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15
16 SUPERIOR COURT OF THE STATE OF CALIFORNIA
17 COUNTY OF SACRAMENTO

18
19 ESMERALDA CASTANON, and JOHN
DURON, on behalf of themselves and all others
similarly situated,

20 Plaintiff,

21 v.

22 WINCO HOLDINGS, INC., an Idaho
23 Corporation, doing business as WINCO FOODS;
and DOES 1-10, inclusive,

24 Defendants.
25

Case No. 34-2020-00282233

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

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1 This Amended Joint Stipulation of Class Action and PAGA Settlement Agreement and Release
2 of Claims (“Agreement”) is made and entered into between: (1) Plaintiffs Esmeralda Castanon
3 (“Castanon”), Natasha King (“King”), Geneva Putnam (“Putnam”), Darlene Kanenbley (“Kanenbley”),
4 Andrew Caro (“Caro”), and Everardo Garza Jr. (“Garza”) (collectively, “Plaintiffs”), individually and on
5 behalf of all current and former non-exempt, hourly employees working for Defendant WinCo Holdings,
6 Inc. (“WinCo” or “Defendant”) in California at any time between May 19, 2016 to August 28, 2024; and
7 (2) WinCo, subject to approval from the Court, as provided below.

8 This Agreement is intended by the Parties to fully, finally, and forever resolve, discharge, and
9 settle the Actions (as defined below) and the Released Claims (as defined below), upon and subject to
10 the terms and conditions hereof, as follows:

11 **1. DEFINITIONS**

12 As used herein, for the purposes of this Agreement only, the following terms shall be defined as
13 set forth below:

14 1.1. **“Actions”** refer to the respective Plaintiffs’ lawsuits as follows:

- 15 a. *Esmeralda Castanon v. WinCo Holdings, Inc.*, United States District Court –
16 Eastern District of California, Case No. 2:20-cv-01656-TLN-SCR (“Castanon
17 Class Action”).
- 18 b. *Esmeraldo Castanon v. WinCo Holdings, Inc.*, Sacramento Superior Court
19 Case No. 34-2020-00282233 (“Castanon PAGA Action”).
- 20 c. *Natasha King v. WinCo Holdings, Inc.*, United States District Court – Central
21 District of California, Case No. 2:22-cv-05572-JLS-JDE (“King Class
22 Action”).
- 23 d. *Natasha King v. WinCo Holdings, Inc.*, Los Angeles Superior Court Case No.
24 22STCV26443 (“King PAGA Action”).
- 25 e. *Geneva Putnam v. WinCo Holdings, Inc.*, United States District Court –
26 Eastern District of California, Case No. 2:21-cv-01760-MCE-JDP (“Putnam
27 Class Action”).
28

1 *f. Darlene Kanenbley v. WinCo Holdings, Inc.*, United States District Court –
2 Central District of California , Case No. 2:23-cv-6738 (“Kanenbley PAGA
3 Action”).

4 *g. Andrew Caro v. WinCo Holdings, Inc.*, San Diego Superior Court Case No.
5 37-2024-00013752-CU-OE-NC (“Caro PAGA Action”).

6 *h. Everardo Garza Jr. v. WinCo Holdings, Inc.*, United States District Court,
7 Eastern District of California Case No. 1:20-cv-01354- TLN-SCR.

8 1.2. **“Aggrieved Employees”** refers to all current and former non-exempt, hourly
9 employees working for WinCo at its retail stores and distribution centers in California at any time
10 between May 19, 2019 to August 28, 2024.

11 1.3. **“Agreement”** refers to this Joint Stipulation of Class Action and PAGA
12 Settlement Agreement and Release of Claims, which includes all of the Recitals and the Exhibits
13 attached hereto.

14 1.4. **“Class”** refers to all current and former non-exempt, hourly employees working
15 for WinCo in California at its retail stores and distribution centers at any time between May 19, 2016 to
16 August 28, 2024.

17 1.5. **“Class Counsel”** refers to James R. Hawkins, Christina M. Lucio, and Mitchell J.
18 Murray of James Hawkins APLC; Jean-Claude Lapuyade of JCL Law Firm, APC; Shani O. Zakay of
19 Zakay Law Group, APLC, Mehrdad Bokhour of the Bokhour Law Group, P.C., and Joshua S. Falakassa
20 of Falakassa Law, P.C.. For purposes of providing any notices required under this Agreement, Class
21 Counsel shall refer to Christina M. Lucio (christina@jameshawkinsaplc.com) and Mitchell J. Murray
22 (mitchell@jameshawkinsaplc.com), 9880 Research Drive, Suite 200, Irvine, California 92618.

23 1.6. **“Class Member(s)”** refers to any individual that is a member of the Class.

24 1.7. **“Class Period”** refers to the period of May 19, 2016 to August 28, 2024, as
25 defined in this Agreement.

26 1.8. **“Class Representatives”** refers to the named Plaintiffs in the Actions, Esmeralda
27 Castanon, Natasha King, Geneva Putnam, Darlene Kanenbley, Andrew Caro, and Everardo Garza Jr.
28

1 1.9. **“Class Representative Incentive Payments”** refers to any payment, subject to
2 Court approval, to the Class Representative(s) from the Gross Settlement Amount in recognition of the
3 efforts and work in prosecuting the Action on behalf of the Class Members.

4 1.10. **“Complaint”** refers to the original class action complaint filed on May 19, 2020
5 (subsequently removed to the United States District Court, Eastern District of California); the First
6 Amended Complaint filed in federal court on September 14, 2020; the Second Amended Complaint filed
7 in federal court on October 20, 2021; the original PAGA Complaint filed on July 24, 2020 in Superior
8 Court of California, County of Sacramento, Case No. 34-2020-00282233; and, the First Amended
9 Consolidated Complaint to be filed in the Superior Court of California, County of Sacramento, Case No.
10 34-2020-00282233 (consolidating the claims of the Actions identified in Paragraph 1.1), which will be
11 filed pursuant to the terms of this Agreement.

12 1.11. **“Weeks Worked”** refers to any weeks when a Class Member worked for WinCo
13 in California during the Class Period, as reflected in WinCo’s records.

14 1.12. **“Defendant’s Counsel”** refers to Seyfarth Shaw LLP. For purposes of providing
15 any notices required under this Agreement, Defendant’s Counsel shall refer to Michael W. Kopp
16 (mkopp@seyfarth.com) and Phillip J. Ebsworth (pebsworth@seyfarth.com); Seyfarth Shaw LLP, 400
17 Capital Mall, Suite 2300, Sacramento, California 95814.

18 1.13. **“Effective Date”** refers to the 15th calendar day after the date by which the last
19 of the following has occurred: (a) all conditions of Settlement have been satisfied; (b) the Court has
20 entered and filed the Final Approval Order and Judgment; and (c) the time period for appeal of the
21 Judgment has been exhausted without any appeals having been filed, and/or all such appeals have been
22 voluntarily or involuntarily dismissed, and/or the appropriate appellate court or courts have entered a
23 final judgment affirming the Final Approval Order and Judgment of the Court and the final judgment of
24 such appellate court or courts is no longer subject to any further appellate challenge or procedure.

25 1.14. **“Final Approval Order”** refers to the final order by the Court approving the
26 Settlement following the Final Fairness Hearing.

1 1.15. **“Final Fairness Hearing”** refers to the hearing at which the Court will make a
2 final determination whether the terms of the Agreement are fair, reasonable, and adequate for the Class
3 and meet all applicable requirements for Final Approval.

4 1.16. **“Gross Settlement Amount”** refers to the maximum settlement payment WinCo
5 may be obligated to make in connection with the Settlement or Agreement, which in this case is no more
6 than \$8,250,000. This sum shall include all Individual Settlement Payments made to Settlement Class
7 Members, all administration costs, the employees’ share of payroll taxes, the Class Representative
8 Incentive Payments, the LWDA Payment, and attorneys’ fees and costs as set forth below. The Gross
9 Settlement Amount shall not include the employer’s share of payroll taxes in connection with the wage-
10 related portions of the Individual Settlement Payments to Settlement Class Members. WinCo will
11 separately pay the employer’s share of the payroll taxes in connection with the wage-related portions of
12 the Individual Settlement Payments to Settlement Class Members.

13 The Gross Settlement Amount is a material term of this Agreement. To the extent
14 Plaintiffs or the Court seeks to require WinCo to pay more than the Gross Settlement Amount as part of
15 this Settlement or Agreement, WinCo shall retain the right, in the exercise of its sole discretion, to
16 nullify the Settlement or Agreement.

17 1.17. **“Individual Settlement Payment”** refers to the amount calculated by the
18 Settlement Administrator to be distributed to each individual Settlement Class Member, based on Weeks
19 Worked. The Individual Settlement Payment shall be paid from the Net Settlement Amount and shall
20 include the employee’s share of payroll taxes and withholdings.

21 1.18. **“Judgment”** refers to the final judgment by the Court approving the Settlement.

22 1.19. **“LWDA Payment”** refers to a payment out of the Gross Settlement Amount of
23 \$412,500, which shall be allocated as \$309,375 to the California Labor & Workforce Development
24 Agency (“LWDA”) as the LWDA’s share of the settlement of civil penalties paid under this Agreement
25 pursuant to the PAGA, and as \$103,125 to the Net Settlement Amount for distribution to the Aggrieved
26 Employees.

27 1.20. **“Net Settlement Amount”** refers to the Gross Settlement Amount minus all
28 administration costs, the Class Representative Incentive Payments, LWDA Payment, and attorneys’ fees

1 and costs. The Net Settlement Amount shall include all Individual Settlement Payments due to Class
2 Members, including the employees' share of payroll taxes. The Net Settlement Amount is the maximum
3 amount that shall be available for distribution to Settlement Class Members.

4
5 1.21. **“Notice of Class Action Settlement”** refers to the Notice of Class Action
6 Settlement, substantially in the form attached as Exhibit A.

7 1.22. **“Objection”** refers to a timely, written, signed objection by a Class Member who
8 elects to object to the Settlement, substantially in the form detailed in the Notice of Class Action
9 Settlement.

10 1.23. **“PAGA Notices”** refers to the notices sent to the LWDA and to WinCo by
11 Castanon on or about May 18, 2020, and the supplemental notice submitted by Castanon on or about
12 May 9, 2025, by King on or about June 8, 2022, by Putnam on or about May 31, 2021, by Kanenbley on
13 or about April 21, 2023, by Caro on or about January 22, 2024, and by Garza on or about August 20,
14 2020, alleging that WinCo engaged in violations of the California Labor Code and California Wage
15 Orders.

16 1.24. **“PAGA Period”** refers to the period of May 19, 2019 to August 28, 2024, as
17 defined in this Agreement.

18 1.25. **“Preliminary Approval Order”** refers to the order issued and entered by the
19 Court following a Motion for Preliminary Approval of the Settlement and this Agreement.

20 1.26. **“Released Claims”** refers to those claims defined in Section 6 of this Agreement.
21 The Released Claims shall apply to all Settlement Class Members.

22 The scope of the Released Claims is a material term of this Agreement. To the extent
23 Plaintiffs or the Court seeks to modify the scope of the Released Claims in order to make it more
24 narrow, WinCo shall retain the right, in the exercise of its sole discretion, to nullify the Settlement or
25 Agreement.

26 1.27. **“Released Parties”** refers to (i) WinCo Holdings, Inc. and WinCo Foods LLC;
27 (ii) each of WinCo's respective past, present and future parents, subsidiaries, and affiliates including,
28 without limitation, any corporation, limited liability company, partnership, affiliated entity, trust,

1 foundation, and non-profit entity which controls, is controlled by, or is under common control with
2 WinCo Holdings, Inc. or WinCo Foods LLC; (iii) the past, present and future shareholders, directors,
3 officers, agents, employees, attorneys, insurers, members, partners, managers, contractors, agents,
4 consultants, representatives, administrators, fiduciaries, benefit plans, transferees, predecessors,
5 successors, and assigns of any of the foregoing; and (iv) any individual or entity which could be jointly
6 liable with any of the foregoing.

7 1.28. **“Request for Exclusion”** refers to a timely, written, signed opt-out request by
8 someone who otherwise would be a Settlement Class Member who elects to be excluded from the Class,
9 substantially in the form attached as Exhibit B to this Agreement.

10 1.29. **“Settlement”** refers to terms of this Agreement, which includes the Recitals and
11 the Exhibits attached hereto.

12 1.30. **“Settlement Administrator”** refers to the third party administrator, who has been
13 mutually selected by the Parties, subject to Court approval, to perform the notice, claims administration,
14 and distribution of payment functions further described in this Agreement. The Settlement Administrator
15 shall establish its own employer identification number and file an Internal Revenue Service Form W-9.
16 The Settlement Administrator shall meet all of the requirements to establish a Qualified Settlement Fund
17 (“QSF”) pursuant to U.S. Treasury Regulation Section 468B-1.

18 1.31. **“Settlement Class”** refers to all Class Members who do not file a timely and
19 valid opt-out Request for Exclusion.

20 1.32. **“Settlement Class Member”** refers to any Class Member who did not file a
21 timely and valid opt-out Request for Exclusion.

22 **2. PROCEDURAL HISTORY AND RECITALS**

23 2.1. **Causes Of Action.** On May 19, 2020, Plaintiff Castanon filed her original class
24 action complaint against WinCo on behalf of the Class. On July 24, 2020, Plaintiff Castanon filed her
25 original PAGA representative action complaint against WinCo on behalf of the Aggrieved Employees,
26 which is currently pending and stayed by order of the Sacramento Superior County Court. The parties
27 agree to request a lifting of the stay for the sole purpose of approving settlement of the Actions. The
28 class action complaint was removed to federal court based on jurisdiction under the Class Action

1 Fairness Act. On September 14, 2020, Plaintiff filed her First Amended Complaint. After the Court
2 granted WinCo's motion to dismiss the First Amended Complaint, Plaintiff filed her Second Amended
3 Complaint on October 20, 2021. Plaintiff's Second Amended Complaint asserts claims against WinCo
4 on behalf of the Class for: (1) Failure to Pay All Wages Owed, including Overtime; (2) Failure to
5 Provide Lawful Meal Periods; (3) Failure to Authorize and Permit Rest Periods; (4) Failure to Timely
6 Pay Wages Owed Upon Separation from Employment; (5) Failure to Furnish Accurate Itemized Wage
7 Statements; (6) Violation of the Unfair Competition Law, and (7) the alleged failure to pay California
8 Paid Sick Leave. The Second Amended Complaint seeks unpaid wages, actual damages, statutory
9 damages, monetary damages, interest, statutory penalties, civil penalties, liquidated damages, restitution,
10 pre-judgment interest, and attorneys' fees and costs.

11 **2.2. The Parties Have Exchanged Discovery To Fully Assess The Claims.** During
12 the litigation of this Action, the Parties have engaged in extensive discovery. Plaintiff propounded
13 written discovery on WinCo, including Requests for Production of Documents and Special
14 Interrogatories and Plaintiff Castanon was deposed. Pursuant to meet and confer efforts for mediation,
15 WinCo agreed to produce, and did produce, electronic time punch records and payroll records for a
16 sample of putative class members, as well as a sample of handwritten payroll punch error forms. WinCo
17 also produced relevant company policies, including applicable Wages and Hours Working Agreements
18 and collective bargaining agreement, that applied to putative class members and training materials
19 related to relevant company policies which were provided to putative class members. The Parties were
20 then able to engage their own experts to independently review and analyze the data.

21 **2.3. Class Counsel's Investigation.** Class Counsel investigated the claims against
22 WinCo in the Action and also analyzed all applicable defenses raised by WinCo. The investigation
23 included review of documents produced by WinCo, including time punch records and payroll records, as
24 well as expert analysis on the data. The investigation also included several conferences between Class
25 Counsel and Defendant's Counsel and Class Counsel's further interviews of the Class Representatives
26 and other Class Members.

27 **2.4. Defendant's Denials.** WinCo denied and continues to deny: (a) all of the
28 allegations made by the Class Representatives or the Class in the Actions; (b) that it violated any

1 applicable laws; (c) that it is liable or owes damages, penalties, or other compensation or remedies to
2 anyone with respect to the alleged facts or claims asserted in the Action; and, (d) that class certification
3 or representative treatment of the Action or any alleged claim is proper. WinCo emphasizes that the
4 Court has not made any findings of liability as to it and the Court has not determined that class
5 certification is warranted in this Action.

6 Nonetheless, without admitting or conceding any liability or wrongdoing whatsoever and
7 without admitting or conceding that class certification or representative treatment is appropriate for any
8 purpose other than settlement purposes alone, WinCo has agreed to settle the Actions on the terms and
9 conditions set forth in this Agreement, to avoid the burden, expense, and uncertainty of continuing the
10 Actions. Any stipulations or statements by WinCo contained in this Agreement are made for settlement
11 purposes only.

12 **2.5. Class Counsel’s Evaluation.** Based on Class Counsel’s investigation and
13 evaluation, Class Counsel is of the opinion that the terms set forth in this Agreement are fair, reasonable,
14 adequate, and in the best interest of the Class Members. Class Counsel diligently and effectively
15 investigated Plaintiff’s claims, drafted the Complaint and subsequent Amended Complaints, interviewed
16 witnesses, prepared discovery, and reviewed and analyzed documents and data produced. Class Counsel
17 concluded that the Settlement reflected in this Agreement is in the best interests of the Class, after
18 reviewing the data and expert analysis, completing interviews with potential Class Members, reviewing
19 WinCo’s policies, conferring with Defendants’ Counsel regarding WinCo’s arguments in support of a
20 Motion for Summary Judgment and in opposition to a potential Motion for Class Certification, and
21 evaluating the risk that further litigation might result in Plaintiff and the Class not recovering anything at
22 all was a very significant factor in determining that this Agreement is fair, reasonable, and adequate.

23 **2.6. First Amended Consolidated Complaint.** As a condition of the Settlement,
24 Plaintiffs will file a First Amended Consolidated Complaint in the Castanon PAGA Action to conform
25 the pleadings with the scope of the release, and specifically, to more explicitly plead class and
26 representative theories of liability that were alleged in Plaintiffs’ respective lawsuits and raised at
27 mediation, add Natasha King, Geneva Putnam, Darlene Kanenbley, Andrew Caro, and Everardo Garza
28 Jr. as a named Plaintiffs, and add a class cause of action, the draft of which is attached hereto as Exhibit

1 C. Plaintiffs will also file an amended notice with the California LWDA attaching the Amended
2 Complaint. WinCo will not be required to file an answer or other responsive pleading to the First
3 Amended Consolidated Complaint. Plaintiffs shall provide WinCo with a draft of the First Amended
4 Consolidated Complaint at least seven days prior to filing so that WinCo can review and make
5 comments on it. Plaintiffs shall incorporate WinCo's comments to the extent they are consistent with
6 this Settlement Agreement.

7 After the Court grants Final Approval, Plaintiffs will dismiss the Castanon Class Action,
8 King Class Action, King PAGA Action, Putnam Class Action, Kanenbley PAGA Action, Caro PAGA
9 Action, and Garza Action to the extent they have not already been dismissed.

10 If, for any reason, the Court does not grant Final Approval, or if the Settlement or
11 Judgment does not become binding for any reason, then the First Amended Consolidated Complaint will
12 be deemed withdrawn. The Complaint filed July 24, 2020 in state court and Second Amended
13 Complaint filed October 20, 2021 in federal court, will again become the operative complaints in the
14 state court and federal court, respectively, with the federal court action resuming and the Actions
15 resuming their prior procedural posture, without prejudice to Plaintiff Castanon's right to seek leave to
16 file another amended complaint in federal court, and without prejudice to WinCo's ability to raise any
17 procedural or substantive arguments to such an amendment. WinCo does not impliedly or expressly
18 waive any arguments or defenses to the First Amended Consolidated Complaint.

19 **2.7. The Parties' Intent.** It is the desire of the Parties to fully, finally, and forever
20 settle, compromise, and discharge any and all claims, rights, demands, charges, complaints, causes of
21 action, obligations or liability of any and every kind that were or could have been asserted in the Action,
22 to the extent that such claims arise out of the alleged facts, circumstances, and occurrences underlying
23 the allegations as set forth in the claims in the draft First Amended Consolidated Complaint which is
24 attached hereto as Exhibit C.

25 **2.8. Certification of Settlement Classes.** This Agreement is contingent upon
26 approval of class certification under CCP § 382 by the Court of the Class for settlement purposes only.
27 WinCo does not waive, and instead expressly reserves, its right to challenge the propriety of class
28

1 certification, collective action certification, or representative treatment for any other purpose should the
2 Court not approve the Settlement or this Agreement.

3 **2.9. The Parties' Agreement to Cooperate.** The Parties agree to cooperate and to
4 take all steps necessary and appropriate to effectuate all aspects of this Agreement, to obtain a
5 Preliminary Approval Order and Final Approval Order of this Settlement.

6 **NOW THEREFORE**, in consideration of the covenants and agreements set forth herein, and of
7 the release and dismissal of all Released Claims, the Parties stipulate and agree to the terms and
8 provisions of this Settlement and Agreement, subject to the approval of the Court.

9 **3. NOTICE TO CLASS MEMBERS**

10 **3.1. Settlement Administrator.** The Parties request that the Court appoint ILYM
11 Group, Inc. as Settlement Administrator. The Parties agree that settlement administration costs shall not
12 exceed \$100,000, based on a written bid received from the Settlement Administrator. All disputes
13 relating to the Settlement Administrator's performance of its duties, after good-faith efforts by the
14 Parties to first resolve such disputes, will be referred to the Court, if necessary, which will have
15 continuing jurisdiction over this Agreement until all payments and obligations contemplated by this
16 Agreement have been fully completed.

17 **3.2. Class Data For Settlement Administrator.** Within 21 calendar days of the entry
18 of a Preliminary Approval Order of this Agreement, WinCo shall provide to the Settlement
19 Administrator the following information: (1) name of each Class Member; (2) most current known
20 address of each Class Member; (3) social security number of each Class Member; and (4) the dates of
21 employment for each Class Member and/or days worked by each Class Member, in order to determine
22 the total number of Weeks Worked (defined as a work week in which the Class Member worked at least
23 one day) by each Class Member during the Class Period and PAGA Period.

24 **3.3. Confidentiality Of Class Member Contact Information And Data.** The contact
25 information is being provided confidentially to the Settlement Administrator only (not to Plaintiffs'
26 counsel), and the Settlement Administrator shall treat the information as private and confidential and
27 take all necessary precautions to maintain the confidentiality of contact information of Class Members.
28 This information is to be used only to carry out the Settlement Administrator's duties as specified in this

1 Settlement Agreement. The Settlement Administrator shall return the class data to WinCo or confirm its
2 destruction upon completion of the Settlement Administrator's duties in administering the Settlement.

3 **3.4. Mailing Of Notice Of Class Action Settlement And Request For Exclusion.**

4 The Settlement Administrator shall mail the Notice of Class Action Settlement, and Request for
5 Exclusion, to Class Members within 21 calendar days of receiving the Class Member data from WinCo.
6 The Settlement Administrator shall send the Notice of Class Action Settlement, and Request for
7 Exclusion to Class Members via First Class U.S. Mail, using the most current, known mailing address
8 for each Class Member based on information provided by WinCo. Upon receipt of this information from
9 WinCo, the Settlement Administrator shall perform a search based on the National Change of Address
10 Database maintained by the United States Postal Service to update and correct any known or identifiable
11 address changes.

12 **3.4.1 Re-mailing Of Returned Notices.** Any mailing returned to the Settlement
13 Administrator as undeliverable shall be sent within 3 business days via First Class U.S. Mail to the
14 forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator
15 shall attempt to determine the correct address by again using the National Change of Address Database
16 maintained by the United States Postal Service to update and correct any known or identifiable address
17 changes. Following this procedure, the Settlement Administrator shall perform a single re-mailing via
18 First Class U.S. Mail within 3 business days.

19 **3.4.2 Content Of The Notice Of Class Action Settlement.** The Notice of Class
20 Action Settlement shall be substantially in the form attached as Exhibit A to this Agreement.

21 **3.4.3 Content Of The Request For Exclusion.** The Request for Exclusion shall
22 be substantially in the form attached as Exhibit B to this Agreement.

23 **3.5. Proof Of Mailing.** At least 5 calendar days prior to the Final Fairness Hearing,
24 the Settlement Administrator shall provide a declaration of due diligence and proof of mailing with
25 regard to mailing of the Notice of Class Action Settlement to Class Counsel and Defendant's Counsel,
26 which they shall in turn provide to the Court.
27
28

1 **4. CLASS MEMBERS' OPTIONS TO RESPOND**

2 **4.1. Class Members' Consideration Period.** Class Members shall be provided 60
3 calendar days to exercise any rights with regard to the Settlement, following the postmark date of the
4 initial mailing of the Notice of Class Action Settlement and the Request for Exclusion. Except as
5 specifically provided herein, no Class Member responses of any kind that are postmarked more than 60
6 calendar days after the initial mailing of Class Notice shall be considered. Responses from Class
7 Members must be postmarked for mail with the U.S. Postal Service. Responses sent by facsimile, email,
8 or other forms of electronic transmission will not be considered.

9 **4.2. Request for Exclusion and Opt Out Rights.** Class Members shall be given the
10 opportunity to opt out of the Settlement.

11 **4.2.1 Opt Out Procedures.** Class Members may opt out of the Settlement by
12 mailing to the Settlement Administrator a Request for Exclusion, substantially in the form attached as
13 Exhibit B. Any such Request for Exclusion must be postmarked not more than 60 calendar days after the
14 postmark date of the initial mailing of the Notice of Class Action Settlement and the Request for
15 Exclusion. To be a valid Request for Exclusion, a Class Member must provide their name (and former
16 names, if any), current address, last four digits of their social security number, and current telephone
17 number. Any Request for Exclusion that does not include all of the required information or that is not
18 submitted in a timely manner will be deemed null, void, and ineffective. If there is a dispute regarding
19 the timeliness or validity of a Request for Exclusion, the Settlement Administrator shall make the
20 determination, after consultation with Class Counsel and Defendant's Counsel. Requests for Exclusion
21 from Class Members must be postmarked for mail with the U.S. Postal Service. Requests for Exclusion
22 sent by facsimile, email, or other forms of electronic transmission will not be considered.

23 **4.2.2 Effect of Opt Out.** Any Class Member who opts out of the Settlement
24 may not object to the Settlement, shall not receive any Individual Settlement Payment, and shall not be
25 bound by the Class Released Claims provisions in this Agreement. If a Class Member submits both a
26 Request for Exclusion and an Objection, the Class Member's Request for Exclusion will be valid and be
27 deemed to invalidate the Objection.
28

1 Each Class Member who does not opt out of the Settlement shall be bound by the
2 applicable Released Claims provisions in this Agreement, including the Released Claims.

3 The LWDA Payment portion of the Gross Settlement Amount shall be distributed
4 to Aggrieved Employees based on the number of workweeks worked during the PAGA Period. Class
5 Members who opt out of the class portion of the Settlement and worked during the PAGA Period will
6 still receive their respective share of the LWDA Payment, even if they opt out of the class portion,
7 because there are no opt-out rights under PAGA.

8 **4.2.3 Defendant’s Right to Withdraw.** WinCo has the right, at its sole option,
9 to withdraw from this Settlement or Agreement if the number of Class Members opting out exceeds five
10 percent (5%) of the total number of Class Members. This right to withdraw is a material term of the
11 Agreement and WinCo has the right, at its sole option, to withdraw from this Agreement if this material
12 term is not approved by the Court.

13 **4.3. Objection Rights.** Because the Settlement Class will be certified by the Court,
14 only Settlement Class Members (*i.e.* Class Members who do not opt out of the Settlement) shall be
15 entitled to object to the terms of the Settlement.

16 **4.3.1 Objection Procedures.** Settlement Class Members’ objections to the
17 Settlement or this Agreement must be made using the procedures set forth in the Notice of Class Action
18 Settlement. Any Objection must be sent to the Settlement Administrator and postmarked no later than 60
19 days after the first postmark date of mailing the Notice of Class Action Settlement. An Objection shall
20 be deemed to be submitted as of the postmarked date. The written Objection must contain: (1) the name
21 and case number of this lawsuit, *Castanon v. WinCo Holdings, Inc.*, Sacramento Superior Court Case
22 No. 34-2020-00282233; (2) the full name, last four digits of their Social Security Number, and current
23 address of the Settlement Class Member making the Objection; (3) the specific reason(s) for the
24 Objection; and (4) any and all evidence and supporting papers (including, without limitation, all briefs,
25 written evidence, and declarations) for the Court to consider. Settlement Class Members who submit an
26 Objection remain bound by this Agreement.

1 Objections from Settlement Class Members must be postmarked for mail with the
2 U.S. Postal Service. Objections sent by facsimile, email, or other forms of electronic transmission will
3 not be considered.

4 **4.3.2 Rights of Individuals Who Submit an Objection.** Settlement Class
5 Members who timely submit an Objection shall have the right to appear at the Final Fairness Hearing
6 either in person or through counsel, but must state their intent to do so at the time they submit their
7 written Objection. Settlement Class Members may withdraw their Objections at any time.

8 **4.3.3 Waiver of Objection Rights.** Class Members who fail to make
9 Objections in the manner specified in the Notice of Class Action Settlement may be deemed to have
10 waived any Objections and may be foreclosed from making any Objection, whether by appeal or
11 otherwise, to this Agreement.

12 **4.4. Proof of Class Members' Responses.** By not later than 15 calendar days before
13 Plaintiffs' are required to file their Motion for Final Approval, the Settlement Administrator will prepare
14 and submit a declaration attesting to (by number of relevant individuals) its mailing of the Notice of
15 Class Action Settlement, its inability to deliver any mailing due to invalid addresses, its receipt of valid
16 Requests for Exclusion, and to indicate the number of valid timely objections.

17 **4.5. Binding Effect of Settlement.** Although some Class Members might not receive
18 or timely submit the Notice of Class Action Settlement or the Request for Exclusion, as provided under
19 this Settlement and Agreement, due to inability to locate their current address following the procedures
20 set forth in this Agreement, such individuals shall nonetheless be bound by all of the terms of this
21 Settlement and Agreement and the Final Order.

22 **5. DISTRIBUTION OF SETTLEMENT PROCEEDS**

23 **5.1. Gross Settlement Amount.** WinCo agreed to pay up to a maximum Gross
24 Settlement Amount of \$8,250,000. The \$8,250,000 Gross Settlement Amount refers to the maximum
25 settlement payment WinCo may be obligated to make in connection with the Settlement or Agreement,
26 and shall include all Individual Settlement Payments made to Settlement Class Members, all
27 administration costs, the employees' share of payroll taxes, the Class Representative Incentive
28

1 Payments, the LWDA Payment, and attorneys' fees and costs. The Gross Settlement Amount shall be
2 funded by wire thirty (30) calendar days after the Effective Date.

3 **5.2. Representation of Workweeks.** WinCo has represented that the workweeks
4 between May 19, 2016, and May 30, 2024 are approximately 2,390,605. If the actual number of
5 workweeks during this timeframe (between May 19, 2016, and May 30, 2024) exceeds 2,390,605 by
6 more than 5%, Plaintiffs shall have the option to withdraw from this agreement. There is no other
7 escalator clause that applies to the Settlement or the Gross Settlement Amount.

8 **5.3. Attorneys' Fees and Costs.** Class Counsel intends to request that the Court
9 approve an attorneys' fees and costs award for (a) attorneys' fees in an amount up to 35% of the Gross
10 Settlement Amount (or \$2,887,500) and (b) costs in the amount of up to \$80,000, supported by adequate
11 documentation by Class Counsel. Except as provided in this Agreement, WinCo shall have no liability
12 for any other attorneys' fees or costs.

13 **5.3.1 Approval of Attorneys' Fees and Costs Award Not Material.** The
14 Court's approval of an attorneys' fees or costs award is not a material term of the Settlement or this
15 Agreement. If the Court does not approve or approves only a lesser amount than that requested by Class
16 Counsel for attorneys' fees or costs, the other terms of the Settlement and this Agreement shall still
17 apply. The Court's refusal to approve the attorneys' fees or costs award requested by Class Counsel does
18 not give the Class Representatives, the Class Members, or Class Counsel any basis to abrogate the
19 Settlement or this Agreement. Any amount of an attorneys' fees and costs award requested by Class
20 Counsel but unapproved by the Court shall be allocated to the Net Settlement Amount.

21 **5.3.2 Timing of Payment of Attorneys' Fees and Costs.** The Settlement
22 Administrator shall pay to Class Counsel any approved attorneys' fees and costs award fourteen (14)
23 calendar days after the full funding of the Gross Settlement Amount as set forth in Section 5.1. The
24 Settlement Administrator shall issue an Internal Revenue Service Form 1099 to Class Counsel for any
25 attorneys' fees and costs award payment. Class Counsel shall be solely and legally responsible for
26 paying all applicable taxes on any attorneys' fees and costs award payments and shall indemnify and
27 hold harmless the Released Parties from any claim or liability for taxes, penalties, or interest arising as a
28 result of the payment.

1 **5.4. Class Representative Incentive Payments.** Class Counsel intends to request that
2 the Court approve a Class Representative Incentive Payment of up to \$10,000 for Plaintiff Esmeralda
3 Castanon, and \$5,000 each for King, Putnam, Kanenbley, Caro, and Garza for their additional
4 participation in the Action and a full individual settlement and release (as outlined in Section 6.2), and
5 such payment shall not be subject to payroll taxes or withholdings.

6 Any Class Representative Incentive Payment is in addition to each Class Representatives'
7 Individual Settlement Payment.

8 **5.4.1 Class Representative Incentive Payments Not Material.** The Court's
9 approval of the Class Representative Incentive Payments is not a material term of the Settlement or this
10 Agreement. If the Court does not approve or approves only a lesser amount than that requested by Class
11 Counsel for the Class Representative Incentive Payments, the other terms of the Settlement and this
12 Agreement shall apply. The Court's refusal to approve the Class Representative Incentive Payments
13 requested by Class Counsel does not give either the Class Representatives or Class Counsel any basis to
14 abrogate the Settlement or this Agreement. Any amount of a Class Representative Incentive Payment
15 requested by Class Counsel but unapproved by the Court shall be allocated to the Net Settlement
16 Amount.

17 **5.4.2 Timing of Class Representative Incentive Payments.** The Settlement
18 Administrator shall pay to the Class Representatives any approved Class Representative Incentive
19 Payments fourteen (14) calendar days after the full funding of the Gross Settlement Amount set forth in
20 Section 5.1. The Settlement Administrator shall issue an IRS Form 1099 to the Class Representatives for
21 any Class Representative Incentive Payment. The Class Representatives shall be solely and legally
22 responsible for paying all applicable taxes on any Class Representative Incentive Payment and shall
23 indemnify and hold harmless Released Parties from any claim or liability for taxes, penalties, or interest
24 arising as a result of the payment.

25 **5.5. Settlement Administration Costs.** Class Counsel intends to request that the
26 Court approve Settlement Administration Costs of up to \$100,000. Upon completion of administration
27 of the Settlement, the Settlement Administrator shall provide written certification of such completion to
28

1 Class Counsel and Defendant's Counsel. The Parties agree to cooperate in the settlement administration
2 process and to make all reasonable efforts to control and to minimize settlement administration costs.

3 **5.6. LWDA Payment.** Class Counsel will seek approval for a Private Attorneys
4 General Act ("PAGA") payment out of the Gross Settlement Amount of \$412,500, which shall be
5 allocated as \$309,375 to the LWDA as the LWDA's share of the settlement of civil penalties paid under
6 this Agreement pursuant to the PAGA, and as \$103,125 to the Net Settlement Amount for distribution to
7 the Aggrieved Employees as specified in paragraph 5.7.2.

8 **5.6.1 Modification of LWDA Payment Not Material.** The Court's reduction
9 or increase of a LWDA Payment is not a material term of the Settlement or this Agreement. If the Court
10 approves only a lesser amount or a higher amount than that requested by Class Counsel for the LWDA
11 Payment, the other terms of the Settlement and this Agreement shall apply. The Court's reduction or
12 increase of the LWDA Payment requested by Class Counsel does not give the Class Representative or
13 Class Counsel any basis to abrogate the Settlement or this Agreement.

14 However, the Court's approval of a LWDA Payment is a material term of the
15 Settlement or this Agreement. If the Court does not approve a LWDA Payment set forth in this
16 Agreement, then the LWDA Payment shall be made in the amount required by the Court. If the Court
17 requires the LWDA Payment to be higher than as stated in this Agreement, the additional funds for the
18 LWDA Payment shall be taken from the Gross Settlement Amount. Thus, the Gross Settlement Amount
19 shall not be increased in the Court requires a larger LWDA Payment.

20 **5.7. Individual Settlement Payments From the Net Settlement Amount.** This
21 Settlement shall be a non-reversionary Settlement. Each Settlement Class Member shall be entitled to an
22 Individual Settlement Payment consisting of their share of the Net Settlement Amount, in accordance
23 with the formula set forth below.

24 **5.7.1 Individual Settlement Calculations and Payments.** Each Class Member
25 will be eligible to receive a portion of the Net Settlement Amount in accordance with the following
26 formula:

27 Each Class Member's share of the Net Settlement Amount will be
28 calculated by dividing the number of Weeks Worked by the individual
 Class Member during the Class Period by all Weeks Worked by all Class

1 Members during the Class Period, multiplied by the Net Settlement
2 Amount [*i.e.*, (individual Weeks Worked ÷ total Weeks Worked by Class
3 Members) x Net Settlement Amount].

4 **5.7.2 Calculation and Payment of Individual Shares of LWDA Payment**

5 \$412,500 of the Gross Settlement Amount has been designated to the PAGA claims (the
6 “LWDA Payment”). Twenty-five percent (25%) of the \$412,500, or \$103,125, shall be paid to
7 Aggrieved Employees. Each Aggrieved Employee shall receive a portion of the \$103,125 proportionate
8 to the number of Weeks Worked by that Aggrieved Employee during the PAGA Period compared to the
9 total number of Weeks Worked by all Aggrieved Employees during the PAGA Period. Aggrieved
10 Employees shall have their share of the PAGA Amount paid one hundred percent (100%) as civil
11 penalties for which no taxes will be withheld and for which a Form 1099 will be issued by the
12 Settlement Administrator.

13 **5.7.3 Disputes Regarding Weeks Worked.** The Notice of Class Action

14 Settlement will list each Class Member’s number of Weeks Worked during the Class Period and PAGA
15 Period, for purposes of determining the Individual Settlement Payment. If a Class Member disputes the
16 number of Weeks Worked on the Notice of Class Action Settlement, the Class Member must produce,
17 by no later than 60 calendar days from the date the Notice of Class Action Settlement is postmarked,
18 evidence to the Settlement Administrator showing that such information is inaccurate. All disputes will
19 be decided within seven (7) calendar days from the date the dispute is received by the Settlement
20 Administrator. The Settlement Administrator shall have the authority to determine the outcome of any
21 disputes, but may contact Class Counsel and/or Defendant’s Counsel to seek their input.

22 **5.8. Distribution of Individual Settlement Payments.** Each Settlement Class

23 Member’s portion of the Net Settlement Amount and LWDA Payment shall be distributed as one check.

24 **5.8.1 Settlement Checks.** The settlement check shall be for the amount of each

25 Settlement Class Member’s Individual Settlement Payment. The check will include language indicating
26 that endorsing and cashing the check will constitute a release of claims under the California Labor Code,
27 California Unfair Competition Law, and PAGA, for any and all claims asserted or that could have been
28

1 asserted based on the facts alleged in the First Amended Consolidated Complaint. The language to be
2 included will be substantially similar to the following:

3 My signature or cashing of this check constitutes a full and complete
4 release of WinCo Holdings, Inc., WinCo Foods, LLC, and all of their
5 current or former subsidiary or affiliated entities, and their current or
6 former officers, directors, and employees, for any and all claims asserted
7 or that could have been asserted based on the facts alleged in the operative
8 First Amended Consolidated Complaint in the lawsuit entitled *Castanon v.*
9 *WinCo Holdings, Inc.*, pending in the Sacramento Superior Court Case
10 No. 34-2020-00282233, including the claims brought under the California
11 Labor Code, California Unfair Competition Law, and PAGA, arising
12 during my employment at any time between May 19, 2016 through August
13 28, 2024.

14 **5.9. Timing of Individual Settlement Payments.** The Settlement Administrator shall
15 issue the distribution of the Individual Settlement Payments no later than fourteen (14) calendar days
16 after the funding of the Gross Settlement Amount.

17 **5.10. Allocation of Individual Settlement Payments.** Each Settlement Class
18 Member's Individual Settlement Payment will be characterized as 80% Form 1099 income and 20%
19 Form W-2 income, to reflect that 80% of the payment will account for penalties and interest, while 20%
20 will account for unpaid wages. In accordance with applicable tax laws, required tax withholdings and
21 payroll deductions will be taken from each Individual Settlement Payment for the portion allocated to
22 Form W-2 income and remitted to the appropriate taxing authorities. The Settlement Administrator shall
23 issue any necessary IRS Form 1099 and Form W-2 statements to Settlement Class Members for their
24 respective Individual Settlement Payments. Class Members shall be solely and legally responsible for
25 paying all other applicable taxes on their respective Individual Settlement Payments and shall indemnify
26 and hold harmless Released Parties from any claim or liability for taxes, penalties, or interest arising as a
27 result of the payments, except for the employer's share of the payroll taxes. In allocating the Individual
28 Settlement Payments, the Parties agree that, pursuant to applicable law, all payments for wages shall be
subject to payroll tax withholdings and a Form W-2, while all payments for penalties shall not be subject
to payroll tax withholdings and will be recorded on a Form 1099. The Parties, Releasees, Class
Representatives, and Class Members agree there will be no corresponding or matching ESOP
contribution on any amounts paid to Class Representatives and Class Members. Nothing in this

1 Settlement and Release of Claims affects Class Representatives and Class Member rights as a participant
2 in WinCo's ESOP with respect to vested benefits, if any.

3 **5.10.1 Allocation of Individual Settlement Payment Not Material.** The
4 Court's approval of the allocation of the Individual Settlement Payment for Form 1099 income and
5 Form W-2 income is not a material term of the Settlement or this Agreement. If the Court does not
6 approve or approves a different allocation of the Individual Settlement Payments, the other terms of the
7 Settlement and this Agreement shall apply. The Court's refusal to approve the allocation for the
8 Individual Settlement Payments requested by the Parties does not give the Parties any basis to abrogate
9 the Settlement or this Agreement.

10 **5.10.2 Undeliverable or Uncashed Checks.** Any settlement checks distributing
11 Individual Settlement Payments returned to the Settlement Administrator as undeliverable shall be sent
12 within 5 calendar days via First Class U.S. Mail to the forwarding address affixed thereto. If no
13 forwarding address is provided, the Settlement Administrator shall attempt to determine the correct
14 address using the National Change of Address Database maintained by the United States Postal Service,
15 and it shall then perform a re-mailing within 5 calendar days. The amount of any Individual Settlement
16 Payments that remain undeliverable or uncashed 180 calendar days after the postmarked date of the
17 initial mailing of the Individual Settlement Payments will be sent to the California State Controller's
18 Office to be held as "Unclaimed Property" in the name of the Settlement Class Member. The Settlement
19 Administrator shall notify Class Counsel and Defendant's Counsel of any undeliverable checks.

20 **5.11. Tax Payment Considerations.** Class Counsel, Defendant's Counsel, Released
21 Parties, and the Settlement Administrator are not giving any tax advice in connection with the
22 Settlement or any payments to be made pursuant to this Agreement.

23 **5.12. No Tax Advice or Liability.** Each Settlement Class Member agrees to indemnify,
24 and to hold harmless, Release Parties from any liability for taxes, fees, costs, or assessments resulting
25 from their failure to timely pay taxes, interest, fees, or penalties owed.

26 **5.13. No Impact On Contributions To Employee Benefit Plans.** None of the
27 payments made pursuant to the Settlement and this Agreement shall be considered to alter the terms or
28 to grant any rights to additional payments under any employee benefit plans, including but not limited to

1 employee stock ownership or benefit plans. None of the payments made pursuant to the Settlement and
2 this Agreement shall be considered for purposes of determining eligibility for, vesting or participation
3 in, or contributions to any employee stock ownership or benefit plan, including, without limitation, all
4 plans subject to the Employee Retirement and Income Security Act of 1974 (“ERISA”). Any
5 distribution of payments to Plaintiff or Class Members shall not be considered as a payment of wages or
6 compensation under the terms of any applicable employee stock ownership or benefit plan and shall not
7 affect participation in, eligibility for, vesting in, the amount of any past or future contribution to, or level
8 of benefits under any applicable plan.

9 Any amounts paid will not impact or modify any previously credited hours of
10 service or compensation taken into account under any bonus or incentive plan, benefit plan sponsored or
11 contributed to by WinCo or any jointly-trusted benefit plan, or for purposes of calculating the regular
12 rate of pay. For purposes of this Agreement, “benefit plan” means each and every “employee benefit
13 plan,” as defined in 29 U.S.C. Section 1002(3), and, even if not thereby included, any 401(k) plan,
14 bonus, pension, stock option, stock purchase, stock appreciation, welfare, profit sharing, retirement,
15 disability, vacation, severance, hospitalization, insurance, incentive, deferred compensation, or any other
16 similar benefit plan, practice, program, or policy.

17 **6. RELEASES**

18 **6.1. Release by Class Members.** By operation of the entry of the Final Approval
19 Order and judgment, each Settlement Class Member, and each of their respective executors,
20 administrators, representatives, agents, heirs, successors, assigns, trustees, spouses, or guardians, will
21 release WinCo and each of the Released Parties of and from any and all claims, rights, demands,
22 charges, complaints, causes of action, obligations, or liability of any and every kind between May 19,
23 2016 through August 28, 2024, for any and all claims that were raised or could have been raised based
24 on the factual allegations made in the operative First Amended Consolidated Complaint. These released
25 claims include but are not limited to: (1) unpaid minimum wages; (2) unpaid overtime wages; (3) failure
26 to provide lawful meal periods; (4) failure to authorize and permit rest periods; (5) failure to timely pay
27 wages owed upon separation from employment; (6) wages not timely paid during employment; (7)
28 failure to furnish accurate itemized wage statements; (8) failure to keep requisite payroll records; (9)

1 unreimbursed business expenses; (10) unpaid sick pay; (11) unpaid vacation pay; (12) violation of the
2 Unfair Competition Law; (13) claims for civil penalties pursuant to the Labor Code Private Attorneys
3 General Act of 2004 due to any Labor Code violations by WinCo arising out of or related to events
4 alleged in the First Amended Consolidated Complaint including, but not limited to, Labor Code sections
5 201, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.3, 226.7, 227.3, 245-249, 510, 512, 516, 551, 552,
6 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2800-2802, 2804, 2810.5,
7 and failure to perform or tender any rate of pay adjustment to any kind of wage, benefit, or other benefit
8 whatsoever, and the applicable IWC wage orders; (14) any and all claims arising out of alleged
9 violations of the California Labor Code, including sections 201, 202, 203, 204, 210, 218.5, 218.6, 221,
10 226, 226.3, 226.7, 227.3, 245-249, 510, 512, 516, 551, 552, 558, 1174, 1174.5, 1182.12, 1194, 1194.2,
11 1197, 1197.1, 1198, 1198.5, 1199, 2800-2802, 2804, 2810.5 and the applicable IWC wage orders;
12 (13) penalties of any nature; (14) interest; (15) attorneys' fees and costs; and (16) any other claims
13 arising out of or related to the First Amended Consolidated Complaint filed in the Action.

14 **6.2. Additional Release by Class Representatives.** In addition to the above release
15 applicable to the Class Members, the Class Representatives also generally release any and all claims
16 against WinCo and each of the Released Parties. This general release includes any and all claims arising
17 from the employment relationship with WinCo or any Released Party, including, without limitation,
18 claims for wrongful termination, discrimination, harassment, or retaliation pursuant to Title VII of the
19 Civil Rights Act of 1964, 42 U.S.C. Section 2000 *et seq.*, the California Fair Employment and Housing
20 Act, Cal. Gov't Code Section 12900 *et seq.*, or the California Labor Code. This general release by the
21 Class Representatives also includes a waiver of California Civil Code Section 1542. The Class
22 Representatives expressly waive all rights provided by California Civil Code Section 1542, or other
23 similar statutes, that the Class Representatives may have against WinCo and each of the Released
24 Parties. California Civil Code Section 1542 states:

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

1 **6.3. Class Representative Acknowledgements.** The Class Representatives
2 acknowledge that they have read this Agreement in its entirety, including the above language from the
3 California Civil Code, and that they fully understand both this Agreement and the California Civil Code
4 section. By executing this Agreement, the Class Representatives expressly waive any benefits and rights
5 granted pursuant to California Civil Code Section 1542 or any statute, rule, or principle of common law
6 or equity, in any jurisdiction, that is similar, comparable, or equivalent, in whole or in part, to California
7 Civil Code Section 1542. The Class Representatives acknowledge and agree that this knowing and
8 voluntary waiver is an essential and material term of this Agreement, and the Agreement would not have
9 been entered into without such a waiver.

10 **6.4. Acknowledgement of Binding Terms of the Settlement, Despite Other**
11 **Potential Claims.** Class Counsel, the Class Representatives, and the Class acknowledge that they may
12 hereafter discover facts or law different from, or in addition to, the facts or law they know or believe to
13 exist with respect to the Released Claims. The Class nonetheless agrees that this Agreement and the
14 Released Claims contained in it shall be and remain effective in all respects notwithstanding such
15 different or additional facts or law regarding such Released Claims. These releases do not include any
16 claims that cannot be waived as a matter of law, but the Class agrees that they will not accept any
17 monetary recovery or benefit from any proceedings relating to any such claims.

18 **6.5. No Admission of Liability.** By entering into this Agreement, WinCo in no way
19 admits any violation of law or any liability whatsoever to Class Members, individually or collectively,
20 and expressly denies all such liability. Neither this Agreement, nor any other Settlement documents,
21 shall be offered in any case or proceeding as evidence of any admission by WinCo of any liability on
22 any claim for damages, penalties, restitution, or any other relief. Likewise, by entering into this
23 Agreement, WinCo in no way admits to the suitability of this case for class action, collective action, or
24 representative action litigation, other than for purposes of Settlement. Rather, WinCo enters into this
25 Agreement to avoid further protracted litigation and to resolve and to settle all disputes with the
26 Settlement Class.

27 The Parties understand and agree that this Agreement and all exhibits thereto are
28 settlement documents and shall be inadmissible for any purpose in any proceeding, except an action or

1 proceeding to approve, interpret, or enforce the terms of this Agreement. The Parties agree that, to the
2 extent permitted by law, this Agreement may be pleaded as a full and complete defense to, and may be
3 used as the basis for an injunction against any action, suit, or other proceeding that may be instituted,
4 prosecuted, or attempted in breach of this Agreement.

5 **7. SETTLEMENT APPROVAL PROCEDURE**

6 **7.1. Preliminary Approval.** The Parties shall submit to the Court a Joint Motion for
7 Preliminary Approval of class action settlement within 60 days of execution of this Agreement. This
8 motion shall seek an order to preliminarily approve the proposed Settlement according to the terms in
9 this Agreement and provide for the Notice of Class Action Settlement and the Request for Exclusion, to
10 be sent to Class Members as specified in this Agreement. This motion shall include the bases for the
11 Gross Settlement Amount and why the amount is reasonable in light of the facts and controlling
12 authorities pertaining to the claims alleged in the First Amended Consolidated Complaint. The motion
13 shall also be accompanied by signed declarations by Class Counsel, discussing the risks of continued
14 litigation and the decision that the best interests of the Class Members are served by the terms of this
15 Agreement.

16 **7.2. Effect of Failure to Obtain Preliminary Approval.** If this Settlement or
17 Agreement or a substantially similar settlement mutually agreed to by the Parties is not preliminarily
18 approved, the Actions shall proceed as if no settlement had been attempted and revert back to their prior
19 procedural posture, *i.e.*, the Second Amended Complaint shall be the operative Complaint in the
20 Castanon federal court action, and the remaining actions will revert to their prior procedural posture.
21 The Parties may, however, jointly agree to seek reconsideration of the ruling on the Settlement or Court
22 approval of a renegotiated settlement. WinCo retains the right to contest whether any aspect of the
23 Action should be maintained as a class action or representative action, or to contest the merits of the
24 claims being asserted by Plaintiffs or Class Members in the Action.

25 **7.3. Final Approval.** The Parties shall submit to the Court a Joint Motion for Final
26 Approval. The motion shall request the entry of a Final Approval Order, which shall include findings
27 and orders: (a) approving the Settlement and the Agreement; (b) adjudging the terms to be fair,
28 reasonable, and adequate; (c) reciting the release terms in full; (d) directing that the Settlement terms

1 and provisions be carried out; and (e) retaining jurisdiction to oversee administration and enforcement of
2 the terms of this Agreement and the Court's orders.

3 **7.4. Motion for Attorneys' Fees and Costs Award.** Class Counsel shall file a motion
4 for Court approval of an attorneys' fees and costs award in the amount of (a) up to 35% of the Gross
5 Settlement Amount (or \$2,887,500) and (b) verified costs in the amount of up to \$80,000. WinCo will
6 not be required to support such a motion.

7 **7.5. Entry of Judgment.** At the final approval hearing, the Parties shall request that
8 the Court, among other things: (a) enter final judgment in accordance with this Agreement and without
9 further fees or costs to any party except as expressly set forth in this Agreement; (b) approve this
10 Agreement as fair, reasonable, adequate, and binding on all members of the Settlement Class; (c) enter
11 an order as to Class Counsel's request for an attorneys' fees and costs award; (d) enter an order as to the
12 request for the Class Representative Incentive Payments; and, (e) enter an order permanently enjoining
13 all members of the Settlement Class from pursuing or seeking to reopen claims that have been released
14 by this Agreement.

15 **7.6. Effect of Failure to Obtain Final Judgment.** In the event the Court fails to enter
16 final judgment in accordance with this Agreement, or such final judgment is vacated or reversed, the
17 Actions shall proceed as if no settlement had been attempted and revert back to their prior procedural
18 postures, *i.e.*, the Second Amended Complaint shall be the operative Complaint in the Castanon federal
19 court action, and the remaining actions will revert to their prior procedural posture. The Parties may,
20 however, jointly agree to seek reconsideration or appellate review of the ruling or Court approval of a
21 renegotiated settlement. WinCo retains the right to contest whether any aspect of the Action should be
22 maintained as a class action or representative action, or to contest the merits of the claims being asserted
23 by Plaintiff or Class Members in the Action.

24 **7.7. Waiver of Appeal Rights.** By accepting this Settlement, authorizing the
25 dismissal of the Action with prejudice, and upon final approval of the settlement being granted, the
26 Class Representatives and Class Counsel hereby waive any and all rights they may have to appeal any
27 judgment, ruling, or order made by the Court in this Action, including, without limitation, any order
28 granting final approval of this Settlement or dismissing the Action with prejudice. This includes all

1 rights to any post-judgment proceeding and appellate proceeding, such as, but not limited to, a motion to
2 vacate judgment, a motion for new trial, and any extraordinary writ, and the Judgment therefore will
3 become nonappealable at the time it is entered. The waiver of appeal does not include any waiver of the
4 right to oppose any appeal, appellate proceedings, or post-judgment proceedings. If an appeal is taken
5 from the Judgment, the time for consummation of the Settlement (including making payments under the
6 Settlement) will be suspended until such time as their appeal is finally resolved and the Judgment
7 becomes final.

8 **8. MISCELLANEOUS**

9 **8.1. Interim Stay of Proceedings.** The Parties agree to refrain from further litigation,
10 except such proceedings necessary to implement and to obtain a Preliminary Approval Order and Final
11 Approval Order of the terms of the Agreement. If the Settlement is not finally approved, the Parties
12 agree that they will revert to their positions in the lawsuit prior to the time the Settlement was reached,
13 and no agreements set forth in this Agreement or any documents generated or orders issued related to
14 the Settlement will be admissible in any future proceeding in this or any other action.

15 **8.2. Parties' Authority.** The signatories hereto represent that they are fully authorized
16 to enter into this Agreement and are fully authorized to bind the Parties to all terms stated herein. It is
17 agreed that Class Members are so numerous that it is impossible or impractical to have each Class
18 Member execute this Agreement. It is agreed that this Agreement may be executed on behalf of Class
19 Members by the Class Representative and Class Counsel.

20 **8.3. Entire Agreement.** This Agreement, which includes the Definitions, Recitals,
21 and all Exhibits attached hereto, constitutes the entire agreement between the Parties with regard to the
22 subject matter contained herein, and all prior and contemporaneous negotiations and understandings
23 between the Parties shall be deemed merged into this Agreement.

24 **8.4. Materiality of Terms.** The Parties have arrived at this Agreement as a result of
25 arm's-length negotiations. Where stated in this Agreement, certain terms are material and revision of
26 these material terms will allow a Party the option to void this Agreement.

27 **8.5. Counterparts.** This Agreement may be executed in counterparts, and when each
28 party has signed and delivered at least one such counterpart, each counterpart shall be deemed an

1 original, and when taken together with other signed counterparts, shall constitute one signed Agreement,
2 which shall be binding upon and effective as to all Parties.

3 **8.6. Facsimile or Scanned Signatures For This Agreement.** Any party may sign and
4 deliver this Agreement by signing on the designated signature block and transmitting that signature page
5 via facsimile or as an attachment to an e-mail to counsel for the other party. Any signature made and
6 transmitted by facsimile or as an attachment to an e-mail for the purpose of executing this Agreement
7 shall be deemed an original signature for purposes of this Agreement and shall be binding upon the party
8 who transmits the signature page.

9 **8.7. Binding Effect.** This Agreement shall be binding upon the Parties and, with
10 respect to the Class Representatives, Class Members, their spouses, children, representatives, heirs,
11 administrators, executors, beneficiaries, conservators, attorneys, and assigns.

12 **8.8. Waivers and Modifications to Be in Writing.** No waiver, modification, or
13 amendment of the terms of this Agreement, whether purportedly made before or after the Court's
14 approval of this Agreement, shall be valid or binding, unless in writing, signed by or on behalf of all
15 Parties and then only to the extent set forth in such written waiver, modification, or amendment, subject
16 to any required Court approval. Any failure by any Party to insist upon the strict performance by the
17 other Party of any of the provisions of this Agreement shall not be deemed a waiver of future
18 performance of the same provisions or of any of the other provisions of this Agreement, and such Party,
19 notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of
20 any and all of the provisions of this Agreement. The time periods and dates provided in this Agreement
21 with respect to giving of notices and hearings are subject to Court approval and modification by the
22 Court or by written stipulation of Class Counsel and Defendant's Counsel.

23 Any notice to be given pursuant to this Agreement shall be made by email and
24 overnight delivery to Class Counsel or Defendant's Counsel. If Class Members have questions about
25 this Agreement or their Individual Settlement Payments, they must contact Class Counsel, rather than
26 WinCo. WinCo shall have no obligation to respond to communications by Class Members.

27 **8.9. Construction.** The determination of the terms and conditions of this Agreement
28 has been by mutual agreement of the Parties. Each party participated jointly in the drafting of this

1 Agreement, and the terms and conditions of this Agreement are not intended to be, and shall not be,
2 construed against any party by virtue of draftsmanship.

3 8.9.1 **Exhibits Incorporated by Reference.** The terms of this
4 Agreement include the terms set forth in any attached exhibit, which are incorporated by this reference
5 as though fully set forth herein. Any exhibit to this Agreement is an integral part of the Settlement.

6 8.9.2 **Captions.** The captions or headings of the sections and paragraphs
7 of this Agreement have been inserted for convenience of reference only and shall have no effect upon
8 the construction or interpretation of any part of this Agreement.

9 8.9.3 **Invalidity of Any Provision.** Before declaring any provision of
10 this Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent
11 possible consistent with applicable precedents so as to render all provisions of this Agreement valid and
12 enforceable.

13 8.10. **Further Acts and Cooperation Between the Parties.** The Parties shall cooperate
14 fully with each other and shall use their best efforts to obtain the Court's approval of this Agreement and
15 all of its terms. Each of the Parties, upon the request of another, agrees to perform such further acts and
16 to execute and to deliver such other documents as are reasonably necessary to carry out the provisions of
17 this Agreement.

18 8.11. **No Prior Assignments or Undisclosed Liens.** The Class Representatives and
19 Class Counsel represent and warrant that they have not assigned, transferred, conveyed, or otherwise
20 disposed of, or purported to assign, transfer, convey, or otherwise dispose of, any Released Claims or
21 the attorneys' fees and costs award to be paid pursuant to this Agreement. The Class Representatives
22 and Class Counsel further represent and warrant that there are not any liens or claims against any of the
23 amounts to be paid by WinCo pursuant to this Agreement. The Class Representatives and Class Counsel
24 agree to defend, to indemnify, and to hold WinCo and Released Parties harmless from any liability,
25 losses, claims, damages, costs, or expenses, including reasonable attorneys' fees, resulting from a breach
26 of these representations or from any lien or assignment.

27 8.12. **Waiver of Right to Object by the Class Representative.** The Class
28 Representatives agree to sign this Agreement, and by signing this Agreement, the Class Representatives

1 are thereby bound by the terms of this Agreement. The Class Representatives further agree that they
2 shall not object to any of the terms of this Agreement.

3 8.13. **No Solicitation of Objections.** The Parties further represent and warrant that they
4 have not and will not solicit, encourage, or assist in any fashion any effort by any entity or person to
5 object to or to seek exclusion from the Settlement set forth in this Agreement.

6 8.14. **Discovery of Confidential Documents and Information.** Class Counsel agree
7 that they will destroy all confidential documents and information provided to them by WinCo within 60
8 calendar days after the completion of the administration of the Settlement. Class Counsel further agrees
9 that none of the documents and information provided to them by WinCo shall be used for any purpose
10 other than prosecution of this Action or the defense or prosecution of a malpractice action.

11 8.15. **No Tax Advice.** Neither Class Counsel, Defendant's Counsel, WinCo, or any
12 Released Parties intend anything contained in this Settlement or Agreement to constitute advice
13 regarding taxes or taxability, nor shall anything in this Settlement or Agreement be relied upon as such
14 within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended)
15 or otherwise.

16 8.16. **No Media Announcements.** Neither side, including class counsel and class
17 representatives shall make any public statements to the news, print, electronic, or Internet media
18 concerning the Settlement, and both sides shall decline to respond to media inquiries concerning the
19 Settlement. Class Counsel shall not publicize the settlement in their marketing materials, website, or
20 other advertising media.

21 8.17. **Continuing Jurisdiction.** The Court shall retain jurisdiction over the
22 implementation of this Agreement as well as any and all matters arising out of, or related to, the
23 implementation of this Agreement and Settlement. The Court shall not have jurisdiction to modify the
24 terms of the Agreement without the consent of all of the Parties.

25 8.18. **Disputes.** If the Parties have a dispute with regard to the language of this
26 Agreement, they agree to first attempt to resolve the dispute informally through good-faith negotiations
27 with mediator Paul Grossman, but if those efforts are unsuccessful, they agree to mediate any such
28 dispute. The Parties will split the costs of the mediator, and all parties will bear their own fees and costs.

1 8.19. **Governing Law.** This Settlement and Agreement was made and entered into in
2 the State of California. All terms of this Agreement shall be governed by and interpreted according to
3 the substantive laws of the State of California and the procedural laws of the United States of America.

4 **SO AGREED AND STIPULATED:**

5 DATED: 11/24/25

PLAINTIFF ESMERALDA CASTANON

6 By: 
7 Esmeralda Castanon (Nov 24, 2025 18:09:06 PST)
8 ESMERALDA CASTANON

9 DATED: 11/20/25

PLAINTIFF NATASHA KING

10 BY: 
11 Natasha King (Nov 20, 2025 22:35:38 PST)

NATASHA KING

12 DATED: _____

PLAINTIFF GENEVA PUTNAM

13 BY: _____

GENEVA PUTNAM

14 DATED: _____

PLAINTIFF DARLENE KANENBLEY

15 BY: _____

DARLENE KANENBLEY

16 DATED: _____

PLAINTIFF ANDREW CARO

17 BY: _____

ANDREW CARO

18 DATED: _____

PLAINTIFF EVERARDO GARZA JR.

19 BY: _____

EVERARDO GARZA JR.

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8.19. **Governing Law.** This Settlement and Agreement was made and entered into in the State of California. All terms of this Agreement shall be governed by and interpreted according to the substantive laws of the State of California and the procedural laws of the United States of America.

SO AGREED AND STIPULATED:

DATED: _____

PLAINTIFF ESMERALDA CASTANON

By: _____
ESMERALDA CASTANON

DATED: _____

PLAINTIFF NATASHA KING

BY: _____
NATASHA KING

DATED: 11/19/2025

PLAINTIFF GENEVA PUTMAN

BY: 
Geneva putman (Nov 19, 2025 16:25:00 PST)

GENEVA PUTMAN

DATED: 11/19/2025

PLAINTIFF DARLENE KANENBLEY

BY: 
Darlene Kanenbley (Nov 19, 2025 16:33:33 PST)

DARLENE KANENBLEY

DATED: 11/19/2025

PLAINTIFF ANDREW CARO

BY: 
Andrew Caro (Nov 19, 2025 19:48:16 PST)

ANDREW CARO

DATED: 11/21/2025

PLAINTIFF EVERARDO GARZA JR.

BY: 
23B840B5BA9E465...

EVERARDO GARZA JR.

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DATED: 11/25/2025

DEFENDANTS WINCO HOLDINGS, INC.

Signed by:
By: 
38482CE054534D9...

Print Name: Isaac Kimball

Title: SVP & CFO

DATED: _____

JAMES HAWKINS APLC

By: _____
James R. Hawkins
Christina M. Lucio
Mitchell J. Murray

Attorneys for Plaintiffs and the Class

DATED: _____

JCL LAW FIRM, APC

BY: _____
Jean-Claude Lapuyade

Attorneys for Plaintiffs and the Class

DATED: _____

ZAKAY LAW GROUP, APLC

By: _____
Shani O. Zakay

Attorneys for Plaintiffs and the Class

DATED: 11/26/2025

SEYFARTH SHAW LLP

By: 
Michael Kopp
Phillip J. Ebsworth

Attorneys for Defendants
WINCO HOLDINGS, INC.

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DEFENDANTS WINCO HOLDINGS, INC.

DATED: _____

By: _____

Print Name: _____

Title: _____

JAMES HAWKINS APLC

DATED: 11/20/2025

By: 
James R. Hawkins
Christina M. Lucio
Mitchell J. Murray

Attorneys for Plaintiffs and the Class

JCL LAW FIRM, APC

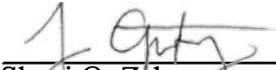
DATED: 11/20/25

BY: 
Jean-Claude Lapuyade

Attorneys for Plaintiffs and the Class

ZAKAY LAW GROUP, APLC

DATED: 11/20/25

By: 
Shani O. Zakay
Jenifer Gerstenzang, Esq.
Attorneys for Plaintiffs and the Class

SEYFARTH SHAW LLP

DATED: _____

By: _____
Michael Kopp
Phillip J. Ebsworth

Attorneys for Defendants
WINCO HOLDINGS, INC.

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DATED: 11/21/2025

FALAKASSA LAW, P.C.

DocuSigned by:
BY: Joshua Falakassa
Joshua S. Falakassa

Attorneys for Plaintiffs and the Class

DATED: 11/21/2025

BOKHOUR LAW GROUP, P.C.

Signed by:
By: Mehrdad Bokhour
Mehrdad Bokhour

Attorneys for Plaintiffs and the Class