to approve an allocation of 20% of each Individual Settlement Share to taxable wages ("Wage Portion") and 80% to penalties and interest ("Non-Wage Portion"). The Wage Portion is subject to withholding and will be reported on IRS W-2 Forms. Defendant will separately pay employer payroll taxes it owes on the Wage Portion. The Individual Settlement Shares are subject to applicable tax withholdings and will be reported on IRS 1099 Forms. The amounts paid as penalties and interest shall be subject to IRS 1099 reporting and shall not be subject to withholdings.

Although Plaintiff and Defendant have agreed to these allocations, neither side is giving you any advice on whether your payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Settlement Shares and Individual PAGA Shares will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name. If the monies represented by your check are sent to the California Controller's Unclaimed Property, you should consult the rules of the fund for instructions on how to retrieve your money.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than 45 days after receiving this notice, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the [redacted] Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Settlement Shares but will preserve their rights to personally pursue wage and hour claims against Defendant.

You cannot opt out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Shares and are required to give up their right to assert PAGA claims against Defendant based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Defendant have agreed that, in either case, the Settlement will be void: Defendant will not pay any money and Class Members will not release any claims against Defendant.

8. Administrator. The Court has appointed a neutral company, ILYM Group, Inc. (the “Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.

9. Participating Class Members’ Release. After the Judgment is final and Defendant have fully funded the Gross Settlement and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

The Participating Class Members will be bound by the following release:

Upon Defendant's fulfillment of their payment obligations under the Settlement Agreement, the Participating Class Members will release Defendant and its past or present officers, directors, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, and their respective successors and predecessors in interest, subsidiaries, affiliates, parents, and attorneys ("Released Parties") from all claims, demands, rights, liabilities and causes of action that were asserted in the operative Complaint or that could have been asserted based on the factual allegations in the operative Complaint.

The released claims include, but are not limited to, claims for unpaid overtime and minimum wages, meal and rest period premiums, waiting time penalties, improper wage statements, civil penalties under the Private Attorneys General Act, and any other claims that were or could have been asserted based on the allegations in the Complaint. The release applies only to the time periods when the Participating Class Members were employed by Defendant in non-exempt positions in California during the Class Period from July 29, 2018 through January 20, 2024.

10. Eligible Aggrieved Employees’ PAGA Release. After the Court’s judgment is final, and Defendant have paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Eligible Aggrieved Employees will be barred from asserting PAGA claims against Defendant, whether or not they exclude themselves from the Settlement. This means that all Eligible Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Defendant or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

The Eligible Aggrieved Employees’ Releases and Non-Participating Class Members are as follows:

Upon Defendant's fulfillment of their payment obligations under the Settlement Agreement, the Eligible Aggrieved Employees will release Defendant and the Released Parties from all claims for civil penalties under the California Labor Code Private Attorneys General Act of 2004 that were asserted in Plaintiff's PAGA Notice to the LWDA and/or the operative Complaint, or that could have been asserted based on the factual allegations in the PAGA Notice and/or the Complaint. The release of PAGA claims applies only to the time periods when the Eligible Aggrieved Employees were employed by Defendant in non-exempt positions in California during the PAGA Period from July 27, 2021, through January 20, 2024.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Settlement Shares. The Administrator will calculate Individual Settlement Shares by (1) determining the total number of workweeks worked by each Participating Class Member during the Class Period from March 2, 2020 through January 20, 2024 ("Workweeks"); (2) assigning 3 points for each Workweek to Participating Class Members; (3) determining the total number of additional workweeks worked by each Participating Class Member during the Class Period from July 29, 2018 through March 1, 2020 ("Additional Workweeks"); (4) assigning 1 point for each Additional Workweek to Participating Class Members; (5) adding the points for Workweeks and Additional Workweeks for each Participating Class Member to determine each Participating Class Member's "Total Points"; (6) adding all Participating Class Members' Total Points together to calculate the "Total Settlement Points"; (7) dividing each Participating Class Member's Total Points by the Total Settlement Points to determine each Participating Class Member's "Settlement Ratio"; and (8) multiplying the Net Settlement Amount by each Participating Class Member's Settlement Ratio to determine each Participating Class Member's Individual Settlement Share.

2. Individual PAGA Shares. The Administrator will calculate Individual PAGA Shares by (1) determining the total number of pay periods worked by each Eligible Aggrieved Employee during the PAGA Period from July 27, 2021 through January 20, 2024 ("PAGA Pay Periods"); (2) adding together all Eligible Aggrieved Employees' PAGA Pay Periods to calculate the "Total PAGA Pay Periods"; (3) dividing the Eligible Aggrieved Employees' portion of the PAGA Payment (\$4,000) by the Total PAGA Pay Periods to determine the "Pay Period Value"; and (4) multiplying each Eligible Aggrieved Employee's PAGA Pay Periods by the Pay Period Value to determine each Eligible Aggrieved Employee's Individual PAGA Share.

3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendant's records, are stated on the first page of this Notice. You have until [REDACTED] to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Defendant's calculation of Workweeks and/or Pay Periods based on Defendant's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Defendant's Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Eligible Aggrieved Employees. The single check will combine the Individual Settlement Share and the Individual PAGA Share.

2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Share check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

Your check will be sent to the same address as in this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

If you do not wish to participate in the Class Settlement, you may be excluded from the Settlement by submitting a written request to the Settlement Administrator. Your request for exclusion must (1) contain your full name, address, telephone number, and last four digits of your Social Security Number; (2) be signed by you; (3) identify the case name and number (Javier v. Helena-Agri, Case no. 22CECG02269); and (4) contain a clear statement that you wish to be excluded from the Settlement Class. You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by [redacted], or it will be invalid.** If you submit a timely and valid request for exclusion, you will not be bound by the Settlement or the release of claims, and you will not receive an Individual Settlement Share. If you do not make a timely and valid request for exclusion from the Settlement, you will be bound by all terms of the Settlement, including the release of claims, and you will give up your right to pursue a separate legal action against Defendant for the released claims. Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Defendant are asking the Court to approve. At least 16 court days before the [redacted] Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website [redacted] (url) or the Court's website [redacted] (url).

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Payments may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is [redacted].** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action "Javier v. Helena-Agri, Case no. 22CECG02269" and include your name, current address, telephone number, and approximate dates of employment for Defendant and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on [redacted] at (time) [redacted] in Department 502 of the Superior Court of California, County of Fresno, located at the 1130 O Street, Fresno, CA 93724. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comments from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually. Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website [redacted] beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendant and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to [redacted]'s website at [redacted] (url). You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below or consult the Superior Court website by going to <https://publicportal.fresno.courts.ca.gov/FRESNOPORTAL/> and entering the Case Number for the Action, Case No. 22CECG02269.

DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.

Class Counsel:

Name of Attorney: James R. Hawkins, Christina M. Lucio, and Mitchell J. Murray
Email Address: info@jameshawkinsapl.com
Name of Firm: James Hawkins APLC
Mailing Address: 9880 Research Drive, Suite 200, Irvine, CA 92618
Telephone: (949) 387-7200

Settlement Administrator:

Name of Company: ILYM GROUP, INC.

Email Address: [redacted]

Mailing Address: [redacted]

Telephone: [redacted]

Fax Number: [redacted]

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.