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22 all others similarly situated

23 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
24 **COUNTY OF KERN, METROPOLITAN DIVISION**

25 MARIA BACERRA, individually and on behalf
26 of all others similarly situated,

27 Plaintiff,

28 v.

SUNRIDGE NURSERIES, INC. a California
corporation, GLEN STOLLER, an individual,
and DOES 1 through 20, inclusive,

Defendant.

Case No. BCV-19-102625

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

Assigned to: Hon. J. Eric Bradshaw
Dept.: J
Complaint Filed: 9/16/19
Trial Date: Not Set

1 This Joint Stipulation of Settlement and Release of Class Action (“Settlement
2 Agreement”) is made and entered into by Plaintiff Maria Becerra (“Plaintiff”), individually and as
3 a representative of the Settlement Class, as defined below, and Defendant Sunridge Nurseries,
4 Inc., (“Defendant”) (Plaintiff and Defendant are collectively referred to as “the Parties”). This
5 Settlement Agreement is subject to the approval of the Court, pursuant to California Rules of
6 Court, Rule 3.769(c), (d) and (e), and is made for the sole purpose of attempting to consummate
7 settlement of the Action on a class-wide basis subject to the following terms and conditions. As
8 detailed below, in the event the Court does not enter an order granting final approval of the Class
9 Settlement, as defined below, or the conditions precedent are not met for any reason, this
10 Stipulation is void and of no force or effect whatsoever.

11 **I. DEFINITIONS**

12 As used in this Stipulation, the following terms shall have the meanings specified below.
13 To the extent terms or phrases used in this Stipulation are not specifically defined below, but are
14 defined elsewhere in this Stipulation, they are incorporated by reference into this definition
15 section.

16 **1. Action.** “Action” shall mean the following civil action: *Maria Becerra v.*
17 *Sunridge Nurseries, Inc., et al.*, Case No. **BCV-19-102625** filed on **September 16, 2019** in the
18 Superior Court of California for the County of Kern.

19 **2. Administrative Expenses.** “Administrative Expenses” shall include all costs and
20 expenses associated with and paid to the third party Settlement Administrator, which are
21 anticipated not to exceed \$20,000.

22 **3. Claims.** “Claims” shall mean the claims asserted in the Action.
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1 4. **Class or Settlement Class.** “Class” or “Settlement Class” shall mean *all current*
2 *and former non-exempt field or nursery employees employed by Defendant Sunridge*
3 *Nurseries, Inc. in California at anytime from September 16, 2015 to the date the Court has*
4 *given preliminary approval of the Class Settlement.* Defendant represents that the Class consists
5 of approximately **797 Class Members** that worked a total of approximately **60,152 workweeks**
6 through December 31, 2021. The terms “Class Member” or “Settlement Class Member” shall
7 mean any person who is a member of the Settlement Class, or, if such person is incompetent or
8 deceased, the person’s legal guardian, executor, heir or successor-in-interest.

9 5. **Class Counsel.** “Class Counsel” shall mean **Ronald W. Makarem and Cameron**
10 **Stewart** of Makarem & Associates, ALPC.

11 6. **Class Attorney Fees and Expenses.** “Class Attorney Fees and Expenses” shall
12 mean Class Counsel’s attorney fees and expenses as set forth in this Settlement Agreement.

13 7. **Class Notice.** “Class Notice” shall mean the Notice of Proposed Class Action
14 Settlement and Hearing Date for Court Approval, as set forth in the form of **Exhibit 1** attached
15 hereto, or as otherwise approved by the Court, which is to be mailed to Class Members. The Class
16 Notice shall identify the Class Member, the estimated number of workweeks worked by each
17 Class Member (“Individual Workweeks”), as well as the estimated amount of the Individual
18 Settlement Amount the Class Member can expect to receive once the Class Settlement becomes
19 effective on the Effective Date.

20 8. **Class Participants.** “Class Participants” shall mean any and all Class Members
21 who do not timely Opt-Out of the Class Settlement.

22 9. **Class Period.** “Class Period” shall mean the period from September 16, 2015
23 through the date the Court has given preliminary approval of Class Settlement.

24 10. **Class Representative.** “Class Representative” shall mean Plaintiff Maria Becerra.

25 11. **Class Settlement.** “Class Settlement” shall mean the settlement embodied in this
26 Stipulation, which is subject to Court approval.

27 12. **Complaint.** “Complaint” shall mean the operative Complaint in the Action.
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13. **Court.** “Court” shall mean the Superior Court of Kern County.

14. **Defendant.** “Defendant” shall refer collectively to Sunridge Nurseries, Inc. and Glen Stroller.

15. **Defense Counsel.** “Defense Counsel” shall mean **Vanessa Franco Chavez and Mayra G. Estrada of Klein DeNatale Goldner.**

16. **Effective Date.** “Effective Date” shall be the date when all of the following events have occurred: (a) this Stipulation has been executed by all Parties and by Class Counsel; (b) the Court has given preliminary approval to the Settlement; (c) notice has been given to the Settlement Class Members providing them with an opportunity to Opt-Out of the Class Settlement; (d) the Court has held a Final Approval and Fairness Hearing and entered a final order and judgment certifying the Class and approving this Stipulation; (e) notice of final judgment has been given to the Settlement Class Members pursuant to California Rules of Court, rule 3.771(b); and (f) the later of the following events: the expiration of the period for filing any appeal, writ, or other appellate proceeding opposing the Class Settlement has elapsed without any appeal, writ or other appellate proceeding having been filed; or the dismissal of any appeal, writ, or other appellate proceeding opposing the Class Settlement with no right to pursue further remedies or relief; or any appeal, writ, or the issuance of such other final appellate order upholding the Court’s final order with no right to pursue further remedies or relief. In the event there is a timely filed motion to set aside judgment or to intervene, the expiration of the period for filing any appeal, writ, or other appellate proceeding opposing the Class Settlement will be based on the later of the court’s ruling or order on any such motion or entry of final order and judgment certifying the Class and approving this Stipulation. In this regard, it is the intention of the Parties that the Class Settlement shall not become effective until the Court’s order approving the Class Settlement is completely final and there is no further recourse by an appellant or objector who seeks to contest the Class Settlement.

17. **Employee’s Taxes and Required Withholding.** “Employee’s Taxes and Required Withholding” shall mean the employee’s share of any and all applicable federal, state or

1 local payroll taxes, including those collected under authority of the Federal Insurance
2 Contributions Act (“FICA”), FUTA and/or SUTA on the portion of any Class Participant’s
3 Individual Settlement Amount that constitutes wages as allocated by the terms of this Stipulation.
4 The Employee’s Taxes and Requirement Withholdings will be withheld from and paid out of the
5 Net Settlement Amount.

6 **18. Employer’s Taxes.** “Employer’s Taxes” shall mean and refer to Defendant’s share
7 of payroll taxes (e.g. UI, ETT, Social Security and Medicare taxes) that is owed on the portion of
8 any Class Participant’s Individual Settlement Amount that constitutes wages as allocated by the
9 terms of this Stipulation. The Employer’s Taxes shall be separately paid by Defendant and shall
10 not be paid from the Gross Settlement Amount or Net Settlement Amount.

11 **19. Final Approval and Fairness Hearing.** “Final Approval and Fairness Hearing”
12 shall mean the final hearing held to ascertain the fairness, reasonableness, and adequacy of the
13 Class Settlement.

14 **20. Gross Settlement Amount.** “Gross Settlement Amount” is the agreed upon non-
15 reversionary settlement amount totaling \$1,600,000 to be paid by Defendant in full settlement of
16 the Released Claims asserted in this case, including the Administrative Expenses, Employee’s
17 Taxes and Required Withholdings, Class Attorney Fees and Expenses, and Incentive Award.
18 Defendant shall separately pay its share of the Employer’s Taxes in addition to the Gross
19 Settlement Amount on the portion of each Individual Settlement Amount allocated as wages.

20 **21. Hearing on Preliminary Approval.** “Hearing on Preliminary Approval” shall
21 mean the hearing held on the motion for preliminary approval of the Class Settlement.

22 **22. Individual Settlement Amount.** “Individual Settlement Amount” shall mean the
23 amount which is ultimately distributed to each Class Participant, net of any Employee’s Taxes
24 and Required Withholdings.

25 **23. Incentive Award.** “Incentive Award” shall mean any additional monetary
26 payment provided to the Class Representative for her efforts and risks on behalf of the Settlement
27 Class in this Action.
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1 **24. Net Settlement Amount.** “Net Settlement Amount” shall mean the Gross
2 Settlement Amount minus Administrative Expenses, Class Attorney Fees and Expenses, and
3 Plaintiff’s Incentive Award.

4 **25. Plaintiff.** “Plaintiff” shall mean the named Plaintiff Maria Becerra.

5 **26. Opt-Out.** “Opt Out” shall refer to the process of submitting a timely and valid
6 request exclusion from the Class Settlement in Accordance with the terms of the Class Notice and
7 no later than the Response Deadline.

8 **27. Opt-Out(s).** “Opt-Out(s)” shall mean any and all persons who timely and validly
9 request exclusion from the Class Settlement in accordance with the terms of the Class Notice and
10 no later than the Response Deadline.

11 **28. Parties.** “Parties” shall mean Plaintiff and Defendant.

12 **29. Preliminary Approval Date.** “Preliminary Approval Date” shall mean the date
13 upon which the Court enters an order preliminarily approving this Stipulation.

14 **30. Released Claims.** “Released Claims” means any and all claims, obligations,
15 demands, actions, rights, causes of action, and liabilities against Released Parties (as defined
16 below), of whatever kind and nature, character, and description, whether in law or equity, whether
17 sounding in tort, contract, federal, state and/or local law, statute, ordinance, regulation, common
18 law, or other source of law, whether known or unknown, and whether anticipated or unanticipated
19 that were asserted in the Complaint or could have been asserted in the Action that accrued during
20 the Class Period and arising from the facts, allegations, or legal theories set forth in the
21 Complaint, including but not limited to the alleged denial of meal periods and rest breaks; the
22 alleged failure to pay overtime wages, including for miscalculation of the regular rate of pay; the
23 alleged failure to pay all minimum wages; the alleged failure to pay minimum or overtime wages
24 for all hours worked; the alleged failure to properly paid piece rate wages; the alleged failure to
25 provide separate compensation for rest periods; the alleged failure to provide accurate itemized
26 wage statements; the alleged failure to timely pay all wages due during employment; the alleged
27 failure to maintain required records; and the alleged failure to timely and fully pay all wages due
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1 upon separation from employment.

2 It is understood and agreed that this Stipulation will not release any person, party or entity
3 from claims, if any, by Class Members for workers compensation, unemployment, or disability
4 benefits of any nature, nor does it release any claims, actions, or causes of action which may be
5 possessed by Settlement Class Members (with the exception of the Class Representative) under
6 state or federal discrimination statutes, including, without limitation, the Cal. Fair Employment
7 and Housing Act, the Cal. Government Code § 12940, *et seq.*; the Unruh Civil Rights Act, the
8 Cal. Civil Code §51, *et seq.*; the California Constitution; Title VII of the Civil Rights Act of
9 1964, 42 U.S.C. § 2000, *et seq.*; the Americans with Disabilities Act, as amended, 42 U.S.C.
10 § 12101, *et seq.*; the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C.
11 § 1001 *et seq.*; and all of their implementing regulations and interpretive guidelines.

12 The Parties hereto, including the Class Participants, also stipulate and agree that the
13 consideration paid to the Class Participants pursuant to this Settlement Agreement fully
14 compensates Class Participants for all wages and penalties due to them in connection with the
15 Released Claims, along with all liability for alleged wage statement or pay period violations and
16 any related penalties, including civil penalties related to any of the claims asserted by Plaintiff in
17 the Action. Accordingly, Defendant cannot be held liable henceforth for any civil penalties
18 relating to the Released Claims.

19 **31. Released Parties.** “Released Parties” shall mean Defendant and all of Defendant’s
20 present, past, and future parent companies, subsidiaries, divisions, related or affiliated companies,
21 shareholders, officers, directors, employees, agents, representatives, attorneys, insurers, partners,
22 investors, administrators, members, predecessors, customers, clients, joint ventures, successors
23 and assigns, and any individual or entity which could be liable for any of the Released Claims.

24 **32. Releasing Parties.** “Releasing Parties” shall mean every Class Participant and all
25 persons purporting to act on their behalf or purporting to assert a claim under or through them,
26 including, but not limited to, their dependents, heirs, assigns, beneficiaries, devisees, legatees,
27 executors, administrators, agents, trustees, conservators, guardians, personal representatives, and
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1 successors-in-interest, whether individual, class, representative, legal, equitable, direct or indirect,
2 or any other type or in any other capacity.

3 **33. Response Deadline.** “Response Deadline” shall mean the date sixty (60) days
4 following the date on which the Settlement Administrator first mails Class Notice to the
5 Settlement Class Members and posts the Class Notice on-line and is the last day on which
6 Settlement Class Members may submit a request for exclusion and/or objection to Settlement.

7 **34. Settlement.** “Settlement” shall mean the settlement between the Parties, which is
8 memorialized in this Stipulation and subject to approval by the Court.

9 **35. Settlement Administrator.** “Settlement Administrator” shall mean Phoenix
10 Settlement Administrators which the Parties have agreed will be responsible for administration of
11 the Settlement and related matters.

12 **36. Stipulation.** “Stipulation” shall mean this Joint Stipulation of Settlement and
13 Release of Class Action, including any attached exhibits.

14 **II. FACTUAL AND PROCEDURAL BACKGROUND OF ACTION**

15 **1. Plaintiff’s Claims.** On behalf of the Settlement Class, Plaintiff alleged the
16 following causes of action in the Complaint: (1) failure to pay overtime wages; (2) failure to pay
17 minimum wages; (3) failure to provide meal periods; (4) failure to provide separate compensation
18 for rest periods; (5) failure to furnish accurate wage statements; (6) failure to maintain required
19 records; (7) failure to pay all wages earned; (8) failure to pay earned wages upon termination or
20 discharge; and (9) unfair business practices based on the foregoing.

21 **2. Discovery, Investigation, Research, and Mediation.** Class Counsel has
22 conducted significant formal written discovery and informal discovery during the prosecution of
23 the Action. This discovery, investigation, and prosecution has included, among other things, (a)
24 over a dozen telephonic conferences with Plaintiff; (b) inspection and analysis of thousands of
25 pages of documents and other information produced by Defendant; (c) analysis of redacted
26 employment time and payroll data; (d) an analysis of the legal positions taken by Defendant; (d)
27 investigation into the viability of class treatment of the claims asserted in the Action; (e) analysis
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1 of potential class-wide damages, including information sufficient to understand Defendant's
2 potential defenses to Plaintiff's claims; (f) research of the applicable law with respect to the
3 claims asserted in the Complaint and the potential defenses thereto; and (g) assembling and
4 analyzing of data for calculating damages.

5 Plaintiff's counsel and the Class Representative have vigorously prosecuted this case, and
6 Defendant has vigorously contested it. The Parties have engaged in sufficient investigation and
7 discovery to assess the relative merits of the claims of the Class Representative and of
8 Defendant's defenses to them. On March 1, 2022, the Parties attended a full-day mediation with
9 experienced employment law mediator Judge Howard Broadman (Ret.), which culminated in a
10 settlement, the terms of which are elaborated in this Agreement.

11 **3. Allegations of the Class Representative and Benefits of Class Settlement.** The
12 document and data exchanged in this matter, as well as discussions between counsel, have been
13 adequate to give the Class Representative and Class Counsel a sound understanding of the merits
14 of their positions and to evaluate the value of the claims of the Settlement Class. The formal and
15 informal discovery conducted in this Action and the information exchanged by the Parties
16 through pre-mediation discussions are sufficient to reliably assess the merits of the Parties'
17 respective positions and to compromise the issues on a fair and equitable basis.

18 Plaintiff and Class Counsel believe that the claims, causes of action, allegations and
19 contentions asserted in the Action have merit. However, Plaintiff and Class Counsel recognize
20 and acknowledge the expense and delay of continued lengthy proceedings necessary to prosecute
21 the Action against Defendant through trial and through appeals. Class Counsel has taken into
22 account the uncertain outcome of the litigation, the risk of continued litigation in complex actions
23 such as this, as well as the difficulties and delays inherent in such litigation, and the potential
24 difficulty of obtaining certification of the Action as well as trying the claims of the class. Class
25 Counsel is mindful of the potential problems of proof under, and possible defenses to, the claims
26 alleged in the Action.

27 Class Counsel believes that the Settlement set forth in this Stipulation confers substantial
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1 benefits upon Plaintiff and the Settlement Class Members and that an independent review of this
2 Stipulation by the Court in the approval process will confirm this conclusion. Based on their own
3 independent investigation and evaluation, Class Counsel has determined that the Settlement set
4 forth in the Stipulation is in the best interests of Plaintiff and the Settlement Class Members.

5 **4. Defendant's Denials of Wrongdoing and Liability.** Defendant has denied and
6 continues to deny each, and all allegations, claims, and contentions alleged by Plaintiff in the
7 Action. Defendant has expressly denied and continues to deny all charges of wrongdoing or
8 liability against it arising out of any of the conduct, statements, acts or omissions alleged in the
9 Action. Defendant contends that it complied with California and federal wage and hour laws and
10 has dealt legally and fairly with Plaintiff and Settlement Class Members. Defendant further denies
11 that, for any purpose other than settling this Action, these claims are appropriate for class or
12 representative treatment. Nonetheless, Defendant has concluded that further proceedings in the
13 Action would be protracted and expensive and that it is desirable that the Action be fully and
14 finally settled in the manner and upon the terms and conditions set forth in this Stipulation in
15 order to dispose of burdensome and protracted litigation, to permit the operation of Defendant's
16 business without further expensive litigation and the distraction and diversion of their personnel
17 with respect to matters at issue in the Action. Defendant has also taken into account the
18 uncertainty and risks inherent in any litigation, especially in complex cases such as the Action.
19 Defendant has, therefore, determined that it is desirable and beneficial to it that the Action be
20 settled in the manner and upon the terms and conditions set forth in this Stipulation.

21 **5. Intent of the Class Settlement.** The Class Settlement set forth herein intends to
22 achieve the following: (1) entry of an order approving the Class Settlement; (2) entry of judgment
23 of the Action; (3) discharge of Released Parties from liability for any and all of the Released
24 Claims; and (4) discharge of Defendant from liability for any and all claims arising out of the
25 Action.

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27 **III. CONDITIONAL CLASS CERTIFICATION AND APPOINTMENT OF CLASS**
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COUNSEL

1. **The Settlement Class.** For the purposes of this Stipulation and the Class Settlement of this Action only, the Parties stipulate to conditional class certification of the Settlement Class. Defense counsel believes this conditional certification is appropriate because the Released Claims are being compromised without need to establish the elements of those claims on which liability turns. The certification of the Settlement Class for settlement purposes only shall not constitute, in this or any other proceeding, an admission of any kind by Defendant, including without limitation, that certification of a class for trial purposes is or would be warranted, appropriate or proper; or that Plaintiff could establish any of the requisite elements for class treatment of any of the claims in the Action. In the event that the Agreement is not finally approved by the Court, a Final Effective Date is not achieved, or the settlement is rejected, terminated or otherwise rendered null and void as set forth herein, then certification of the Settlement Class shall be automatically vacated, shall be void *ab initio*, of no force or effect, and shall not constitute evidence or a binding determination that the requirements for certification of a class for trial purposes in this Action or in any other action which have been, are or can be, satisfied. Further, if the Agreement does not reach a Final Effective Date, Plaintiff agrees that it will not argue, claim, reference or otherwise raise any preliminary approval of the Settlement Class in connection with any later proceeding before the Court

2. **Appointment of Class Counsel.** For purposes of this Stipulation and subject to the Court's approval, the Parties hereby stipulate to the appointment of Class Counsel as counsel for the Class and the effectuation of the Class Settlement pursuant to this Stipulation.

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IV. CLASS SETTLEMENT CONSIDERATION

1. **Settlement Amount.** The Parties agree to settle this Action for the Gross Settlement Amount of \$1,600,000.00. There shall be no reversion to Defendant. Defendant shall pay the Gross Settlement Amount in full. The Gross Settlement Amount and other actions and forbearances taken by Defendant shall constitute adequate consideration for the Class Settlement and will be made in full and final settlement of: (a) the Released Claims, (b) Class Attorney Fees

1 and Expenses, (c) Administrative Expenses, (d) Incentive Award, and (e) any other obligation of
2 Defendant under this Stipulation (other than the Employer's Taxes on the portion of the Net
3 Settlement Amount allocated to the payment of wages). After the court issues an order
4 preliminarily approving this Class Settlement, the Settlement Administrator will distribute the
5 Class Notice to the Settlement Class Members, which shall describe the terms of the Class
6 Settlement and procedures to opt out, object or participate in the Class Settlement and identify the
7 Settlement Class Member, their number Individual Workweeks, and the estimated Individual
8 Settlement Amount the Settlement Class Member can expect to receive once the Class Settlement
9 becomes Effective. Settlement Class Members shall be given the opportunity to challenge their
10 Individual Workweeks information.

11 **2. Incentive Award for Plaintiff.** Plaintiff may petition the Court to approve an
12 Incentive Award in an amount up to \$10,000.00 for Plaintiff's efforts on behalf of the Settlement
13 Class in this Action, including assisting in the investigation and consulting with Class Counsel
14 and providing crucial documents to Class Counsel. Defendant shall not oppose any request by
15 Plaintiff for an Incentive Award in such an amount. Any Incentive Award approved by the Court
16 shall be paid to Plaintiff from the Gross Settlement Amount and shall be in addition to any
17 distribution to which she may otherwise be entitled as a Class Participant. The Incentive Award
18 shall not be considered wages, and the Settlement Administrator shall issue Plaintiff an IRS Form
19 1099 reflecting such payment. Plaintiff shall be responsible for the payment of any and all taxes
20 with respect to her Incentive Award and shall hold Defendant harmless from any and all liability
21 with regard thereto.

22 **3. Payment to Class Participants.** Each Class Participant shall be eligible to receive
23 payment of the Individual Settlement Amount, which is a share of the Net Settlement Amount
24 based on the pro rata number of weeks worked by the Settlement Class Members during the Class
25 Period as a proportion of all weeks worked by all Settlement Class Members. The Individual
26 Settlement Amount for each Settlement Class Member shall be calculated in accordance with
27 section VII, paragraph 2. Each Class Participant, including Plaintiff, shall be responsible for the
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1 payment of the Employee's Taxes and Required Withholding with respect to his or her Individual
2 Settlement Amount and shall hold Defendant harmless from any and all liability with regard
3 thereto.

4 **4. Tax Treatment and Payment.** For the purpose of calculating Employee's Taxes
5 and Required Withholding for the Individual Settlement Amounts for Class Participants
6 (including any payments to the Class Representative but exclusive of the Incentive Award), the
7 Parties agree that 10% of each Individual Settlement Amount shall constitute payment in the form
8 of wages (and each Class Participant will be issued an IRS Form W-2 for such payment to him or
9 her), and 90% of each Individual Settlement Amount shall constitute penalties and interest (and
10 each Class Participant will be issued an IRS Form 1099 for such payment to him or her). Prior to
11 final distribution, the Settlement Administrator shall calculate the total Employee's Taxes and
12 Required Withholding due as a result of the wage portion of Class Participants' anticipated
13 Individual Settlement Amounts and such actual amount will be deducted from the Net Settlement
14 Amount. Additionally, prior to the funding of the Gross Settlement Sum and final distribution, the
15 Settlement Administrator shall calculate the total Employer's Taxes due on the wage portion of
16 the Class Participants' Individual Settlement Amounts and issue instructions to Defendant to
17 separately fund these tax obligations/withholdings. The Parties understand that Plaintiff and the
18 Class Participants who receive any payment pursuant to this Stipulation shall be solely
19 responsible for any and all other individual tax obligations associated with this Class Settlement.

20 **5. No Effect on Employee Benefit Plans.** Neither the Class Settlement nor any
21 amounts paid under the Class Settlement will modify any previously credited hours, days, or
22 weeks of service under any employee benefit plan, policy or bonus program sponsored by
23 Defendant. Such amounts will not form the basis for additional contributions to, benefits under, or
24 any other monetary entitlement under Defendant' sponsored benefit plans, policies or bonus
25 programs. The payments made under the terms of this Stipulation shall not be applied
26 retroactively, currently, or on a going forward basis, as salary, earnings, wages, or any other form
27 of compensation for the purposes of any of Defendant' benefit plan, policy or bonus program.

1 Defendant retain the right to modify the language of their benefits plans, policies and bonus
2 programs to effect this intent and to make clear that any amounts paid pursuant to this Stipulation
3 are not for “weeks worked,” “weeks paid,” “weeks of service,” or any similar measuring term as
4 defined by applicable plans, policies and bonus programs for purpose of eligibility, vesting,
5 benefit accrual, or any other purpose, and that additional contributions or benefits are not required
6 by this Stipulation. Defendant does not consider the Class Settlement payments “compensation”
7 for purposes of determining eligibility for, or benefit accrual within, any benefit plans, policies, or
8 bonus programs, or any other plan sponsored by Defendant.

9 **6. Class Attorney Fees and Expenses.** As part of the motion for final approval of
10 the Class Settlement, Class Counsel may submit an application for an award of Class Attorney
11 Fees and Expenses with the fee portion not to exceed 35% of the Gross Settlement Amount (*i.e.*,
12 \$560,000) and the award of actual costs and expenses up to an additional \$30,000 _____.
13 Defendant agrees not to object to any such fee, cost or expense application in those amounts. As a
14 condition of this Class Settlement, Class Counsel has agreed to pursue fees only in the manner
15 reflected by this subsection. Any Class Attorney Fees and Expenses awarded by the Court shall
16 be paid from the Gross Settlement Amount prior to arriving at the Net Settlement Amount and
17 shall not constitute payment to any Settlement Class Members. If Class Counsel voluntarily
18 reduces the request for Class Attorney Fees or Expenses or the Court’s award of Class Attorney
19 Fees or Expenses is less than set forth above, the Net Settlement Amount shall be recalculated to
20 reflect the actual Class Attorney Fees and Expenses awarded.

21 The Class Attorney Fees and Expenses approved by the Court shall encompass: (a) all
22 work performed and costs and expenses incurred by, or at the direction of, any attorney
23 purporting to represent the Settlement Class through the date of this Stipulation; (b) all work to be
24 performed and costs to be incurred in connection with approval by the Court of the Class
25 Settlement; (c) all work to be performed and costs and expenses, if any, incurred in connection
26 with administering the Class Settlement through the Effective Date; and (d) may be based on the
27 “lodestar” and/or “common fund doctrine.”
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1 **V. CLAIMS ADMINISTRATION**

2 **1. The Settlement Administrator's Costs and Expenses.** All costs and expenses
3 due to the Settlement Administrator in connection with its administration of the Class Settlement,
4 including, but not limited to, providing the Class Notice, locating Settlement Class Members,
5 processing Opt-Out requests and objections, and calculating, administering and distributing
6 Individual Settlement Amounts to the Class Participants and related tax forms, shall be paid from
7 the Gross Settlement Amount, and shall not exceed \$20,000.

8 **2. Payment by Defendant.** Within twenty (20) calendar days after the Effective
9 Date, Defendant shall deposit the Gross Settlement Amount of \$1,600,000.00 with the Settlement
10 Administrator to pay: (1) the Class Attorney Fees and Expenses, as approved by the Court; (2) the
11 Incentive Award, as approved by the Court, (3) the Administrative Expenses, not to exceed
12 \$20,000 and as approved by the Court; (4) the aggregate of all Individual Settlement Amounts of
13 Class Participants; and (5) the Employer's Taxes and Required Withholding associated with the
14 Individual Settlement Amounts. Defendant shall separately pay their share of Employer Taxes to
15 the Settlement Administrator prior to the distribution of the Individual Settlement Amounts to
16 Class Participants. In no event shall Defendant be obligated to pay or deposit with the Settlement
17 Administrator more than \$1,600,000.00 plus Employer Taxes, except where the Escalator
18 Provision is triggered and no adjustment to the beginning and/or end dates of the Release Period
19 are made.

20 **VI. NOTICE TO CLASS MEMBERS AND CLAIMS ADMINISTRATION PROCESS**

21 **1. The Settlement Administrator.** The Settlement Administrator will be responsible
22 for mailing the Class Notice (**Exhibit 1**) to Settlement Class Members; posting notice of entry of
23 final order and judgment certifying the Class and approving this Stipulation on their website for at
24 least 60 days after the Preliminary Approval Date; handling inquiries from Settlement Class
25 Members concerning the Class Notice; determination of Individual Settlement Amounts;
26 maintaining the settlement funds in an appropriate interest bearing account; preparing,
27 administering and distributing Individual Settlement Amounts to Class Participants; issuing a
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1 final report and performing such other duties as the Parties may direct. Additionally, the
2 Settlement Administrator will handle all tax document preparation and reporting, including state
3 and federal tax forms, if any.

4 On a weekly basis, the Settlement Administrator will provide reports to Class Counsel and
5 Defense Counsel with summary information updating them as to the number of validated and
6 timely objections and Opt-Out Requests. The Settlement Administrator will serve on Class
7 Counsel and Defense Counsel via e-mail date-stamped copies of the original Opt-Outs and
8 objections no later than seven (7) days after their receipt. The Settlement Administrator will
9 provide Class Counsel with proof of mailing of the Class Notice, without listing individual Class
10 Member names which the Settlement Administrator will file with the Court at the time Class
11 Counsel files its motion in support of the Court's Final Approval and Fairness Hearing. No later
12 than seven (7) days prior to the Final Approval and Fairness Hearing, the Settlement
13 Administrator will compile and deliver to Class Counsel and Defense Counsel a report with
14 summary information regarding (a) the total amount of final Individual Settlement Amounts of
15 each Class Participant, without any identifying information, (b) the number of Class Participants
16 to receive such payments, and (c) the final number of Opt-Outs and objections.

17 Administrative Expenses are not anticipated to exceed \$20,000. Prior to the calculation
18 and distribution of the Individual Settlement Amounts, the Settlement Administrator shall
19 calculate the total Administrative Expenses through the conclusion of their services and such
20 actual amount will be deducted from the Gross Settlement Amount prior to the final calculation of
21 the Individual Settlement Amounts.

22 **2. Notice to Settlement Class Members by First Class Mail and Posting On-Line.**

23 Notice shall be provided to Settlement Class Members in the following manner: Within fourteen
24 (14) days after the Preliminary Approval Date, Defendant shall provide the Settlement
25 Administrator with an updated list of Class Members containing names, social security numbers,
26 dates of employment, last-known addresses and phone numbers (the "Database"). The Database
27 shall be marked "Confidential –Settlement Administrator's Eyes Only." Class Counsel shall not
28

1 receive a copy of this list.

2 Within 30 days following the Preliminary Approval Date, the Settlement Administrator
3 shall determine the number of workweeks for each Settlement Class Member, populate the
4 Settlement Class for each accordingly, and send each Settlement Class Member the Class Notice
5 via first-class, United States mail. The Settlement Administrator shall also post the Class Notice
6 on its website within twenty-eight (28) days following the Preliminary Approval Date, which
7 shall remain posted on the Settlement Administrator’s website for at least 60 days. The Class
8 Notice shall also contain an easily understood statement alerting the Class Members that, unless it
9 elects to Opt-Out of the Class Settlement, the Settlement Class Member is releasing and waiving
10 all Released Claims against the Released Parties.

11 The Class Notice will inform Settlement Class Members of his/her estimated share of the
12 settlement and the number of workweeks he/she worked during the Class Period. Class Members
13 may dispute their workweeks if they believe they worked more weeks in the Class Period than
14 Defendant’s records show by submitting information to the Settlement Administrator no later
15 than sixty (60) days after being mailed the Class Notice by the Settlement Administrator, which is
16 the defined Response Deadline. The Settlement Administrator will jointly work with Plaintiff and
17 Defendant to resolve the dispute in good faith. If Plaintiff and Defendant cannot agree over the
18 workweeks to be credited, the Settlement Administrator shall make the final decision based on the
19 information presented by the Settlement Class Member and Defendant.

20 **3. Opt-Out Procedure.** Settlement Class Members who do not timely Opt-Out of the
21 Class Settlement will be deemed to participate in the Class Settlement and shall become a Class
22 Participant without having to submit a claim form or take any other action. In order to Opt-Out of
23 the Class Settlement, the Settlement Class Member must submit a letter or postcard to the
24 Settlement Administrator, postmarked by the Response Deadline. The Opt-Out request must state
25 the Settlement Class Member’s name, address, telephone number, and signature. The Opt-Out
26 request should state something to the effect of:

27 “I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE
28

1 BECERRA V. SUNRIDGE NURSERIES, INC. LAWSUIT. I UNDERSTAND
2 THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I
3 WILL NOT RECEIVE ANY MONEY FROM THE CLASS SETTLEMENT OF
4 THIS LAWSUIT AND WILL NOT BE RELEASING ANY CLAIMS I MIGHT
5 HAVE.”

6 Any Opt-Out request that is not postmarked by the Response Deadline will be invalid. In
7 the event that, prior to the Response Deadline, any Class Notice mailed to a Settlement Class
8 Member is returned as having been undelivered by the U.S. Postal Service, the Settlement
9 Administrator shall perform a skip trace search and seek an address correction for such
10 Settlement Class Member(s), and a second Class Notice will be sent to any new or different
11 address obtained. The Settlement Administrator shall also provide Defendant the names of Class
12 Members for whom a Class Notice was returned within seven (7) days of receiving he returned
13 Class Notice so that Defendant can provide additional information to the Settlement
14 Administrator, if available, for the purpose of identifying a correct address. Such Settlement Class
15 Member(s) shall have an additional 14 days in which to Opt-Out (“Extended Response
16 Deadline”).

17 It will be presumed that, if an envelope containing the Class Notice has not been returned
18 within 28 days of the mailing, the Settlement Class Member received the Class Notice. At least
19 seven (7) days prior to the Final Approval and Fairness Hearing, the Settlement Administrator
20 shall provide Class Counsel and Defense Counsel with a Declaration of Due Diligence and Proof
21 of Posting and Mailing with regard to the mailing of the Class Notice and its attempts to locate
22 Class Members. The declaration shall specify the number of Settlement Class Members to whom
23 Class Notices were sent and the number of Settlement Class Members to whom Class Notices
24 were not delivered, as well as information relating to the number of Opt-Outs and objectors. Class
25 Counsel shall file this declaration with the Court.

26 If the Settlement Administrator determines that an Opt-Out request returned by a
27 Settlement Class Member before the Response Deadline is deficient, then the Settlement
28

1 Administrator shall mail a deficiency letter to that Settlement Class Member identifying the
2 problem. If a Settlement Class Member submits both a dispute and an Opt-Out request, the
3 Settlement Administrator shall make reasonable attempts to clarify as if the Opt-Out request were
4 deficient. If the Class Member fails to cure the deficiency, the Opt-Out request shall be
5 disregarded and the claim will be paid, and the Class Member will become bound by the
6 judgment.

7 Those Settlement Class Members who do not timely Opt-Out will be bound by the
8 Release of Released Claims set forth in the definition of “Released Claims” provided in this
9 Settlement Agreement.

10 **4. Objections.** The Class Notice shall inform the Settlement Class Members of their
11 right to object to the Class Settlement. Any Settlement Class Member who wishes to object to the
12 Class Settlement must submit a written objection to the Settlement Administrator no later than the
13 Response Deadline and must file with the Court and serve on all parties a written statement of
14 objection. Only Settlement Class Members who do not opt out of the Settlement may object to the
15 Settlement. The objection must include the case name and number and must set forth, in clear and
16 concise terms, a statement of the reasons why the objector believes that the Court should find that
17 the proposed Class Settlement is not in the best interest of the Settlement Class and the reasons
18 why the Class Settlement should not be approved, including the legal and factual arguments
19 supporting the objection. If an objector also wishes to appear at the Final Approval and Fairness
20 Hearing, in person or through an attorney, he or she *must also* file a notice of intention to appear
21 at least fourteen (14) days prior to the Final Approval and Fairness Hearing date, either with the
22 Settlement Administrator or directly with the court. The Settlement Administrator will promptly
23 serve copies of any objection or notice of intention to appear on Class Counsel and Defense
24 Counsel. Unless otherwise ordered by the Court, Settlement Class Members shall not be entitled
25 to appear and or object at the Final Approval Hearing in person unless they have submitted a
26 timely written objection and notice of intention to appear pursuant to this Section. Settlement
27 Class Members who have properly and timely submitted objections may appear at the Final
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1 Approval Hearing, either in person or through a lawyer retained at their own expense.

2 **5. Notice of Final Judgment.** Within 10 days after the Court has held a Final and
3 Fairness Approval Hearing and entered a final order certifying the Class for settlement purposes
4 only and approving the Class Settlement, the Settlement Administrator will give notice of
5 judgment to Settlement Class Members pursuant to California Rules of Court, rule 3.771(b) by
6 posting a copy of said order and final judgment on its website at a web address to be included in
7 the Class Notice.

8 **VII. CLASS SETTLEMENT FUNDING AND DISTRIBUTION**

9 **1. Allocation of the Gross Settlement Amount.** The claims of all Settlement Class
10 Members are settled for the Gross Settlement Amount of \$1,600,000.00, which will be allocated
11 as follows:

- 12 a. The Administrative Expenses, not to exceed \$20,000;
13 b. The Class Attorney Fees not to exceed \$560,000.00;
14 c. The Class Attorney expenses not to exceed actual costs, but not to exceed \$30,000;
15 and
16 d. The Incentive Award, not to exceed \$10,000.00.

17 For purposes of calculating the estimated Individual Settlement Amounts, the Settlement
18 Administrator shall calculate the estimated Net Settlement Amount based on the estimated values
19 in Section 1(a-d) prior to sending Notice to the Settlement Class Members. Prior to final
20 distribution, the Settlement Administrator shall calculate the final Net Settlement Amount based
21 on the actual values in Section 1 (a-d), as approved by the court.

22 **2. Calculation of the Individual Settlement Amounts.** Individual Settlement
23 Amounts to be paid to Class Participants shall be paid from the Net Settlement Amount. The
24 portion of the Net Settlement Amount payable to each Class Participant will be calculated as
25 follows:

26 The Settlement Administrator shall divide the Net Settlement Amount by the aggregate
27 Individual Workweeks for all Settlement Class Members during the Class Period, in order to
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1 determine the amount each Settlement Class Member is entitled to for each workweek s/he was
2 employed by Defendant (the “Weekly Amount”). The Settlement Administrator will multiply the
3 Weekly Amount by the total number of workweeks that each Settlement Class Member was
4 employed and deduct all Employee’s Taxes and Required Withholding from the portion
5 attributable to wages to arrive at the Individual Settlement Amount for each Class Member.
6 Defendant will provide the Settlement Administrator with any information reasonably necessary
7 to perform the calculation of Individual Workweeks for each Settlement Class Member, and any
8 other reasonably required information the Settlement Administrator requests to perform the
9 calculations required under this Settlement Agreement. Defendant shall have no responsibility for
10 deciding the validity of the Individual Settlement Amounts or any other payments made pursuant
11 to this Stipulation, shall have no involvement in or responsibility for the determination or
12 payment of Employee’s Taxes and Required Withholding, and shall have no liability for any
13 errors made with respect to such Employee’s Taxes and Required Withholding. Although the
14 Settlement Administrator will calculate and pay the standard Employee’s Taxes and Required
15 Withholding on the portion of the Individual Settlement Amounts constituting wages on their
16 behalf, Plaintiff and Class Participants represent and understand that they shall be solely
17 responsible for any and all tax obligation associated with their respective Individual Settlement
18 Amounts and Incentive Awards.

19 **3. Time for Payment of Attorney Fees and Expenses to Class Counsel.** The
20 Settlement Administrator shall distribute to Class Counsel any attorney fees and expenses
21 approved by the Court to Class Counsel no later than thirty (30) days after the Effective Date.

22 **4. Time for Payment of Incentive Award to Class Representative.** The Settlement
23 Administrator shall distribute to Plaintiff the Incentive Award approved by the Court no later than
24 thirty (30) days after the Effective Date.

25 **5. Time for Payment of Taxes and Required Withholding and Individual**
26 **Settlement Amounts.** The Settlement Administrator shall make every effort to pay the
27 Employee’s Taxes and Required Withholding associated with each Class Participant’s Individual
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1 Settlement Amount and mail the Individual Settlement Amount to each Class Participant, by first-
2 class U.S. mail, to the last-known address no later than thirty (30) days after the Effective Date. If
3 the Settlement Administrator is not able to do so within the time period set forth above, it shall so
4 inform Class Counsel and Defense Counsel and provide an approximate date by which the
5 Employee's Taxes and Required Withholding shall be paid and the Individual Settlement
6 Amounts will be mailed. Under no circumstances shall the Settlement Administrator distribute
7 checks to Class Participants until all Individual Settlement Amounts have been considered,
8 calculated, and accounted for, and all of the remaining monetary obligations have been calculated
9 and accounted for. Within one-hundred twenty (120) days of mailing the Individual Settlement
10 Amounts to Class Participants, the Settlement Administrator shall file with the Court and provide
11 to Class Counsel a declaration of payment. In the event that any Class Participant is deceased,
12 payment shall be made payable to the estate of that Settlement Class Member and delivered to the
13 executor or administrator of that estate, unless the Settlement Administrator has received an
14 affidavit or declaration pursuant to Cal. Probate Code § 13101, in which case payment shall be
15 made to the affiant(s) or declarant(s).

16 **6. Disposition of Non-Cashed and Returned Settlement Checks.** Any funds
17 associated with checks that have not been cashed within 90 days, will become void and the
18 Individual Settlement Amount associated with the un-cashed check will be distributed pursuant to
19 Code of Civil Procedure section 384 to the Court Appointed Special Advocates for Children of
20 Kern County ("CASA of Kern County"), or other *cy pres* beneficiary to be selected by Defendant
21 and approved by the Court. For the purposes of determining whether Defendant have met their
22 financial obligation to pay the Individual Settlement Payment, Defendant will be deemed to have
23 fulfilled their obligation upon the mailing of the check to the Settlement Class Member,
24 regardless of whether such Settlement Class member subsequently negotiates the check. If any
25 Individual Settlement Amounts are returned as undeliverable, the Settlement Administrator will
26 take all steps necessary to locate an updated mailing address for the Class Member, including
27 without limitation, using an Accurant (or substantially similar) in-depth skip-trace. In the event
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1 the Settlement Administrator is unable to locate an updated address or the Individual Settlement
2 Payments are returned as undeliverable after a second mailing, the undeliverable check shall be
3 cancelled and the funds shall go to CASA of Kern County, subject to the Court's approval and
4 consistent with Code of Civil Procedure section 384.

5 **7. Disputes Regarding Settlement Class Member's Workweeks Data or Payment**
6 **of Individual Settlement Share.** Settlement Class Member Individual Workweeks and Weekly
7 Amount and corresponding Individual Settlement Amount shall be calculated using the
8 employment and payroll records of Defendant, which presumptively shall be deemed to be full,
9 complete and accurate for purposes of this Settlement. To overcome that presumption, any
10 Settlement Class member objecting to the accuracy of the Individual Workweeks, Weekly
11 Amount or amount of the Individual Settlement Amount must submit documentary evidence,
12 such as pay stubs or other written employment records, to the Settlement Administrator. Each
13 Settlement Class Member may dispute the Individual Workweeks, Weekly Amount or estimated
14 Individual Settlement Amount contained on his or her Class Notice ("Workweeks Dispute").
15 Any such disputes must be mailed or faxed to the Settlement Administrator by the Settlement
16 Class Member, postmarked or fax-stamped on or before the Response Deadline. The Settlement
17 Administrator shall immediately provide copies of all disputes to counsel for Defendant, shall
18 inform Class Counsel of the dispute without disclosing the identity of the Settlement Class
19 Member making the dispute, and shall immediately attempt to resolve all such disputes directly
20 with relevant Settlement Class Member(s) with the assistance of Defendant and Class Counsel. If
21 the dispute cannot be resolved, it shall be submitted to the Administrator for its final, non-appealable
22 decision. The Administrator shall use its best efforts to resolve all such disputes prior to the Final
23 Effective Date. However, if a dispute arises or is not resolved until after all of the Settlement
24 Amount has been distributed, the initial calculation shall stand (as Defendant shall be under no
25 obligation to pay *any* amounts in excess of the Settlement Amount under this Agreement).

26 **VIII. NULLIFICATION OF THIS STIPULATION**

27 **1. Non-Approval of the Stipulation.** If (a) the Court should for any reason fail to
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1 approve this Stipulation in the form agreed to by the Parties, or (b) the Court should for any
2 reason fail to enter a judgment with prejudice of the Action, or (c) the approval of the Class
3 Settlement and judgment is reversed, modified or declared or rendered void, then the Class
4 Settlement and conditional class certification shall be considered null and void, and neither the
5 Class Settlement, conditional class certification, nor any of the related negotiations or
6 proceedings, shall be of any force or effect, and all Parties to the Class Settlement shall stand in
7 the same position, without prejudice, as if the Class Settlement had been neither entered into nor
8 filed with the Court. Notwithstanding the foregoing, the Parties may attempt in good faith to cure
9 any perceived defects in the Stipulation to facilitate approval.

10 **2. Parties' Rights to Void Class Settlement.** If 5% or more members of the
11 Settlement Class timely Opt-Out, Defendant shall have the right (but not the obligation) to void
12 this Class Settlement within thirty (30) days of the Extended Response Deadline. The Parties
13 agree that any Class Members for whom the Class Notice is deemed "undeliverable" by the
14 Settlement Administrator are to be included as Settlement Class Members and bound by the terms
15 in this Settlement Agreement. In the event the Court deems such individuals to be excluded from
16 this Settlement and the resulting judgment, Defendant retains the right, in its sole discretion, to
17 nullify the Settlement within thirty (30) days of the Final Approval and Fairness Hearing if the
18 total number of Class Members excluded from the Settlement (either by submitting valid
19 Requests for Exclusion or by court order) exceeds Five Percent (5%) of the Settlement Class. If
20 the Settlement Agreement is voided for any reason whatsoever, the Parties shall be restored to
21 their respective positions in all respects as though the contemplated settlement never occurred. In
22 the event of such a termination, no party may use the fact that the Parties agreed to settle or the
23 terms provided herein as an admission, as evidence, or for any other purpose, including, without
24 limitation, to prove any liability or the amount of any sum allegedly owed by any Party. All
25 parties and their counsel shall not encourage opt-outs or objections to this Agreement. The parties
26 specifically agree not to solicit opt-outs, directly or indirectly, through any means.

27 **3. Escalator Provision.** In the event that the total number of weeks worked in the
28 Class Period is greater than 10% of what was represented by Defendant, as described above, then

1 the Gross Settlement Amount shall be increased proportionately for each additional Workweek
2 worked (“Escalator Provision”). Alternatively, in the event that the Escalator Provision is
3 triggered, then Defendant has the option to adjust the beginning and/or end dates of the Release
4 Period so as to have a later start date or an earlier end date at the Defendant’ discretion in order to
5 limit the amount of covered workweeks to 10% of what was represented by Defendant.

6 **4. Invalidation.** Invalidation of any material portion of the Class Settlement shall
7 invalidate the Class Settlement in its entirety, unless the Parties subsequently agree in writing that
8 the remaining provisions of the Class Settlement are to remain in full force and effect.

9 **5. Stay Upon Appeal.** In the event of a timely appeal from the approval of the Class
10 Settlement and judgment, the judgment shall be stayed, and Defendant shall not be obligated to
11 fund the Gross Settlement Amount or take any other actions required by this Stipulation until all
12 appeal rights have been exhausted by operation of law.

13 **IX. MOTION FOR COURT APPROVAL**

14 **6. Preliminary Approval.** As soon as practicable after execution of this Stipulation,
15 Class Counsel will submit this Stipulation to the Court along with a Motion for Preliminary
16 Approval of the Class Settlement. Each party shall cooperate to present the Class Settlement to
17 the Court for preliminary approval in a timely fashion.

18 **7. Final Approval.** The Final Approval and Fairness Hearing shall be held before the
19 Court. At the Final Approval and Fairness Hearing, Plaintiff shall move the Court for the entry of
20 the final order certifying the Class for settlement purposes only and approving the Class
21 Settlement as being fair, reasonable, and adequate to the Class Participants within the meaning of
22 California Rules of Court, Rule 3.769(c), (d) and (e) and for the entry of a final judgment of the
23 Action consistent with the terms of the Class Settlement and California Rule of Court 3.769(h).
24 Class Counsel and Defense Counsel shall submit to the Court such pleadings and/or evidence as
25 may be required for the Court’s determination.

26 **X. RELEASES AND WAIVERS**

27 **1. Release of Claims by Settlement Class.** Upon the Effective Date, the Releasing
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1 Parties shall be deemed to each release the Released Parties, and each of them, of and from any
2 and all Released Claims arising during the Class Period.

3 It is the desire of the Parties and the Settlement Class Members to fully, finally, and
4 forever settle, compromise, and discharge the Released Claims.

5 Each of the Releasing Parties, including each Settlement Class Member, except those who
6 timely Opt-Out, will be bound to the release of Released Claims as a result of the Class
7 Settlement and to the terms of the final judgment and the satisfaction of such judgment.

8 Settlement Class Members who do not opt out will be deemed to have acknowledged and
9 agreed that their claims for wages and/or penalties in the Action are disputed, and that their
10 Individual Settlement Amount constitute payment of all sums allegedly due to them. Class
11 Members will be deemed to have acknowledged and agreed that California Labor Code Section
12 206.5 is not applicable to the Individual Settlement Amount. That section provides in pertinent
13 part as follows:

14 **“An employer shall not require the execution of a release of a claim or right
15 on account of wages due, or to become due, or made as an advance on wages
16 to be earned, unless payment of those wages has been made.”**

17 **2. Release of Claims by Plaintiff.** Plaintiff, on behalf of herself and her dependents,
18 heirs and assigns, beneficiaries, devisees, legatees, executors, administrators, agents, trustees,
19 conservators, guardians, personal representatives, and successors-in-interest, whether individual,
20 class, representative, legal, equitable, direct or indirect, or any other type or in any other capacity,
21 shall and does hereby forever release, discharge and agree to hold harmless the Released Parties
22 from any and all charges, complaints, claims, liabilities, obligations, promises, agreements,
23 controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts and
24 expenses (including attorney fees and costs), known or unknown, at law or in equity, which she
25 may now have or may have after the signing of this Stipulation, arising out of or in any way
26 connected with her employment with Defendant including, the Released Claims, claims that were
27 asserted or could have been asserted in the Complaint, and any and all transactions, occurrences,
28 or matters between the Parties occurring prior to the date this Stipulation is fully executed.

1 Without limiting the generality of the foregoing, this release shall include, but not be limited to,
2 any and all claims under the (a) Americans With Disabilities Act, as amended; (b) Title VII of the
3 Civil Rights Act of 1964, as amended; (c) the Civil Rights Act of 1991; (d) 42 U.S.C. § 1981, as
4 amended; (e) the Age Discrimination in Employment Act, as amended; (f) the Fair Labor
5 Standards Act, as amended; (g) the Equal Pay Act; (h) the Employee Retirement Income Security
6 Act, as amended; (i) the Consolidated Omnibus Budget Reconciliation Act; (j) the Rehabilitation
7 Act of 1973; (k) the Family and Medical Leave Act; (l) the Civil Rights Act of 1966; (m) the
8 California Fair Employment and Housing Act; (n) the California Constitution; (o) the California
9 Labor Code; (p) the California Government Code; (q) the California Civil Code; and (r) any and
10 all other federal, state and local statutes, ordinances, regulations, rules and other laws, and any
11 and all claims based on constitutional, statutory, common law or regulatory grounds as well as
12 any other claims based on theories of wrongful or constructive discharge, breach of contract or
13 implied contract, fraud, misrepresentation, promissory estoppel or intentional and/or negligent
14 infliction of emotional distress, or damages under any other federal, state or local statutes,
15 ordinances, regulations, rules or laws. This release is for any and all relief, no matter how
16 denominated, including, but not limited to, back pay, front pay, vacation pay, bonuses,
17 compensatory damages, tortious damages, liquidated damages, punitive damages, damages for
18 pain and suffering, and attorney fees and costs, and Plaintiff hereby forever releases, discharges
19 and agrees to hold harmless Defendant and the Released Parties from any and all claims for
20 attorney fees and costs arising out of the matters released in this Stipulation.

21 Plaintiff specifically acknowledge that she is aware of and familiar with the provisions of
22 California Civil Code Section 1542, which provides as follows:

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

27 Plaintiff, being aware of Section 1542, hereby expressly waives and relinquishes all rights
28 and benefits she may have under Section 1542 as well as any other statutes or common law
principles of a similar effect. Plaintiff may hereafter discover facts in addition to or different from

1 those which he now knows or believes to be true with respect to the subject matter of all the
2 claims referenced herein, but stipulates and agrees that, upon the Effective Date, Plaintiff shall
3 and hereby does fully, finally and forever settle and release any and all claims against the
4 Released Parties, known or unknown, suspected or unsuspected, contingent or non-contingent,
5 that were asserted or could have been asserted upon any theory of law or equity without regard to
6 the subsequent discovery of existence of such different or additional facts.

7 **Plaintiff's Initials:** _____

8 **3. Circular 230 Disclaimer.** Each party to this Agreement (for purposes of this
9 section, the "Acknowledging Party"; and each party to this Agreement other than the
10 Acknowledging Party, an "Other Party") acknowledges and agrees that (1) no provision of this
11 Agreement, and no written communication or disclosure between or among the parties or their
12 attorneys and other advisers, is or was intended to be, nor shall any such communication or
13 disclosure constitute or be construed or be relied upon as, tax advice within the meaning of
14 United States Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) the
15 Acknowledging Party (a) has relied exclusively upon her or its own independent legal and tax
16 advisers for advice (including tax advice) in connection with this Agreement, (b) has not entered
17 into this agreement based upon the recommendation of any other party or any attorney or advisor
18 to any other party, and (c) is not entitled to rely upon any communication or disclosure by any
19 attorney or adviser to any other party to avoid any tax penalty that may be imposed on the
20 Acknowledging Party; and (3) no attorney or adviser to any other party has imposed any
21 limitation that protects the confidentiality of any such attorney's or adviser's tax strategies
22 (regardless of whether such limitation is legally binding) upon disclosure by the Acknowledging
23 Party of the tax treatment or tax structure of any transaction, including any transaction
24 contemplated by this Agreement.
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1 **XI. DUTIES OF THE PARTIES**

2 **1. Mutual Full Cooperation.** The Parties agree to cooperate fully with one another
3 to accomplish and implement the terms of this Stipulation. Such cooperation shall include, but not
4 be limited to, execution of such other documents and the taking of such other actions as may
5 reasonably be necessary to fulfill the terms of this Class Settlement. The Parties shall use their
6 best efforts, including all efforts contemplated by this Stipulation and any other efforts that may
7 become necessary by court order or otherwise, to effectuate this Stipulation and the terms set
8 forth herein. As soon as practicable after execution of this Stipulation, Class Counsel, with the
9 cooperation of Defendant and Defense Counsel, shall take all necessary and reasonable steps to
10 secure the Court's final approval of this Stipulation.

11 **2. Duty to Support and Defend the Class Settlement.** The Parties agree to abide by
12 all of the terms of the Class Settlement in good faith and to support the Class Settlement fully and
13 to use their best efforts to defend this Class Settlement from any legal challenge, whether by
14 appeal or collateral attack.

15 **3. Duties Prior to Court Approval.** Class Counsel shall promptly submit this
16 Stipulation to the Court for preliminary approval and determination by the Court as to its fairness,
17 adequacy, and reasonableness. Promptly upon execution of this Stipulation, Class Counsel shall
18 apply to the Court for the entry of a preliminary order consistent with the terms of this
19 Stipulation, scheduling a hearing on the question of whether the proposed Class Settlement
20 should be approved as fair, reasonable, and adequate as to the Settlement Class Members,
21 approving as to form and content the proposed Class Notice attached hereto as **Exhibit 1**, and
22 directing the mailing of the Class Notice to Settlement Class Members. While Defendant can
23 reserve their right to object to facts or assertions made in the moving papers, Defense Counsel
24 shall file a notice of non-opposition to the granting of the motion for preliminary approval or join
25 in the motion.

26 **XII. MISCELLANEOUS PROVISIONS**

27 **1. Voiding the Stipulation.** Pending Court approval and other than as provided in
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1 Section VIII herein, if any of the conditions set forth in this Stipulation are not met and satisfied,
2 this Stipulation shall, at the option of either Plaintiff or Defendant, be ineffective, void, and of no
3 further force and effect, and shall not be used or be admissible in any subsequent proceeding,
4 either in this Court or in any other court or forum. If either Party decides to void the Settlement,
5 then the Settlement and conditional class certification shall be considered void, and neither the
6 Settlement Agreement, conditional class certification, nor any of the related negotiations or
7 proceedings, shall be of any force or effect, and the Parties shall stand in the same position,
8 without prejudice, as if this Stipulation had been neither entered into nor filed with the Court.
9 Should any Party choose to void the Class Settlement under this paragraph, such Party shall be
10 responsible for all Settlement Administrator fees and costs actually incurred.

11 **2. Different Facts.** The Parties hereto, and each of them, acknowledge that, except
12 for matters expressly represented herein, the facts in relation to the dispute and all claims released
13 by the terms of this Stipulation may turn out to be other than or different from the facts now
14 known by each party and/or its counsel, or believed by such Party or counsel to be true, and each
15 Party therefore expressly assumes the risk of the existence of different or presently unknown
16 facts, and agrees that this Stipulation shall be in all respects effective and binding despite such
17 difference.

18 **3. No Prior Assignments.** The Parties represent, covenant, and warrant that they
19 have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer,
20 or encumber to any person or entity any portion of any liability, claim, demand, action, cause of
21 action, or right herein released and discharged except as set forth herein.

22 **4. Non-Admission.** Nothing in this Stipulation shall be construed as or deemed to be
23 an admission by any Party of any liability, culpability, negligence, or wrongdoing toward any
24 other Party, or any other person, and the Parties specifically disclaim any liability, culpability,
25 negligence, or wrongdoing toward the each other or any other person. Each of the Parties has
26 entered into this Stipulation with the intention to avoid further disputes and litigation with the
27 attendant inconvenience, expenses, and contingencies. Nothing herein shall constitute any
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1 admission by Defendant of wrongdoing or liability, or of the truth of any factual allegations in the
2 Action. Nothing herein shall constitute any admission by Defendant regarding the merits of the
3 Claims in this Action, including but not limited to claims for unpaid wages or violations under
4 California and/or federal law. Nothing herein shall constitute an admission by Defendant that the
5 Action was properly brought as a class or representative action other than for settlement purposes.
6 To the contrary, Defendant has denied and continues to deny each and every material factual
7 allegation and all Claims. To this end, the Class Settlement of the Action, the negotiation and
8 execution of this Stipulation, and all acts performed or documents executed pursuant to or in
9 furtherance of this Stipulation or the Class Settlement are not, shall not be deemed to be, and may
10 not be used as, an admission or evidence of any wrongdoing or liability on the part of Defendant
11 or of the truth of any of the factual allegations in the Complaint in the Action; and are not, shall
12 not be deemed to be, and may not be used as, an admission or evidence of any fault or omission
13 on the part of Defendant in any civil, criminal or administrative proceeding in any court,
14 administrative agency or other tribunal.

15 **5. Non-Evidentiary Use.** Neither this Agreement nor any of its terms, nor any
16 statements or conduct in the negotiation or drafting of it, shall be offered or used as evidence by
17 Plaintiff, any Class Member (including any individual who requested to be excluded from the
18 Class), Defendant, or its, her, his, or their respective counsel, in the Action, except as is
19 reasonably necessary to effectuate the Agreement's purpose and terms. This Agreement may be
20 used by Defendant and the Released Parties to prove or defend against any claim released herein
21 by any Class Member in any judicial, quasi-judicial, administrative, or governmental proceeding.

22 **6. Media or Press.** Plaintiff and Defendant, and their respective counsel, recognize,
23 and accept that the Parties to this Stipulation desire that the terms of this Stipulation, the fact of
24 the Class Settlement embodied in this Stipulation, the disposition of the Action, the Action, and
25 all matters relating to the litigation of the Action, including discovery proceedings therein, and
26 evidence obtained during the course of the Action, shall not be discussed with or presented to the
27 media or press.
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1 7. **Non-Retaliation.** Defendant understands and acknowledge that it has a legal
2 obligation not to retaliate against any Settlement Class Member who elects to participate in the
3 Class Settlement or elects to Opt-Out of the Class Settlement. Defendant will refer any inquiries
4 regarding this Class Settlement to the Settlement Administrator or Class Counsel and will not
5 discourage Settlement Class Members who are employees, directly or indirectly, from
6 participating, opting out or objecting to the Class Settlement. None of the Parties, or their
7 respective attorneys or agents, shall solicit or encourage any Settlement Class Members, directly
8 or indirectly, to opt out of the Class Settlement.

9 8. **Construction.** The Parties hereto agree that the terms and conditions of this
10 Stipulation are the result of lengthy, intensive, arms-length non-collusive negotiations between
11 the Parties and that this Stipulation is not to be construed in favor of or against any party by
12 reason of the extent to which any party or its counsel participated in the drafting of this
13 Stipulation. If any of the dates in the Stipulation fall on a weekend, bank or court holiday, the
14 time to act shall be extended to the next business day.

15 9. **Governing Law.** This Stipulation is intended to and shall be governed by the laws
16 of the State of California, without regard to conflict of law principles, in all respects, including
17 execution, interpretation, performance, and enforcement.

18 10. **Notices.** Except for Settlement Class Member notices required to be made by the
19 Settlement Administrator, any and all notices or other communications required or permitted
20 under this Stipulation shall be in writing and shall be sufficiently given if delivered in person to
21 the party or their counsel by U.S. certified mail, postage prepaid, e-mail, facsimile, or overnight
22 delivery addressed to the address of the party appearing in this Stipulation.

23 11. **Captions and Interpretations.** Section titles or captions contained herein are
24 inserted as a matter of convenience and for reference only and in no way define, limit, extend, or
25 describe the scope of this Stipulation or any provision thereof.

26 12. **Modification.** This Stipulation may not be changed, altered, or modified, except in
27 writing signed by the Parties and approved by the Court. This Stipulation may not be discharged
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1 except by performance in accordance with its terms or by a writing signed by the Parties.

2 **13. Integration Clause.** This Stipulation contains the entire agreement between the
3 Parties relating to the Class Settlement of the Action and the transactions contemplated thereby,
4 and all prior or contemporaneous agreements, understandings, representations, and statements,
5 whether oral or written, and whether by a party or such party's legal counsel, are hereby
6 superseded. No rights under this Stipulation may be waived except in writing as provided above.

7 **14. Successors and Assigns.** This Stipulation shall be binding upon and inure to the
8 benefit of the Parties and Settlement Class Members (excluding only persons who timely Opt-
9 Out) and their respective present and former heirs, trustees, executors, administrators,
10 representatives, officers, directors, shareholders, agents, employees, insurers, attorneys,
11 accountants, auditors, advisors, consultants, pension and welfare benefit plans, fiduciaries, parent
12 companies, subsidiaries, affiliates, related companies, joint ventures, predecessors, successors,
13 and assigns.

14 **15. Corporate Signatories.** Any person executing this Stipulation or any such related
15 document on behalf of a corporate signatory or on behalf of a partnership hereby warrants and
16 promises, for the benefit of all Parties hereto, that such person has been duly authorized by such
17 corporation or partnership to execute this Stipulation or any such related document.

18 **16. Execution in Counterparts.** This Stipulation shall become effective upon its
19 execution by all of the undersigned. The Parties may execute this Stipulation in counterparts, and
20 execution of counterparts shall have the same force and effect as if all Settling Parties had signed
21 the same instrument.

22 **17. Attorney Fees, Costs and Expenses.** Except as otherwise specifically provided
23 for herein, each party shall bear his, her, or its own attorney fees, costs and expenses, taxable or
24 otherwise, incurred by them in or arising out of the Action and shall not seek reimbursement
25 thereof from any other party to this Stipulation.

26 **18. Action to Enforce Agreement.** In any suit or court action to enforce the terms of
27 this Agreement, the prevailing party shall be entitled to recover his, her, or its attorney fees and
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costs.

IN WITNESS WHEREOF, the Parties and their counsel have executed this Stipulation on the date below their signatures or the signature of their representatives. The date of the Stipulation shall be the date of the latest signature.

Maria Becerra

Maria a Becerra

Dated: 04 / 07 / 2022

Sunridge Nurseries, Inc.

Printed: _____

Title: _____

Dated: _____


1 costs.

2 **IN WITNESS WHEREOF**, the Parties and their counsel have executed this Stipulation
3 on the date below their signatures or the signature of their representatives. The date of the
4 Stipulation shall be the date of the latest signature.
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10 **Maria Becerra**

Sunridge Nurseries, Inc.

11 _____
12 Dated: _____


13 Printed: RICK BUENES
14 Title: PRESIDENT
15 Dated: 4/11/22