

1 Kevin Mahoney (SBN: 235367)
kmahoney@mahoney-law.net
2 Berkeh Alemzadeh (SBN: 299809)
balem@mahoney-law.net
3 **MAHONEY LAW GROUP, APC**
249 East Ocean Boulevard, Suite 814
4 Long Beach, CA 90802
5 Telephone: (562) 590-5550
Facsimile: (562) 590-8400

6 Attorneys for Plaintiff VICTOR LOPEZ, as an individual and on behalf of all employees
7 similarly situated,

8 Terry A. Wills, ESQ. (SBN 133962)
twills@cookbrown.com
9 **COOK BROWN, LLP**
2407 J Street, Second Floor
10 Sacramento, California 95816
11 Telephone (916) 442-3100
12 Facsimile (916) 442-4227

13 Attorneys for Defendant VALLEY CUSTOM HARVESTING, LLC

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **FOR THE COUNTY OF SUTTER**

17 VICTOR LOPEZ, on behalf of himself and
18 all others similarly situated,

19 Plaintiff,

20 v.

22 VALLEY CUSTOM HARVESTING LLC,
23 a California corporation; and DOES 1
through 50, inclusive,

24 Defendant.
25
26
27
28

Case No. CVCS20-0001035

CLASS ACTION

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

Complaint Filed: July 1, 2020
Trial Date: None Yet Set

STIPULATION OF CLASS AND PAGA ACTION SETTLEMENT AND RELEASE

IT IS HEREBY STIPULATED, by and among Plaintiff VICTOR LOPEZ, on behalf of themselves and the Class Members on the one hand, and Defendant VALLEY CUSTOM HARVESTING LLC on the other hand, and subject to the approval of the Court, that the above-captioned action is hereby being compromised and settled pursuant to the terms and conditions set forth in this Joint Stipulation of Class Action Settlement and Release (the “Settlement” or “Agreement”).

1. DEFINITIONS

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

1.1. “Action” shall mean the lawsuit entitled VICTOR LOPEZ v. VALLEY CUSTOM HARVESTING LLC; and DOES 1 through 50, pending in the Superior Court of the State of California, County of Sutter, and designated as Case No. CVCS20-0001035.

1.2. “Settlement Administrator” means Phoenix Settlement Administrators.

1.3. “Settlement Administration Costs” means the amount to be paid to the third-party Settlement Administrator to administer the Settlement, not to exceed Ten Thousand Dollars (\$10,000.00).

1.4. “Class Counsel” means Kevin Mahoney, and Berkeh Alemzadeh of the Mahoney Law Group.

1.5. “Class Counsel Award” means reasonable attorneys’ fees for Class Counsel’s litigation and resolution of this Action in a maximum amount of fifty thousand dollars (\$50,000.00) or 1/3rd of the Gross Settlement Amount of one hundred fifty thousand dollars (\$150,000.00). The Court shall determine the amount of the Class Counsel Award, and it shall be paid from the Gross Settlement Amount.

1.6. “Class Counsel Costs” means expenses incurred by Class Counsel for Class Counsel’s litigation and resolution of this Action, not to exceed ten thousand dollars (\$10,000.00). The Court shall determine the amount of the Class Counsel Costs, and it shall be paid from the Gross Settlement Amount.

1 1.7. “Class Information” means information regarding Class Members that Defendant
2 VALLEY CUSTOM HARVESTING LLC will in good faith compile from its records and provide
3 to the Settlement Administrator. Class Information shall be provided as a Microsoft Excel
4 spreadsheet and shall include: each Class Member’s full name; last known address; last four (4)
5 digits of social security number; employee identification number; dates of employment; and the
6 total number of workweeks each Class Member worked during the Class Period and PAGA Period
7 (if applicable).

8 1.8. “Class Period” means the period from July 1, 2016, through and including date of
9 preliminary approval.

10 1.9. “Class Member(s)” or “Settlement Class” means all current and former non-
11 exempt employees who worked for Defendant within the State of California as members of non-
12 exempt hourly employee at any time from July 1, 2016, through and including date of preliminary
13 approval.

14 1.10. “Class Representative Enhancement Award” means the amount that the Court
15 authorizes to be paid to the Class Representative Victor Lopez not to exceed seven thousand five
16 hundred dollars (\$7,500.00), in addition to their Individual Settlement Payment, for their service
17 in connection with being Class Representatives. The Class Representative Enhancement Award
18 shall be paid from the Gross Settlement Amount. Any portion of the requested Class
19 Representative Enhancement Award that is not awarded to Plaintiff shall be part of the Net
20 Settlement Amount.

21 1.11. “Court” means the Superior Court of the State of California for the County of
22 Sutter.

23 1.12. “Defendant” means Valley Custom Harvesting LLC.

24 1.13. “Defense Counsel” means Terry Wills of Cook|Brown, LLP.

25 1.14. “Effective Date” means the date when all of the following events have occurred: (i)
26 the Stipulation of Settlement has been executed by all Parties; (ii) Plaintiff Victor Lopez has
27 obtained Court approval of the action; (3)(i) the Court has given preliminary approval to the
28 Stipulation of Settlement; (ii) the Notice of Class Action Settlement has been given to the putative

1 members of the Settlement Class, providing them with an opportunity to object to the terms of this
2 Stipulation of Settlement or opt out of the settlement; (iii) the Court has held a Final Approval
3 Hearing and entered a final Order and Judgment certifying the Settlement Class, and approving the
4 Stipulation of Settlement; and (vi) twenty (20) calendar days have passed since the Court has
5 entered a final Order and Judgment certifying the Settlement Class, entering Judgment in the
6 Action, and approving the Stipulation of Settlement and no appeal is pending.

7 1.15. "Employee Taxes" means the employee's share of any and all applicable federal,
8 state, and local payroll taxes on the portion of Participating Class Members' Individual Settlement
9 Payment that constitutes wages. The Employee Taxes will be paid out of the Net Settlement
10 Amount.

11 1.16. "Employer Taxes" means the employer's share of any and all applicable federal,
12 state, and local payroll taxes on the portion of Participating Class Members' Individual
13 Settlement Payment that constitutes wages. The Employer Taxes will be paid separately by the
14 Defendant and shall not be paid out of the Gross Settlement Amount.

15 1.17. "Final Approval Hearing" means the hearing held by the Court, pursuant to class
16 action procedures and requirements, on the motion for final approval of the Settlement.

17 1.18. "Final Approval Date" means the date that the Court grants final approval of the
18 Settlement.

19 1.19. "Final Judgment" means the Court's entry of an order of judgment in this Action
20 following the Court's final approval of the Settlement.

21 ///
22 ///
23 ///
24 ///
25 ///
26 ///
27 ///
28 ///

1 1.20. “Gross Settlement Amount” means the maximum amount Defendant shall have to
2 pay in connection with this Settlement, by way of a common fund, which shall be inclusive of
3 all Individual Settlement Payments to Participating Class Members, Class Counsel Award, Class
4 Counsel Costs, Settlement Administrator Costs, Class Representative Enhancement Award,
5 Employee Taxes, and PAGA Allocation. Subject to Court approval and the terms of this
6 Settlement, the Gross Settlement Amount Defendant shall be required to pay is one hundred fifty
7 thousand dollars (\$150,000.00). No portion of the Gross Settlement Amount will revert to
8 Defendant, and the Settlement does not require Participating Class Members to submit claims as
9 a prerequisite to receiving their Individual Settlement Payment.

10 1.21. “Individual Settlement Payment” means the amount payable to each Participating
11 Class Member, as calculated pursuant to Paragraph 3.21 of the Settlement, from the Net
12 Settlement Amount. Checks for Individual Settlement Payments will specifically indicate that
13 they are void if not negotiated within one hundred eight (180) days of their issuance.

14 1.22. “LWDA PAGA Allocation” means three thousand seven hundred fifty dollars
15 (\$3,750.00), representing seventy-five percent (75%) of the PAGA Allocation, and is the amount
16 payable from the Gross Settlement Amount to California’s Labor Workforce Development
17 Agency.

18 1.23. “Net Settlement Amount” means the Gross Settlement Amount, less (i) the Class
19 Representative Enhancement Award approved by the Court (not to exceed seven thousand five
20 hundred dollars (\$7,500.00)); (ii) the Class Counsel Award approved by the Court (not to exceed
21 fifty thousand dollars (\$50,000.00)); (iii) the Class Counsel Costs approved by the Court (not to
22 exceed ten thousand dollars (\$10,000.00)) (iv) the LWDA PAGA Allocation approved by the
23 Court (three thousand seven hundred fifty dollars (\$3,750.00)); (v) the Class Administrator Costs
24 approved by the Court (not to exceed \$10,000.00)), (vi) any other fees or expenses (other than the
25 Class Counsel Award and Class Counsel Costs) incurred by implementing the terms and
26 conditions of this Agreement as approved by the Court.

27 ///

28 ///

1 1.24. “Non-Participating Class Member” shall mean a Class Member who submits a
2 complete, valid, and timely request to be excluded from the Settlement pursuant to the instructions
3 provided in the Class Notice and/or who has signed a release with Defendant to resolve any claims
4 as alleged in the Action.

5 1.25. “Notice of Objection” means a written statement of objection to the Settlement
6 made and signed by a Class Member and/or his or her authorized representative and includes the
7 following: (1) the full name of the Class Member; (2) the dates of employment of the Class
8 Member if possible; (3) the last four (4) digits of the Class Member’s Social Security number
9 and/or the Employee ID number; (4) the basis for the objection; and, (5) whether the Class
10 Member intends to appear at the Final Approval Hearing.

11 1.26. “Notice of Settlement” means the Notice of Class Action Settlement (substantially
12 in the form attached hereto as **Exhibit “A”**).

13 1.27. “Notice Packet” means the Notice of Class Action Settlement, Notice of Estimated
14 Individual Settlement Payment, and the Request for Exclusion.

15 1.28. “PAGA Allocation” means five thousand dollars (\$5,000.00), allocated from the
16 Gross Settlement Amount for the compromise of claims for civil penalties brought under the
17 Labor Code Private Attorneys General Act of 2004 (“PAGA”). Per California Labor Code section
18 2699(i), three thousand seven hundred fifty dollars (\$3,750.00), representing seventy five percent
19 (75%) of the PAGA Allocation, will be paid to California’s Labor Workforce Development
20 Agency. The remaining one thousand two hundred fifty dollars (\$1,250.00), representing twenty
21 five percent (25%) of the PAGA Allocation, shall be part of the Net Settlement Amount to be
22 distributed to PAGA Members.

23 1.29. “PAGA Members” means all current and former non-exempt employees who
24 worked for Defendant within the State of California as non-exempt hourly employees at any time
25 during the PAGA period, which is defined as September 29, 2019, through and including date of
26 preliminary approval.

27 1.30. “PAGA Period” means the period from September 29, 2019, through and
28 including date of preliminary approval.

1 1.31. “Participating Class Members” means all Class Members who do not submit a
2 valid and timely Request for Exclusion and/or who has not signed a release with Defendant to
3 resolve any claims as alleged in the Action.

4 1.32. “Parties” means Plaintiff and Defendant collectively, and “Party” shall mean any
5 Plaintiff or any Defendant, individually.

6 1.33. “Plaintiff” means Victor Lopez.

7 1.34. “Plaintiff’s General Released Claims” means, in addition to the releases made by
8 Participating Class Members, Plaintiff, on behalf of himself, his heirs, successors, assigns,
9 executors, trustees, and estates, in exchange for the terms and conditions of this Agreement,
10 including the Class Representative Enhancement Award requested or as otherwise authorized by
11 the Court, shall also, as of the Effective Date, fully and forever release the Released Parties, to
12 the fullest extent permitted by law, of and from any and all claims arising from his employment
13 with Defendant, known and unknown, asserted and unasserted, which Plaintiff had or may have
14 had against the Released Parties, including without limitation the Released Claims, whether
15 sounding in tort, in contract, in law, in equity or otherwise, and including but not limited to all
16 claims for violation of any local, state, or federal statute, rule, or regulation.

17 1.35. “Preliminary Approval Date” means the date the Court enters the Preliminary
18 Approval Order for the Settlement.

19 1.36. “Preliminary Approval Order” means the Proposed Order (filed concurrently with
20 this Settlement) for preliminary approval of the Settlement, as amended by the Court.

21 1.37. “Released Class Claims” means all claims both potential and actual that were or
22 may have been raised in the First Amended Complaint or that are reasonably related to the
23 allegations in the First Amended Complaint as to all Class Members, including claims under
24 Labor Code section 201, 202, 203, 204, 218.5, 226, 226.3, 226.7, 226.8, 510, 512, 520, 1021.5,
25 1174, 1174.5, 1175, 1194, 1197, 1198, 2802, 2698, 2699, 2699.3, 2699.5, California Industrial
26 Welfare Commission Wage Orders, Cal. Code Regs., tit. 8, section 11040, et seq., California
27 Business and Professions Code section 17200, et seq, and all class claims, representative
28 claims, aggrieved employee claims, meal or rest periods, meal or rest period premiums, unpaid

1 wages, overtime, minimum wages, and complete payments of wages at separation, termination
2 or lay-off, failure to provide accurate and itemized wage statements, failure to reimburse for
3 expenses, unfair competition based on the foregoing, unfair business practices based on the
4 foregoing, unlawful business practices based on the foregoing, fraudulent business practices
5 based on the foregoing, or that were or may have been raised in the First Amended Complaint
6 or that are reasonably related to the allegations in the First Amended Complaint.

7 1.38. “Released PAGA Claims” means any and all known and unknown claims, debts,
8 liabilities, demands, obligations, guarantees, costs, expenses, attorneys’ fees, damages, action or
9 causes of action contingent or accrued for, arising out of the allegations and claims asserted in
10 the operative Complaint and the Plaintiffs’ letter to the LWDA.

11 1.39. “Released Parties” means Defendant Valley Custom Harvest, LLC (ii)
12 Defendant's past, present and future parents, subsidiaries and including, without limitation any
13 corporation, limited liability company, partnership, trust, foundation and non-profit entity which
14 controls, is controlled by, or is under common control with Defendant; (iii) the past, present, and
15 future owners, partners, directors, officers, agents, consultants, representatives, administrators,
16 fiduciaries, benefit plans, transferees, predecessors, successors and assigns of any of the
17 foregoing; and (iv) any individual or entity which could be jointly liable with any of the
18 foregoing.

19 1.40. “Request for Exclusion” means a Class Member’s completed request for exclusion
20 form to opt out of the Settlement in the format substantially similar to that attached hereto as
21 **Exhibit B.**

22 1.41. “Response Deadline” means the date sixty (60) days after the Settlement
23 Administrator mails Notice Packets to Class Members and shall be the last date on which Class
24 Members may: (a) postmark a Request for Exclusion from the Settlement, or (b) postmark a
25 Notice of Objection to the Settlement.

26 1.42. “Settlement” or “Agreement” means the terms of this Stipulation of Class Action
27 Settlement and Release.

28 1.43. “Workweeks” means the number of workweeks worked by each Class Member

1 for Defendant as an hourly paid employee during the Class Period. The Settlement Administrator
2 will calculate the number of Workweeks by calculating the number of days each Class Member
3 was employed during the applicable Class Period and dividing by seven (7), using the dates of
4 employment identified for each Class Member in the applicable Class Lists provided by
5 Defendant. All Class Members will be entitled to payment for at least one Workweek.

6 1.44. “Workweek Dispute” means a written statement that a Class Member disputes the
7 number of Workweeks listed on his/her Settlement Notice. Any such Workweek Dispute must
8 be faxed or mailed to the Settlement Administrator by the Response Deadline. The date of the fax
9 or postmark on the mailing envelope will be the exclusive means to determine whether a Workweek
10 Dispute has been timely submitted. A valid Workweek Dispute must be in writing and should
11 contain: (i) the Class Member’s full name, signature, address, telephone number, and the last four
12 digits of his/her Social Security number; (ii) the number of Workweeks the Class Member contends
13 is correct; and (iii) any evidence supporting his/her contention. The dates of employment identified
14 for each Class Member in the applicable Class List will be presumed to be correct unless a particular
15 Class Member proves otherwise to the Settlement Administrator by credible evidence. All
16 Workweek Disputes will be resolved and decided by the Settlement Administrator, however, should
17 the Class Member continue to dispute, the Parties will alert the Court and the Class Member shall be
18 able to bring his or her dispute before the Court.

19 1.45. “Workweek Value” means the value of each compensable Workweek, as
20 determined by the formula set forth herein.

21 **2. RECITALS**

22 2.1. Class Certification. The Parties stipulate and agree to the certification of this
23 Action for purposes of this Settlement only. Should the Settlement not become final and effective,
24 class certification shall immediately be set aside (subject to further proceedings on motion of any
25 party to certify or deny certification thereafter), the Settlement shall be deemed null and void, and
26 will be of no force or effect whatsoever, and will not be referred to or utilized for any purpose
27 whatsoever. The Parties’ willingness to stipulate to class certification as part of the Settlement
28 shall have no bearing on and shall not be admissible in or considered in connection with, the issue

1 of whether a class should be certified in a non-settlement context in this Action and shall have no
2 bearing on and shall not be admissible or considered in connection with the issue of whether a
3 class should be certified in any other lawsuit.

4 2.2. Procedural History.

5 On July 1, 202, Plaintiff Victor Lopez filed a class action complaint against Defendant
6 alleging: (1) failure to pay all wages, including minimum wage and overtime; (2) failure to
7 provide meal periods; (3) failure to provide rest periods; (4) failure to reimburse; (5) failure to
8 keep accurate and itemized wage statements, (6) failure to pay wages upon termination of
9 employment; and (7) violation of Business and Professions Code section 17200 et seq. Plaintiff
10 Victor Lopez’s complaint is made on behalf of himself and all non-exempt, hourly-paid
11 employees currently and/or formerly employed by Defendant, in the State of California during
12 the Class Period. On July 24, 2020, Plaintiff Victor Lopez sent a letter to the Labor Workforce
13 and Development Agency (“LWDA”) notifying them of his intent to file a lawsuit on behalf of
14 himself and all aggrieved employees. On September 29, 2020, Plaintiff Victor Lopez filed an
15 amended complaint adding a cause of action against Defendant alleging violations of the Private
16 Attorneys General Act (“PAGA”) - Labor Code section 2698, etc.

17 Settlement Negotiations. On December 8, 2021, the Parties participated in a private
18 mediation session with Russ Wunderli, a well-respected, experienced mediator in the field of
19 wage and hour class actions. Prior to the mediation, Class Counsel conducted formal and informal
20 discovery and investigation during the prosecution of the Action. The discovery and investigation
21 included, among other things: (1) inspection and analysis of employee documents and data,
22 including personnel files, , time and payroll records, employment policies and procedures, and
23 other relevant documents; (2) evaluation of legal positions taken by Defendant; (3) evaluation of
24 potential class-wide damages and PAGA penalties; and (4) review and research of applicable law
25 with respect to the claims and potential defenses brought by Defendant. Class Counsel has
26 prosecuted this Class Action, and Defendant has vigorously denied Plaintiff’s allegations. The
27 Parties have engaged in sufficient discovery and investigation to assess the relative merits of the
28 claims and contentions of the Parties. Based on this information and the settlement discussions

1 during the mediation conducted at arm's length, the Parties came to an agreement on December
2 8, 2021. The Settlement is the result of an informed and detailed evaluation of the potential
3 liability of total exposure in relation to the costs and risks associated with continued litigation of
4 the Action.

5 2.3. Benefits of Settlement to Class Members. Plaintiff and Class Counsel recognize
6 the length of continued proceedings necessary to litigate their disputes through certification, trial,
7 and any possible appeal. Plaintiff and Class Counsel have also taken into account the uncertainty
8 and risk of the outcome of further litigation, the difficulties and delays inherent in such litigation,
9 including, but not limited to, the risks related to a contested motion for class certification and the
10 risks related to liability raised by the issues in this case. Plaintiff and Class Counsel are also
11 aware of the burdens of proof necessary to establish liability for the claims asserted in the Action
12 and the difficulties in establishing damages for the Class Members. Plaintiff and Class Counsel
13 have also taken into account Defendant's agreement to enter into a settlement that confers
14 substantial relief upon Class Members. Based on the foregoing, Plaintiff and Class Counsel have
15 determined that this Settlement is a fair, adequate, and reasonable, and is in the best interests of
16 the Class Members.

17 2.4. Defendant's Denial of Wrongdoing and Liability and Reasons for Settlement.
18 Defendant contends that the Class Members were properly and timely paid all wages owed,
19 including, but not limited to, all straight time, overtime, double-time, were properly reimbursed
20 for necessary business expenses, were provided any meal or rest periods required under California
21 law, provided accurate itemized wage statements, and paid all wages at the time of separation.
22 However, Defendant has concluded that any further defense of this litigation would be protracted
23 and expensive for all Parties. Substantial amounts of time, energy and resources of Defendant
24 have been and, unless this Settlement is made, will continue to be devoted to the defense of the
25 claims asserted by Plaintiffs and Class Members. Defendant has also taken into account the risks
26 of further litigation in reaching their decision to enter into this Settlement. Defendant has
27 concluded that further proceedings in the Action would be protracted and expensive and that it is
28 desirable that the Action be fully and finally settled in the manner and upon the terms and

1 conditions set forth in this Settlement in order to dispose of burdensome and protracted litigation,
2 to permit the operation of Defendant's business without further expensive litigation and the
3 distraction and diversion of its personnel with respect to matters at issue in the Action. Defendant
4 has also taken into account the uncertainty and risks inherent in any litigation, especially in
5 complex cases such as this Action. Defendant has therefore determined that it is desirable and
6 beneficial to them that the Action be settled in the manner and upon the terms and conditions set
7 forth in this Settlement.

8 2.5. No Admissions. The Parties understand and agree that this Settlement is the result
9 of a good faith compromise of disputed claims and allegations, and Defendant is entering into this
10 Settlement solely to resolve doubtful and disputed matters. No part of this Settlement or any
11 conduct or written or oral statements made in connection with this Settlement, whether or not the
12 Settlement is finally approved and/or consummated, may be offered as or construed to be an
13 admission or concession of any kind by any of the Parties. In particular, but without limiting the
14 generality of the foregoing, nothing about this Settlement shall be offered or construed as an
15 admission that Defendant violated any of their obligations under the California Labor Code, or of
16 liability in general, or any wrongdoing, impropriety, responsibility, or fault whatsoever on the
17 part of Defendant and/or Released Parties. In addition, this Settlement shall not be offered or be
18 admissible in evidence against any of the Parties or any of the Released Parties, except in any
19 action or proceeding brought by or against Plaintiff, the Class Members, or Defendant to enforce
20 its terms. The provision of this paragraph shall become effective when this Settlement is signed
21 and shall be binding on the Parties and their counsel regardless of whether the Settlement is
22 preliminarily and/or finally approved or terminated for any reason, or rendered null and void.

23 2.6. Class Members' Claims. Plaintiff claims that the Released Claims have merit and
24 give rise to liability on the part of Defendant. This Settlement is a compromise of disputed claims.
25 Nothing contained in this Settlement and no documents referred to herein, nor any action taken
26 to carry out this Settlement may be construed or used as an admission by or against the Class
27 Members or Class Counsel as to the merits or lack thereof of the claims asserted.

28 2.7. Defendant's Defenses. Defendant has denied and continue to deny each and all of

1 the allegations, claims, and contentions alleged by Plaintiffs in the Action. Defendant has
2 expressly denied and continue to deny all charges of wrongdoing or liability against each of them
3 arising out of any of the conduct, statements, acts, or omissions alleged in the Action. Defendant
4 contends that it complied in good faith with California and federal wage-and-hour laws and has
5 dealt legally and fairly with Plaintiff and Class Members and PAGA Members. Defendant further
6 denied that, for any purpose other than settling the Action, these claims are appropriate for class
7 or representative treatment.

8 2.8. Gross Amount Payable by Defendant. Under the terms of this Settlement, the
9 gross amount payable by Defendant shall not exceed the Gross Settlement Amount of one hundred
10 fifty thousand dollars (\$150,000.00) as provided by this Agreement, exclusive of the employer's
11 normal share of any payroll taxes attributable to the Individual Settlement Payments allocated to
12 wages. Defendant shall pay the employer's share of taxes separate and apart from the Gross
13 Settlement Amount.

14 **3. TERMS OF SETTLEMENT**

15 The Parties agree as follows:

16 3.1. Binding Settlement. This Settlement shall bind the Parties and all Participating
17 Class Members, subject to the terms and conditions hereof and the Court's approval.

18 3.2. Release as to Plaintiffs and All Class Members.

19 3.2.1. Release as to All Class Members. As of the Effective Date, all Class
20 Members, including Plaintiff, who do not opt out of the Class Settlement, will be deemed to have
21 fully, finally and forever released, settled, compromised, relinquished, and discharged the
22 Released Parties from the Released Class Claims for the period of July 1, 2016, through and
23 including date of preliminary approval. Class Members, including Plaintiff, who do not opt out
24 of the Settlement will be deemed to have released any further attempt, by lawsuit, administrative
25 claim or action, arbitration, demand, or other action of any kind by each and all of the Class
26 Members (including participation to any extent in any class or collective action), to obtain
27 recovery against the Defendant that are reasonably related to the Released Claims for harms
28

1 arising during the Class Period.

2 3.2.2. Release as to Plaintiff. As of the Effective Date, Plaintiff will be
3 deemed to have fully, finally, and forever released, settled, compromised, relinquished, and
4 discharged any and all of Plaintiff’s General Released Claims against the Released Parties. With
5 respect to the Plaintiff’s General Released Claims only, Plaintiff shall be deemed to have, and by
6 operation of the Final Judgment shall have, expressly waived and relinquished, to the fullest
7 extent permitted by law, the provisions, rights, and benefits of section 1542 of the California Civil
8 Code, or any other similar provision under federal or state law, which section provides:

9 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE**
10 **CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT**
11 **TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE**
12 **RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE**
13 **MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE**
14 **DEBTOR OR RELEASED PARTY.**

15
16 Plaintiff may hereafter discover facts in addition to or different from those they now know
17 or believe to be true with respect to the subject matter of the Plaintiff’s General Released Claims,
18 but upon the Effective Date, shall be deemed to have, and by operation of the Final Judgment
19 shall have, fully, finally, and forever settled and released any and all of the Plaintiffs’ General
20 Released Claims, whether known or unknown, suspected or unsuspected, contingent or non-
21 contingent, which now exist, or heretofore have existed, upon any theory of law or equity now
22 existing or coming into existence in the future, including, but not limited to, conduct that is
23 negligent, intentional, with or without malice or a breach of any duty, law or rule, without regard
24 to the subsequent discovery or existence of such different or additional facts. Plaintiffs agree not
25 to sue or otherwise make a claim against any of the Released Parties for Plaintiffs’ General
26 Released Claims.

27 ///

28 ///

1 3.3. Release as to Defendant: Except as otherwise provided in this paragraph,
2 Defendant and Released Parties in consideration of the promises, assurances, and covenants set
3 forth in this Agreement, hereby fully release the Plaintiff and Plaintiff's heirs, agents,
4 representatives, assigns, executors, and/or anyone on Plaintiff's behalf from all claims or causes
5 of action by reason of any injuries and/or damages or losses, known or unknown, foreseen or
6 unforeseen, patent or latent, which the Released Parties have sustained or which may be sustained
7 as a result of any facts and circumstances arising out of or in any way related to this Action or
8 Plaintiffs' employment with the Defendant.

9 3.4. Tax Liability. The Parties understand and agree that the Parties are not providing
10 tax or legal advice. Class Members will remain responsible for any Employee Taxes. Class
11 Members will assume any employee tax obligations or consequences that may arise from this
12 Settlement and should consult with a tax expert if they have questions. Individual Settlement
13 Payments will be allocated as follows: fifteen percent (15%) as wages (a W-2 will be issued) and
14 eighty-five percent (85%) as interest and penalties (a 1099 will be issued). Any required payroll
15 deductions will be based on this apportionment. The Parties agree that, in the event that any taxing
16 body determines that additional employee taxes are due from any Class Member, such Class
17 Member assumes all responsibility for the payment of such taxes.

18 3.5. Circular 230 Disclaimer. The Parties acknowledge and agree that (1) no provision
19 of this Settlement, and no written communication or disclosure between or among the Parties,
20 Class Counsel or Defense Counsel and other advisers, is or was intended to be, nor shall any such
21 communication or disclosure constitute or be construed or be relied upon as, tax advice within
22 the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended);
23 (2) the acknowledging party (a) has relied exclusively upon his, her, or its own, independent legal
24 and tax counsel for advice (including tax advice) in connection with this Settlement, (b) has not
25 entered into this Settlement based upon the recommendation of any other party or any attorney or
26 advisor to any other party, and (c) is not entitled to rely upon any communication or disclosure
27 by any attorney or adviser to any other party to avoid any tax penalty that may be imposed on the
28 acknowledging party; and (3) no attorney or adviser to any other party has imposed any limitation

1 that protects the confidentiality of any such attorney's or adviser's tax strategies (regardless of
2 whether such limitation is legally binding) upon disclosure by the acknowledging party of the tax
3 treatment or tax structure of any transaction, including any transaction contemplated by this
4 Settlement.

5 3.6. Settlement Approval and Implementation Procedures. As part of this Settlement,
6 the Parties agree to the following procedures for obtaining the Court's preliminary approval of
7 the Settlement, certifying the Settlement Class, notifying Class Members of the Settlement,
8 obtaining the Court's final approval of the Settlement, and processing the Individual Settlement
9 Payments.

10 3.7. Preliminary Approval and Certification. As soon as practicable after execution of
11 this Settlement, but no later than forty-five (45) days thereafter, the Parties will jointly submit this
12 Settlement to the Court for its preliminary approval. Such submission will include this
13 Settlement, the proposed Notice Packet, the proposed Preliminary Approval Order, and any
14 memoranda and evidence as may be necessary for the Court to determine that this Settlement is
15 fair, adequate, and reasonable. The Parties agree to request the Court to enter an order
16 conditionally certifying the Settlement Class after the preliminary approval hearing, in
17 accordance with California Rules of Court, Rule 3.769(c).

18 3.8. Class Information. No more than twenty (20) calendar days after the entry of the
19 Preliminary Approval Order, Defendant shall provide the Settlement Administrator with the Class
20 Information for purposes of mailing Notice Packets to Class Members, including: 1. Class
21 Member's full name; 2. Class Member's last known address; 3. Class Member's last four digits
22 of their social security number; 4. Class Member's employee identification number; 5. Class
23 Member's total number of workweeks in the Class Period based on Defendant's payroll records;
24 and 6. Class Member's total number of workweeks in the PAGA Period based on the Defendant's
25 payroll records. The Settlement Administrator shall use commercially reasonable efforts to
26 secure the data provided by Defendant at all times so as to avoid inadvertent or unauthorized
27 disclosure or use of such data other than as permitted by the Settlement. The Settlement
28 Administrator shall ensure that the Class Notice and any other communications to Class Members

1 shall not include the Class Members' social security number, except for the last four (4) digits, if
2 necessary.

3 3.9. Notice by First Class U.S. Mail. Upon receipt of the Class Information, the
4 Settlement Administrator will perform a search on the National Change of Address database to
5 update the Class Members' addresses. No more than ten (10) calendar days after receiving the
6 Class Information from Defendant, as provided herein, the Settlement Administrator shall mail
7 copies of the Notice Packet to all Class Members by regular First-Class U.S. Mail. The Settlement
8 Administrator shall exercise its best judgment to determine the current mailing address for each
9 Class Member. The address identified by the Settlement Administrator as the current mailing
10 address shall be presumed to be the best mailing address for each Class Member.

11 3.10. Undeliverable Notices. Any Notice Packets returned to the Settlement
12 Administrator as undeliverable on or before the sixty (60) day Response Deadline shall be re-
13 mailed to the forwarding address affixed thereto.

14 3.11. For each Class Member whose Notice Packet is returned, there will be one (1) skip
15 trace performed by the Settlement Administrator. If an updated mailing address is identified, the
16 Settlement Administrator shall resend the Notice Packet to the Class Member. One (1)
17 supplemental Notice Packet shall be mailed to each Class Member whose original Notice Packet
18 is returned as undeliverable to the Settlement Administrator. Such re-mailing shall be made within
19 five (5) business days of the Settlement Administrator receiving notice that the respective Notice
20 Packet was undeliverable. Any requests by the Settlement Administrator for documents or
21 information from Defendant must be responded to within a reasonable amount of time by counsel
22 for Defendant. It is the intent of the Parties that reasonable means be used to locate the Class
23 Members and apprise them of their rights.

24 3.12. Class Members to whom Notice Packets are resent after having been returned
25 undeliverable to the Settlement Administrator, during the entire period before the Response
26 Deadline, shall have an additional fourteen (14) calendar days from the date of re-mailing, or until
27 the sixty (60) day period before the Response Deadline has expired, whichever is later, to mail a
28 completed Request for Exclusion or a Notice of Objection. Notice Packets that are resent shall

1 inform the Class Member of this adjusted deadline. The date of the postmark on the return
2 envelope shall be the exclusive means used to determine whether a Class Member has returned
3 his or her Request for Exclusion on or before the adjusted deadline. If a Class Member's Notice
4 Packet is returned to the Settlement Administrator more than once as undeliverable, then an
5 additional Notice Packet shall not be re-mailed. Nothing further shall be required of, or done by,
6 the Parties, Class Counsel, or Defendant's Counsel to provide notice of the proposed Settlement.

7 3.13. Compliance with the procedures specified in paragraphs 3.9-3.12 of this
8 Settlement shall constitute due and sufficient notice to Class Members of this Settlement and shall
9 satisfy the requirement of due process. In the event the procedures set forth herein are followed
10 and the intended Class Member still does not receive the Notice Packet, the intended Class
11 Member will be a Participating Class Member and will be bound by all terms of the Settlement
12 and the Final Judgment entered by the Court. Nothing else shall be required of, or done by, the
13 Parties, Class Counsel, and Defense Counsel to provide notice of the proposed Settlement.

14 3.14. Disputes. Class Members will have the opportunity during the sixty (60) day
15 period before the Response Deadline, should they disagree with Defendant's records regarding
16 their weeks worked during the Class Period, to provide documentation and/or an explanation to
17 show contrary weeks worked. A space will be provided on the Notice of Settlement Payment for
18 Class Members to raise such disputes. For a Class Member's dispute to be considered, the Class
19 Member must fully complete the Notice and timely return it to the Settlement Administrator.
20 Class Members will have sixty (60) days after the date the Notice Packet is mailed by the
21 Settlement Administrator to mail in a dispute, including any supporting evidence the Class
22 Member may have. Class Members to whom Notice Packets are resent after having been returned
23 undeliverable to the Settlement Administrator, during the entire period before the Response
24 Deadline, shall have an additional fourteen (14) calendar days from the date of re-mailing, or until
25 the sixty (60) day period before the Response Deadline has expired, whichever is later, to mail
26 any supporting evidence the Class Member may have to the Settlement Administrator. The date
27 of the postmark of the return mailing envelope shall be the exclusive means used to determine
28 whether a dispute has been timely submitted to the Settlement Administrator. If there is a dispute,

1 the Settlement Administrator will consult with the Parties' counsel to determine whether an
2 adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the
3 amounts of, any Individual Settlement Payments under the terms of this Settlement.

4 3.15. Exclusions (Opt-Outs). The Notice Packet shall state that Class Members who
5 wish to exclude themselves from the Settlement must submit a Request for Exclusion Form by
6 the Response Deadline. The Request for Exclusion: (1) must contain the name, address, and the
7 last four (4) digits of the Social Security number of the Class Member requesting exclusion or the
8 Employee Identification Number, (2) must be signed by the Class Member or his or her authorized
9 representative; and (3) must be postmarked by the Response Deadline and returned to the
10 Settlement Administrator at the specified address. If the Request for Exclusion does not contain
11 the information listed in (1)-(2), it will not be deemed valid for exclusion from the Class
12 Settlement. The date of the postmark on the return-mailing envelope shall be the exclusive means
13 used to determine whether a Request for Exclusion has been timely submitted. Any Class
14 Member who requests to be excluded from the Class Settlement will not be entitled to any
15 recovery under the Class Settlement and will not be bound by the terms of the Class Settlement.
16 Class Members who receive a Notice Packet, but fail to submit a valid and timely Request for
17 Exclusion on or before the Response Deadline shall be bound by all terms of the Settlement and
18 any Final Judgment entered in this Action if the Settlement is approved by the Court. At no time
19 shall any of the Parties or their counsel seek to solicit or otherwise encourage members of the
20 Settlement Class to submit Requests for Exclusion from the Settlement. Class Counsel shall not
21 represent any Class Member with respect to any such Requests for Exclusion. Class Members
22 who submit a valid Request for Exclusion may not also submit a Notice of Objection. Regardless
23 of whether a Class Member submits a timely Request for Exclusion, if the Class Member worked
24 during the PAGA period, the Class Member shall be considered a PAGA Member and will be
25 entitled to an Individual Settlement Payment from the PAGA allocation and will be bound by
26 settlement of the PAGA claim.

27 ///

28 ///

1 ///

2 3.16. Objections. The Notice Packet shall state that Class Members who wish to remain
3 Participating Class Members, but desire to object to the Settlement must not submit a Request for
4 Exclusion and must submit a written statement of objection (“Notice of Objection”) by the
5 Response Deadline to the Settlement Administrator. The Notice of Objection must be signed by
6 the Class Member or his or her legal representative and state: (1) the full name of the Class
7 Member; (2) the dates of employment of the Class Member if possible; (3) the Class Member’s
8 last four digits of their Social Security number or the Employee ID number; (4) the basis for the
9 objection; and (5) whether the Class Member intends to appear at the Final Approval Hearing.
10 The Notice of Objection must be postmarked by the Response Deadline and returned to the
11 Settlement Administrator at the specified address. Within five (5) calendar days of receiving a
12 notice of objection from a Class Member, the Settlement Administrator shall forward the Notice
13 of Objection to Class Counsel and Defense Counsel. The Parties will thereafter lodge the Class
14 Member’s Notice of Objection with the Court. Class Members, regardless of whether or not they
15 submit a timely Notice of Objection, will have a right to appear at the Final Approval Hearing,
16 with or without an attorney, in order to have their objections heard by the Court. At no time shall
17 any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to object
18 to the Settlement or appeal from the Final Judgment. Class Counsel shall not represent any Class
19 Members with respect to any such objections or appeals.

20 3.17. Plaintiffs’ Participation. By executing this Settlement, Plaintiffs hereby stipulate
21 they will not object to or seek to exclude themselves from the Settlement in anyway.

22 3.18. Funding of the Gross Settlement. This is a non-reversionary Settlement in which
23 Defendant is required to pay the entire Gross Settlement Amount. No portion of the Gross
24 Settlement Amount will revert to Defendant. Defendant shall fully fund based on the following
25 schedule: following payment plan: twenty-five thousand (\$25,000.00) by 2/3/22; twenty-five
26 thousand (\$25,000.00) by the date of final approval; twenty-five thousand (\$25,000.00) by 9/1/22;
27 twenty-five thousand (\$25,000.00) by 10/1/22; twenty-five thousand (\$25,000.00) by 11/1/22 and
28 twenty-five thousand (\$25,000.00) by 12/1/22. If the Final Approval Date is after

1 December 31, 2022, Defendant shall fully fund the Settlement within thirty (30) calendar days
2 after the Final Approval Date. No payments from the Gross Settlement Amount shall be made
3 before the Gross Settlement Amount is fully funded. No release in this Settlement shall be
4 effective until the Gross Settlement Amount is fully funded. If Defendant defaults as set forth in
5 paragraph 3.34 of this Agreement, Plaintiff and all Class Members will be able to pursue all claims
6 against Defendant and the Settlement becomes null and void.

7 3.19. No more than five (5) business days after the Gross Settlement Amount is fully
8 funded, the Settlement Administrator will provide the Parties with an accounting of all anticipated
9 payments from the Gross Settlement Amount. The Net Settlement Amount shall be calculated
10 by deducting from the Gross Settlement Amount payments for (1) Class Representative
11 Enhancement Award, as specified in this Settlement and approved by the Court; (2) Class Counsel
12 Award, as specified in this Settlement and approved by the Court; (3) Class Counsel Costs, as
13 specified in this Settlement and approved by the Court; (4) Settlement Administration Costs, as
14 specified in this Settlement and approved by the Court; and (5) the LWDA PAGA Allocation, as
15 specified in this Settlement and approved by the Court. The Net Settlement Amount shall be
16 distributed in Individual Settlement Payments in accordance with Paragraphs 3.20 and 3.21.

17 3.20. Individual Settlement Payments. Each Participating Class Member shall be
18 eligible to receive an Individual Settlement Payment, which is a share of the Net Settlement
19 Amount, based on the number of weeks worked by the Participating Class Member during the
20 Class Period and PAGA period, as a proportion of all weeks worked by all Participating Class
21 Members during the Class Period and PAGA period. Individual Settlement Payments shall be
22 paid pursuant to the formula set forth in Paragraph 3.21 below. Individual Settlement Payments
23 shall be mailed by regular First-Class U.S. Mail to Participating Class Members' last known
24 mailing address no later than fifteen (15) calendar days after the Gross Settlement Amount is fully
25 funded. Individual Settlement Payments will specifically indicate that they are void if not
26 negotiated within one hundred eighty (180) days of their issuance. Individual Settlement
27 Payments reflect settlement of a dispute regarding wages, interest, and penalties. Individual
28 Settlement Payments will be allocated as follows: fifteen percent (15%) as wages; and eighty-five

1 percent (85%) as interest and penalties. Employee Taxes will be deducted from the “wage”
2 portion of each Individual Settlement Payment. The Settlement Administrator shall issue the
3 appropriate tax documents associated with the Individual Settlement Payments, including an IRS
4 Form W-2 for the amounts allocated as “wages” and an IRS Form 1099 for the amounts allocated
5 as “interest” or “penalties.”

6 a. Individual Class Settlement Payment Formula. After deducting the Class
7 Counsel Award and Class Counsel Costs, the PAGA Allocation, Class Representative
8 Enhancement Award, and Settlement Administration Costs, the remaining funds (the “Class
9 Settlement Amount”), will be distributed as follows: The Settlement Administrator shall divide
10 the Class Settlement Amount by the total number of workweeks Participating Class Members
11 worked during the Class Period in order to determine the amount each Participating Class Member
12 is entitled to for each workweek he or she worked during the Class Period (the “Class Weekly
13 Amount”). The Settlement Administrator will multiply the Class Weekly Amount by the
14 estimated total number of workweeks that each Participating Class Member worked during the
15 Class Period to determine the Individual Class Payment. The Participating Class Members’ gross
16 Individual Settlement Payment is the sum of their Individual Class Payment. The Settlement
17 Administrator will then deduct Employee Taxes attributable to wages to arrive at the net
18 Individual Class Settlement Payment for each respective Participating Class Member. The
19 Settlement Administrator’s determination of the eligibility for and amount of each Individual
20 Settlement Awards shall be binding upon the Class Members and the Parties. The Settlement
21 Administrator will calculate the number of Workweeks worked by the Class Members during the
22 Class Period and the Individual Settlement Awards to eligible Class Members. All Workweek
23 Disputes will be resolved and decided pursuant to section 3.14. Defendant shall have no
24 responsibility for deciding the validity of any Individual Settlement Payment or any other
25 payments made pursuant to this Settlement, shall have no involvement in or responsibility for the
26 determination or payment of Employee Taxes, and shall have no liability for any errors made with
27 respect to such Employee Taxes.

28 ///

1 ///

2 b. Individual PAGA Settlement Payment Formula. The Settlement
3 Administrator shall divide the employee portion of the PAGA Allocation (\$1,250) by the total
4 number of workweeks worked by PAGA Members during the PAGA Period in order to determine
5 the amount each PAGA Member is entitled to for each workweek he or she worked during the
6 PAGA Period (the “PAGA Weekly Amount”). The Settlement Administrator will multiply the
7 PAGA Weekly Amount by the estimated total number of workweeks that each PAGA Member
8 worked during the PAGA Period to determine the Individual PAGA Payment. The PAGA
9 Members’ Individual Settlement Payment is the sum of their Individual PAGA Payment. The
10 Individual PAGA Payment shall be deemed one hundred percent (100%) penalties, and no taxes
11 shall be deducted from the Individual PAGA Payment. All Workweek Disputes will be resolved
12 and decided pursuant to section 3.14.

13 3.21. Class Members are not eligible to receive any compensation other than the
14 Individual Class Settlement Payment and an Individual PAGA Payment if they worked during
15 the PAGA Period, and they may only receive an Individual Class Settlement Payment if they do
16 not submit a valid and timely Request for Exclusion to opt out of the Settlement. Plaintiff,
17 however, is also eligible to receive their Class Representative Enhancement Award. Regardless
18 of whether a Class Member submits a timely Request for Exclusion, if the Class Member worked
19 during the PAGA Period, the Class Member shall be deemed a PAGA Member and will be
20 entitled to an Individual PAGA Settlement Payment from the PAGA Allocation.

21 3.22. No benefit, including but not limited to pension benefits, shall increase or accrue
22 as a result of any payment made pursuant to this Settlement.

23 3.23. If a check for an Individual Settlement Payment is returned to the Settlement
24 Administrator as undeliverable, the Settlement Administrator shall promptly attempt to obtain a
25 valid mailing address by performing one (1) skip trace search. If another address is identified, the
26 Settlement Administrator shall mail the check to the newly identified address. If an Individual
27 Settlement Payment check is returned to the Settlement Administrator a second time as
28 undeliverable, the Settlement Administrator shall not attempt any further re-mailing of that check.

1 Any settlement checks that remain uncashed one hundred eighty (180) or more calendar days
2 after issuance shall be voided. The Settlement Administrator shall forward all voided settlement
3 checks to the California State Controller's Office's Unclaimed Property Division. The Settlement
4 Administrator shall also compile a list of the Class Members for whom their funds were deposited
5 with the California State Controller's Office's Unclaimed Property Division. In such event, the
6 Class Member shall nevertheless remain bound by the Settlement. The Parties agree that good
7 cause exists for the Court to approve this distribution because the unclaimed funds include
8 unclaimed wages of employees that will be held by the State of California for the benefit of these
9 employees, who may request receipt of payment from the California State Controller's Office's
10 Unclaimed Property Division.

11 3.24. Class Representative Enhancement Award. Defendant agrees not to oppose or
12 object to any application or motion by Plaintiffs for a Class Representative Enhancement Award,
13 not to exceed seven thousand five hundred dollars (\$7,500.00) for Plaintiff Victor Lopez as
14 consideration for Plaintiff's time and effort in bringing and prosecuting this matter. The Class
15 Representative Enhancement Award shall be paid to Plaintiff from the Gross Settlement Amount
16 no later than fifteen (15) calendar days after the Gross Settlement Amount is fully funded. The
17 Settlement Administrator shall issue an IRS Form 1099 — MISC to Plaintiff for his Class
18 Representative Enhancement Award. Plaintiff shall be solely and legally responsible for payment
19 of all applicable taxes on their Class Representative Enhancement Award and shall hold
20 Defendant harmless from any claim or liability for any employee share of taxes, penalties, or
21 interest arising as a result of the Class Representative Enhancement Award. The Class
22 Representative Enhancement Award shall be in addition to Plaintiff's Individual Settlement
23 Payment as a Class Member. In the event that the Court awards a lesser amount than the Class
24 Representative Enhancement Award requested, then any portion of the requested amount not
25 awarded to Plaintiff shall be added to the Net Settlement Amount. Plaintiff shall not have the right
26 to revoke the agreement to the Settlement on the grounds the Court did not approve any or all of
27 his request for a Class Representative Enhancement Award.

28 ///

1 ///

2 3.25. Class Counsel Award and Costs. Defendant agrees not to oppose or object to any
3 application or motion by Class Counsel for a Class Counsel Award not to exceed fifty thousand
4 dollars (\$50,000.00) and Class Counsel Costs not to exceed ten thousand dollars (\$10,000.00)
5 from the Gross Settlement Amount. The Class Counsel Award and Class Counsel Costs shall be
6 paid no later than fifteen (15) calendar days after the Gross Settlement Amount is fully funded.
7 Class Counsel shall be solely and legally responsible to pay all applicable taxes on the payments
8 made pursuant to this paragraph. The Settlement Administrator shall issue an IRS Form 1099 —
9 MISC to Class Counsel for the payments made pursuant to this paragraph. This Settlement is not
10 contingent upon the Court awarding Class Counsel any particular amount in attorneys' fees and
11 costs. Any amount requested by Class Counsel for the Class Counsel Award and Class Counsel
12 Costs and not granted by the Court shall be part of the Net Settlement Amount.

13 3.26. PAGA Settlement Allocation. Subject to Court approval, the Parties shall allocate
14 a total of five thousand dollars (\$5,000.00) from the Gross Settlement Amount for the compromise
15 of claims for civil penalties brought under the PAGA (the "PAGA Allocation"). Per California
16 Labor Code section 2699(i), three thousand seven hundred fifty dollars (\$3,7500.00), representing
17 seventy-five percent (75%) of the PAGA Allocation, will be paid to California's Labor Workforce
18 Development Agency. The remaining one thousand two hundred fifty dollars (\$1,250.00),
19 representing twenty-five percent (25%) of the PAGA Allocation, shall be part of the Net
20 Settlement Amount to be distributed to PAGA Members as part of their Individual Settlement
21 Payments.

22 3.27. Defendant's Option to Terminate Settlement. If, after the Response Deadline and
23 before the Final Approval Hearing, ten percent (10%) or more of the number of Class Members
24 submit timely and valid Requests for Exclusion from the Settlement, Defendant shall have, in its
25 sole discretion, the option to terminate this Settlement. Defendant shall exercise its option to
26 terminate, if it wishes, prior to the Final Approval Hearing. If Defendant decides to void the
27 Settlement, then the Settlement and conditional class certification shall be considered void, and
28 neither the Settlement, conditional class certification, nor any of the related negotiations or

1 proceedings, shall be of any force or effect, and the Parties shall stand in the same position,
2 without prejudice, as if this Settlement had been neither entered into nor filed with the Court.
3 Should Defendant void the Settlement under this paragraph, it shall be responsible for all
4 Settlement Administration Costs.

5 3.28. Settlement Administration Costs. The Settlement Administrator shall be paid for
6 the costs of administration of the Settlement from the Gross Settlement Amount. Such costs of
7 administration are not to exceed ten thousand dollars (\$10,000.00) unless the court approves a
8 higher amount. No fewer than twenty (20) days prior to the Final Approval Hearing, the
9 Settlement Administrator shall provide the Parties with a statement detailing the costs of
10 administration. The Settlement Administrator, on Defendant's behalf, shall have the authority and
11 obligation to make payments, credits, and disbursements, including payments and credits in the
12 manner set forth in this Settlement, to Class Members and/or PAGA Members, calculated in
13 accordance with the methodology set out in this Settlement and orders of the Court. The Parties
14 agree to cooperate in the administration of the Settlement and to make all reasonable efforts to
15 control and minimize the costs and expenses incurred in administration of the Settlement. The
16 Parties each represent they do not have any financial interest in the Settlement Administrator or
17 otherwise have a relationship with the Settlement Administrator that could create a conflict of
18 interest. The Settlement Administrator shall be responsible for: processing and mailing all court-
19 approved payments to the Plaintiff, Class Counsel, Participating Class Members and/or PAGA
20 Members, and the LWDA; printing and mailing the Notice Packets to the Class Members as called
21 for in this Settlement and ordered by the Court; receiving and reporting Notice of Objections and
22 Requests for Exclusion submitted by Class Members; providing declaration(s) as necessary in
23 support of preliminary and/or final approval of this Settlement; and other tasks as the Parties
24 mutually agree or the Court orders the Settlement Administrator to perform. The Settlement
25 Administrator shall keep the Parties timely apprised of the performance of all Settlement
26 Administrator responsibilities. Any legally mandated tax reports, tax forms, tax filings, or other
27 tax documents required by administration of this Settlement shall be prepared by the Settlement
28 Administrator. Any expenses incurred in connection with such preparation shall be Settlement

1 Administration Costs. The Settlement Administrator shall be paid the Settlement Administration
2 Costs from the Gross Settlement Amount no later than fifteen (15) calendar days after the Gross
3 Settlement Amount is fully funded.

4 3.29. Final Approval Hearing. At a reasonable time following the Response Deadline,
5 the Court shall hold the Final Approval Hearing, where objections, if any, may be heard, and the
6 Court shall determine amounts properly payable for (i) the Class Counsel Award, (ii) the Class
7 Counsel Costs, (iii) the Class Representative Enhancement Award, (iv) the PAGA Allocation;
8 and (v) the Settlement Administration Costs.

9 3.30. Entry of Final Judgment. If the Court approves this Settlement at the Final
10 Approval Hearing, the Parties shall request that the Court enter the Final Judgment after the Gross
11 Settlement Amount has been fully funded, with the Court retaining jurisdiction over the Parties
12 to enforce the terms of the judgment. If the Court grants final approval to the Settlement, notice
13 of Final Approval shall be posted on the Settlement Administrator's website, at
14 www.phoenixclassaction.com.

15 3.31. No Effect on Employee Benefits. Amounts paid to Plaintiff or other Participating
16 Class Members pursuant to this Settlement will not count as earnings or compensation for
17 purposes of any benefits (e.g., pensions or retirement plans) sponsored by Defendant. It is
18 expressly understood and agreed that the receipt of Individual Settlement Payment shall not entitle
19 any Participating Class Member to additional compensation or benefits under any collective
20 bargaining agreement or under any bonus, contest or other compensation or benefit plan or
21 agreement in place during the period covered by the Settlement, nor shall it entitle any
22 Participating Class Member to any increased pension and/or retirement, or other deferred
23 compensation benefits. It is the intent of the Parties that Individual Settlement Payments provided
24 for in this Settlement are the sole payments to be made by Defendant to Participating Class
25 Members and PAGA Members in connection with this Settlement, with the exception of
26 Plaintiff's Class Representative Enhancement Award are approved by the Court, and that the
27 Participating Class Members or PAGA Members are not entitled to any new or additional
28 compensation or benefits as a result of having received the Individual Settlement Payments.

1 Furthermore, the receipt of Individual Settlement Payments by Participating Class Members and
2 PAGA Members shall not, and does not, by itself establish any general, special, or joint
3 employment relationship between and among the Participating Class Member(s), PAGA
4 Members and Defendant.

5 3.32. Nullification of Settlement. In the event: (i) the Court does not enter the
6 Preliminary Approval Order as specified herein; (ii) the Court does not grant final approval of the
7 Settlement as provided herein; (iii) the Court does not enter a Final Judgment as provided herein;
8 or (iv) the Settlement does not become final for any other reason, this Settlement shall be null and
9 void and any order or judgment entered by the Court in furtherance of this Settlement shall be
10 treated as void from the beginning. In such a case, the Parties and any funds to be awarded under
11 this Settlement shall be returned to their respective statuses as of the date and time immediately
12 prior to the execution of this Settlement, and the Parties shall proceed in all respects as if this
13 Settlement had not been executed, except that any costs and fees already incurred by the
14 Settlement Administrator shall be paid jointly by the Parties. In the event an appeal is filed from
15 the Court's Final Judgment, or any other appellate review is sought, administration of the
16 Settlement shall be stayed pending final resolution of the appeal or other appellate review, and
17 any other payments required hereunder by Defendant will not be paid pending the completion and
18 final resolution of the appeal, and any payment thereafter will: (1) occur only if the Final
19 Judgment is upheld after all appeals; and (2) be in a manner that is provided for in the Settlement
20 and in the Final Judgment.

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 ///

2 3.33. No Admission by the Parties. Defendant denies any and all claims alleged in this
3 Action and denies all wrongdoing whatsoever. Neither this Settlement, nor any of its terms and
4 conditions, nor any of the negotiations connected with it, is a concession or admission, and none
5 shall be used against Defendant as an admission or indication with respect to any claim of any
6 fault, concession, or omission by Defendant or that class certification is proper under the standard
7 applied to contested certification motions. The Parties stipulate and agree to the certification of
8 the proposed class for settlement purposes only. The Parties further agree that this Settlement will
9 not be admissible in this or any other proceeding as evidence that either: (i) a class action should
10 be certified or (ii) Defendant or the Released Parties are liable to Plaintiffs, Class Member, or
11 PAGA Members other than according to the terms of this Settlement.

12 3.34. Dispute Resolution. Except as otherwise set forth herein, all disputes concerning
13 the interpretation, calculation or payment of settlement claims, or other disputes regarding
14 compliance with this Settlement shall be resolved as follows:

15 3.34.1. If Plaintiff or Class Counsel, on behalf of Plaintiff or any Class Members,
16 PAGA Members or Defendant, at any time believe that the other Party or Parties
17 have breached or acted contrary to the Settlement, that Party shall notify the other
18 Party or Parties through counsel in writing of the alleged violation. Upon receiving
19 notice of the alleged violation or dispute, the responding Party shall have ten (10)
20 calendar days to correct the alleged violation and/or respond to the initiating Party
21 through counsel with the reasons why the Party disputes all or part of the
22 allegation.

23 3.34.2. If the response does not address the alleged violation to the initiating
24 Party's satisfaction, the Parties shall negotiate in good faith for up to ten (10)
25 calendar days to resolve their differences.

26 3.34.3. If thereafter, the Parties still cannot resolve the dispute, the Parties shall
27 utilize the services of Russ Wunderli (Mediator) in a good-faith attempt to mediate
28 and resolve the dispute.

1 ///

2 3.34.4. If the Parties are unable to resolve their differences after twenty (20)
3 additional calendar days, either Party may file an appropriate motion for
4 enforcement with the Court.

5 3.35. Exhibits and Headings. The terms of this Settlement include the terms set forth in
6 Exhibits A and B, which are attached to this Settlement and incorporated by this reference as
7 though fully set forth in this paragraph. Any Exhibits to this Settlement are an integral part of the
8 Settlement. The descriptive headings of any paragraphs or sections of this Settlement are inserted
9 for convenience of reference only and do not constitute a part of this Settlement.

10 3.36. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the Action
11 and thereafter implement and complete the Settlement.

12 3.37. Amendment or Modification. This Settlement may be amended or modified only
13 by a written instrument signed by all the Parties and counsel for all Parties or their successors-in-
14 interest.

15 3.38. Entire Settlement. This Settlement and any attached Exhibits constitute the entire
16 agreement among these Parties, and no oral or written representations, warranties or inducements
17 have been made to any Party concerning this Settlement or its exhibits, other than the
18 representations, warranties and covenants contained and memorialized in the Settlement and its
19 exhibits. No other prior or contemporaneous written or oral agreements may be deemed binding
20 on the Parties with respect to the matters resolved herein.

21 3.39. Authorization to Enter into Settlement. Counsel for all Parties warrant and
22 represent they are expressly authorized by the Parties whom they represent to negotiate this
23 Settlement and to take all appropriate actions required or permitted to be taken by such Parties
24 pursuant to this Settlement to effectuate its terms, and to execute any other documents required
25 to effectuate the terms of this Settlement. The Parties and their counsel will cooperate with each
26 other and use their best efforts to affect the implementation of the Settlement. In the event the
27 Parties are unable to reach agreement on the form or content of any document needed to
28 implement the Settlement, or on any supplemental provisions that may become necessary to

1 effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve
2 such disagreement. The persons signing this Settlement on behalf of Defendant, represents and
3 warrants that they are authorized to sign this Settlement on behalf of Defendant. Plaintiff
4 represents and warrants that he is authorized to sign this Settlement and that he has not assigned
5 any claim, or part of a claim, covered by this Settlement.

6 3.40. Binding on Successors and Assigns. This Settlement shall be binding upon, and
7 inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

8 3.41. No Prior Assignments. The Parties and their counsel represent, covenant, and
9 warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported
10 to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand,
11 action, cause of action or right herein released and discharged.

12 3.42. California Law Governs. All terms of this Settlement and the exhibits hereto shall
13 be governed by and interpreted according to the laws of the State of California.

14 3.43. This Settlement is Fair, Adequate and Reasonable. The Parties believe this
15 Settlement is a fair, adequate, and reasonable settlement of the Action and have arrived at this
16 Settlement after extensive arms-length negotiations, taking into account all relevant factors,
17 present and potential.

18 3.44. Jurisdiction of the Court. In accordance with California Rule of Court 3.769(h),
19 the Parties agree that the Court shall retain jurisdiction with respect to the interpretation,
20 implementation, and enforcement of the terms of this Settlement and all orders and judgments
21 entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction
22 of the Court for purposes of interpreting, implementing, and enforcing this Settlement and all
23 orders and judgments entered in connection therewith.

24 3.45. Invalidity of Any Provision. Before declaring any provision of this Settlement
25 invalid, the Court shall first attempt to construe the provision to be valid to the fullest extent
26 possible, consistent with applicable precedents.

27 3.46. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to
28 class certification for purposes of this Settlement only.

1 ///

2 3.47. Cooperation. The Parties agree to cooperate fully with one another to accomplish
3 and implement the terms of this Settlement. Such cooperation shall include, but not be limited
4 to, execution of such other documents and the taking of such other action as may be reasonably
5 necessary to fulfill the terms of this Settlement. The Parties to this Settlement shall use their best
6 efforts, including all efforts contemplated by this Settlement and any other efforts that may
7 become necessary by Court order, or otherwise, to effectuate this Settlement and its terms.

8 3.48. Neutral Employment Reference. Plaintiffs agree to direct any employment
9 references to the Defendant Valley Custom Harvest, LLC. Human Resources Department. In
10 response to any such inquiry, Defendant Valley Custom Harvest, LLC agrees to direct its Human
11 Resources to provide the following information: (i) dates of employment; and (ii) last position(s)
12 held.

13 3.49. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms
14 and conditions of this Settlement. Accordingly, this Settlement will not be construed more strictly
15 against one party than another merely by virtue of the fact that it may have been prepared by
16 counsel for one of the Parties, it being recognized that, because of the arm’s-length negotiations
17 between the Parties, all Parties have contributed to the preparation of this Settlement.

18 3.50. Representation by Counsel. The Parties acknowledge that they have been
19 represented by counsel throughout all negotiations that preceded the execution of this Settlement,
20 and that this Settlement has been executed with the consent and advice of counsel, and reviewed
21 in full. Further, Plaintiffs and Class Counsel warrant and represent that there are no liens on the
22 Settlement Agreement.

23 3.51. All Terms Subject to Final Court Approval. All amounts and procedures described
24 in this Stipulation are subject to final Court approval.

25 ///

26 ///

27 ///

28 ///

1 ///

2 3.52. Notices. Unless otherwise specifically provided, all notices, demands or other
3 communications in connection with this Settlement shall be: (1) in writing; (2) deemed given on
4 the third business day after mailing; and (3) sent via United States registered or certified mail,
5 return receipt requested, addressed as follows:

6 **To Plaintiffs:**

7 Kevin Mahoney, Esq.
8 kmahoney@mahoney-law.net
9 Berkeh Alemzadeh, Esq.
10 balem@mahoney-law.net
11 **MAHONEY LAW GROUP, APC**
12 249 East Ocean Boulevard, Suite 814
13 Long Beach, CA 90802
14 Telephone: (562) 590-5550
15 Facsimile: (562) 590-8400

To Defendant:

Terry Wills, Esq.
twills@cookbrown.com
COOK|BROWN LLP
2407 J Street, Second Floor
Sacramento, CA 95816
Office: 916.442.3100

13 3.53. Execution by Class Members. It is agreed that it is impossible or impractical to
14 have each Class Member execute this Settlement. The Notice of Settlement will advise all Class
15 Members of the binding nature of the release and such shall have the same force and effect as if
16 each Class Member executed this Settlement.

17 3.54. Execution by Plaintiff and Defendant. Plaintiff and Defendant, by signing this
18 Settlement, are bound by the terms herein.

19 3.55. Binding Agreement. The Parties warrant that they understand and have full
20 authority to enter into this Settlement, and further intend that this Settlement will be fully
21 enforceable and binding on all Parties and agree that it will be admissible and subject to disclosure
22 in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions
23 that otherwise might apply under federal or state law.

24 3.56. Confidentiality. Plaintiff and his counsel agree to maintain confidentiality of this
25 settlement and stipulation until a motion for preliminary approval is filed.

26 ///

27 ///

28 ///

1 ///

2 3.57. Counterparts. This Settlement shall become effective upon its execution by all
3 Parties and/or their respective counsel. Plaintiffs and Defendant may execute this Settlement in
4 counterparts, and execution of counterparts shall have the same force and effect as if each had
5 signed the same instrument. Copies of the executed Settlement shall be effective for all purposes
6 as though the signatures contained therein were original signatures.

7

8

9 5/6/2022
10 Dated May __, 2022

DocuSigned by:
Victor Lopez

Victor Lopez 60FA8B1D5DD847C...
Class Representative

11

12

13 6/1/2022
14 Dated May __, 2022

Harvir Thiara

Valley Custom Harvest, LLC
Harvir Thiara

15

16

17 6/1/2022
18 Dated May __, 2022

Rupinder Takhar

Valley Custom Harvest, LLC
Rupinder Takhar

19

20

21

22

23

24

25

26

27

28