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 Graham Packaging PET Technologies, Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF STANISLAUS

DEWEY ANDERSON, as an individual and
 on behalf of all others similarly situated,

Plaintiff,

vs.

GRAHAM PACKAGING PET
 TECHNOLOGIES, INC., a Delaware
 corporation; and DOES 1 through 50,
 inclusive,

Defendant.

Case No.: CV-21-005550

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

Complaint Filed: October 8, 2021
 FAC Filed: February 8, 2022
 Trial Date: Not Yet Assigned

1. "Action" means Dewey Anderson, as an individual and on behalf of all others similarly situated, vs. Graham Packaging PET Technologies, Inc., a Delaware corporation, filed on or about October 8, 2021, in the Superior Court for the State of California, County of Stanislaus, and assigned Case Number CV-21-00555.

2. "Agreement" or "Settlement Agreement" means this Joint Stipulation of Class Action Settlement and Release of Claims.

3. "Class" or "Class Members" means:

- 2

1 8, 2018, through August 31, 2022 (the "Sick Pay Class" or "Sick Pay
2 Class Members"); and

3 c. All current and former non-exempt employees of Defendant in the State of
4 California who earned shift premium wages at any time from October 8,
5 2020, through August 31, 2022 (the "Wage Statement Class" or "Wage
6 Statement Class Members").

7 Defendant estimates that there are approximately 283 individuals that comprise the Class.

8 4. "Class Counsel" means Larry W. Lee, Kristen M. Agnew, and Nicholas
9 Rosenthal of Diversity Law Group, P.C.; and William L. Marder of Polaris Law Group.

10 5. "Class Counsel Award" means such award of fees and costs and expenses as the
11 Court may authorize to be paid to Class Counsel for the services they have rendered and will
12 render to Plaintiff and the Class in the Action. Class Counsel will request attorneys' fees not to
13 exceed approximately one-third (1/3) of the Maximum Settlement Amount of Four Hundred
14 Ninety-Nine Thousand Dollars (\$499,000.00), i.e., the sum of One Hundred Sixty-Six Thousand
15 Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$166,333.33), and litigation costs
16 not to exceed Twenty Thousand Dollars (\$20,000.00), subject to the Court finally approving this
17 Settlement. Any portion of the Class Counsel Award not awarded to Class Counsel shall be
18 added to the Net Settlement Amount.

19 6. "Class Data" means information regarding Class Members that Defendant will
20 compile from its records in good faith and provide to the Settlement Administrator. It shall be
21 formatted as a Microsoft Excel spreadsheet and shall include: each Class Member's full name,
22 last known address, Social Security number, and the number of pay periods worked during the
23 Class Period.

24 7. "Class Representative" means Plaintiff Dewy Anderson.

25 8. "Class Representative Enhancement Award" means the amount that the Court
26 authorizes to be paid to Plaintiff, in addition to his Individual Settlement Payment, in recognition
27 of his efforts and risks in assisting with the prosecution of the Action and in exchange for
28 executing a General Release of Defendant. Plaintiff will request an Enhancement Award of Ten

1 Thousand Dollars (\$10,000.00) from the Maximum Settlement Amount to the Class
2 Representative.

3 9. "Complaint" means the operative First Amended Complaint filed by Plaintiff on
4 February 8, 2022, in this Action.

5 10. "Court" means the Superior Court for the State of California, County of
6 Stanislaus.

7 11. "Class Period" means the period from October 8, 2017, through August 31, 2022.

8 12. "Defendant" means Graham Packaging PET Technologies, Inc.

9 13. "Defendant's Counsel" means Jason E. Murtagh of Buchanan Ingersoll & Rooney
10 LLP.

11 14. "Effective Date" means: (a) the date when the Final Approval Order is signed, if
12 there are no objectors; or (b) in the event there are objectors, sixty (60) days after service of
13 notice of entry of the Final Approval Order and Judgment on the Parties and all objectors to the
14 Settlement, provided no timely appeals or requests for review are being taken; or (c) if timely
15 appeals or requests for review have been taken, the date of final resolution of all appeals and
16 requests for review (including any requests for rehearing and/or petitions for certiorari) and
17 exhaustion of all appellate remedies.

18 15. "Employer's Withholding Share" means Defendant's share of all federal, state,
19 and local taxes and required withholdings, including without limitation, FICA, Medicare tax,
20 FUTA, and state unemployment taxes.

21 16. "Final Approval" means that the Final Approval Order and Judgment have been
22 entered by the Court.

23 17. "Final Approval Hearing" or "Final Approval/Settlement Fairness Hearing"
24 means the hearing on the motion for final approval of the settlement.

25 18. "Final Approval Order and Judgment" means the Order and Judgment Granting
26 Final Approval of the Class Action Settlement, which shall be submitted with the motion for
27 final approval of the Settlement.

28 19. "Individual Settlement Payment" means the amount payable from the Net

1 Settlement Amount to each Settlement Class Member.

2 20. "Maximum Settlement Amount" means the maximum amount of Four Hundred
3 Ninety-Nine Thousand Dollars (\$499,000.00) that Defendant will pay as a result of this
4 Settlement Agreement.

5 21. "Net Settlement Amount" or "NSA" means the Maximum Settlement Amount,
6 less Class Counsel Award, Class Representative Enhancement Award, and Settlement
7 Administration Costs.

8 22. "Notice Packet" means the Notice of Class Action Settlement in a form
9 substantially similar to the form attached hereto as **Exhibit A**.

10 23. "Parties" means Plaintiff and Defendant, collectively, and "Party" shall mean
11 either Plaintiff or Defendant, individually.

12 24. "Plaintiff" means Dewy Anderson.

13 25. "Preliminary Approval Date" means the date the Court enters an order granting
14 preliminary approval of the Settlement.

15 26. "Released Claims," except as to Plaintiff who will execute a General Release as
16 described in Paragraph 45, means all claims that were or could have been alleged in the Action.

17 The period of the Release shall extend to the limits of the Class Period.

18 27. "Released Parties" means Defendant and its affiliates, parents, subsidiaries, joint
19 ventures, owners, partnerships, and any and all affiliated, related organizations, and each of their
20 company-sponsored benefit plans, and their respective successors and predecessors in interest,
21 all of their respective officers, directors, employees, administrators, fiduciaries, trustees and
22 agents, and each of their past, present, and future officers, directors, shareholders, employees,
23 agents, principals, heirs, representatives, attorneys, accountants, auditors, consultants, attorneys,
24 vendors, contractors, insurers, and reinsurers.

25 28. "Response Deadline" means the date forty-five (45) days after the Settlement
26 Administrator mails the Notice Packet to Class Members and the last date on which Class
27 Members may submit requests for exclusion or objections to the Settlement.

28 29. "Settlement" means the disposition of the Action pursuant to this Agreement.

30. "Settlement Administration Costs" means the fees and expenses reasonably incurred by the Settlement Administrator as a result of the procedures and processes expressly required by this Agreement, which are not to exceed \$9,000.

31. "Settlement Administrator" means Phoenix Settlement Administrators.

32. "Settlement Class Members" or "Settlement Class" means all Class Members after excluding any person who submits a timely and valid request for exclusion as provided in this Agreement.

RECITALS

33. Class Certification. The Parties stipulate to provisional class certification for purposes of settlement only. If the Court does not grant either preliminary or final approval of this settlement, this provisional class certification shall immediately be set aside and the Settlement Class immediately decertified (subject to further proceedings on motion of any party to certify or deny certification thereafter) and this Settlement Agreement shall not constitute or be used as evidence that class certification is appropriate. If the Court does not grant either preliminary or final approval of this settlement, the Parties shall be returned to their respective statuses as of the date and time immediately prior to the execution of the Settlement Agreement, and the Parties shall proceed in all respects as if this Settlement Agreement had not been executed, except that any costs actually incurred by the Settlement Administrator shall be paid by equal apportionment among the Parties.

34. Procedural History. On October 8, 2021, Plaintiff initiated an action in the Stanislaus County Superior Court, alleging individual and class claims for Defendant's failure to pay overtime and sick pay wages at the regular rate of pay, provide accurate wage statements, and pay all wages owed upon separation of employment; claims for unfair and unlawful business practices in violation of Business and Professions Code § 17200, et seq.; and claims for attorneys' fees and costs.

35. On February 8, 2022, Plaintiff filed a First Amended Complaint, adding a cause of action for civil penalties under the Labor Code § 2698, et seq., Private Attorneys General Act ("PAGA"). The First Amended Class Action Complaint is the operative Complaint

1 ("Complaint").

2 36. In about April 2022, the Parties agreed to explore the possibility of settlement. A
3 mediation session was scheduled for June 30, 2022, to be held via Zoom conference before
4 Michael J. Loeb, Esq.

5 37. In connection with the mediation, Defendant produced samples of class payroll
6 and time keeping data, as well as extended data relating to the class, which together allowed
7 Plaintiff's counsel to conduct a full damage analysis. After extended negotiations, conducted at
8 arm's length, and continuing beyond the mediation, the Parties reached the present settlement.

9 38. The Class Representative believes he has meritorious claims based on alleged
10 violations of the California Labor Code, and that class certification is appropriate because the
11 prerequisites for class certification can be satisfied in the Action.

12 39. Defendant denies any liability or wrongdoing of any kind associated with the
13 claims alleged in the Action, disputes the damages and penalties claimed by the Class
14 Representative, and further contends that, for any purpose other than settlement, the Action is not
15 appropriate for class action treatment. Defendant contends, among other things, that at all times
16 it complied with the California Labor Code.

17 40. The Plaintiff, Class Representative, and/or Representative Plaintiff is represented
18 by Class Counsel. Class Counsel conducted an investigation into the facts relevant to the Action,
19 including reviewing certain information and data concerning the Class provided by Defendant in
20 response to informal requests for information to prepare for mediation. Based on their own
21 independent investigation and evaluation, Class Counsel is of the opinion that the Settlement
22 with Defendant is fair, reasonable, and adequate, and in the best interest of the Class in light of
23 all known facts and circumstances, including the risks of significant delay, defenses asserted by
24 Defendant, uncertainties regarding class certification, and numerous potential appellate issues.
25 Although Defendant denies any liability, Defendant agreed to this Settlement in order to avoid
26 the cost of further litigation. The Parties and their counsel have agreed to settle the claims on the
27 terms set forth herein.

28 41. The Parties believe that the Settlement is fair, reasonable, and adequate. The

1 Settlement was arrived at through arm's-length negotiations, taking into account all relevant
2 factors. The Parties recognize the uncertainty, risk, expense, and delay attendant to continuing
3 the Action through trial and any appeal. Accordingly, the Parties desire to fully, finally, and
4 forever settle, compromise, and discharge all disputes and claims arising from or relating to the
5 Action.

6 **TERMS OF AGREEMENT**

7 42. Settlement Consideration. Defendant shall pay an amount not to exceed the
8 Maximum Settlement Amount from which will be paid the Individual Settlement Payments, the
9 Class Representative Enhancement Award, the Class Counsel Award, and the Settlement
10 Administration Costs, as specified in this Agreement.

11 43. Escalator Clause. The Maximum Settlement amount was calculated with, and is
12 premised on, the Parties' understanding that approximately 283 Class Members received 7,144
13 wage statements, as of June 30, 2022. If the actual Total Wage Statement Count for Class
14 Members through June 30, 2022 exceeds 7,859, or approximately ten percent (10%) of estimated
15 Total Wage Statement Count, then Defendant shall increase the Maximum Settlement Amount
16 by a proportional amount above the ten percent increase (i.e., increasing the Maximum
17 Settlement Amount by 2% if there is a 12% increase in the Total Wage Statement Count).

18 44. Release by All Settlement Class Members. As of the Effective Date, in exchange
19 for the consideration set forth in this Agreement, Plaintiff and the Settlement Class Members,
20 and their respective former and present spouses, representatives, agents, attorneys (including
21 Class Counsel), heirs, administrators, successors, and assigns, hereby release and discharge
22 release the Released Parties from the Released Claims for the Class Period. Plaintiff and the
23 Settlement Class Members may hereafter discover facts or legal arguments in addition to or
24 different from those they now know or currently believe to be true with respect to the claims,
25 causes of action and legal theories of recovery in this case which are the subject matter of the
26 Released Claims. Regardless, the discovery of new facts or legal arguments shall in no way limit
27 the scope or definition of the Released Claims, and by virtue of this Agreement, Plaintiff and the
28 Settlement Class Members shall be deemed to have, and by operation of the Final Approval

1 Order and Judgment, shall have, fully, finally, and forever settled and released all of the
2 Released Claims as defined in this Agreement.

3 45. General Release and Waiver of Claims by the Class Representative. The Class
4 Representative may hereafter discover facts in addition to or different from those he now knows
5 or believes to be true with respect to the subject matter of the Released Claims, but in exchange
6 for the consideration provided by this Settlement, and upon the Effective Date, the Class
7 Representative forever discharges Defendant and the Released Parties, and its/their respective
8 present and former officers, directors, employees, shareholders, members, agents, trustees,
9 representatives, attorneys, insurers, parent companies, subsidiaries, divisions, affiliates,
10 predecessors, successors, assigns, and any individual or entity that could be jointly liable with
11 Defendant, from any and all claims, causes of action, damages, wages, benefits, expenses,
12 penalties, debts, liabilities, demands, obligations, attorney's fees, costs, and any other form of
13 relief or remedy in law, equity, or whatever kind or nature, whether known or unknown,
14 suspected or unsuspected, contingent or non-contingent, which now exist, or heretofore have
15 existed, exclusive only of any workers compensation claims or any other claims which cannot be
16 released as a matter of law, including but not limited to (1) all Released Claims, (2) the Action
17 and any claims arising out of or related to the Action, (3) any claims under federal, state, or local
18 law, statute, or ordinance for or relating to wages, benefits, compensation, vacation or other paid
19 time off, and claims for liquidated damages, penalties, or costs and fees associated therewith, (4)
20 wrongful termination, discrimination, harassment, and/or retaliation, (5) any act, omission, or
21 occurrence or claim arising out of or related to the Action or Plaintiff's employment or
22 termination thereof with Defendant taking place on or before the Effective Date of the
23 Settlement, and (6) and any other form of relief or remedy of any kind, nature, or description
24 whatsoever, whether premised on statute, contract, tort, or other theory of liability under state,
25 federal, or local law. In exchange for the consideration provided to him under the Settlement,
26 the Class Representative shall waive any and all rights he may have under California Civil Code
27 § 1542, which provides:

28 **A general release does not extend to claims that the creditor or**

1 releasing party does not know or suspect to exist in his or her
2 favor at the time of executing the release and that, if known by
3 him or her, would have materially affected his or her settlement
4 with the debtor or released party.

46. Settlement Administrator. The Settlement Administrator will be responsible for
5 performing the duties specified in this Agreement and any other duties incidental to such
6 obligations. These duties shall include, without limitation: (1) establishing and maintaining a
7 Qualified Settlement Fund account; (2) preparing, printing, and distributing the Notice Packets to
8 the Class Members as directed by the Court; (3) receiving and reporting the objections and
9 requests for exclusion on a weekly basis; (4) processing and mailing payments to the Class
10 Representative, Class Counsel, LWDA, and Settlement Class Members; (5) distributing tax
11 forms; processing and mailing tax payments, if any, to the appropriate state and federal taxing
12 authorities; calculating and timely paying any and all payroll taxes from the wages portion of the
13 Net Settlement Amount to the appropriate tax authorities, as required under this Agreement and
14 applicable law; (6) printing and providing Settlement Class Members and Representative
15 Plaintiff with W-2 and 1099 forms as required under this Agreement and applicable law; (7)
16 arranging for and remitting Employer's Withholding Share from any uncashed settlement
17 payment; (8) arranging for and remitting funds from any uncashed settlement payment to the
18 designated recipient, as determined by the Court; (9) preparing and filing any tax returns and
19 information returns and any other filings required by any governmental taxing authority or other
20 governmental agency; (10) providing declaration(s) as necessary in support of preliminary and/or
21 final approval of this Settlement; (11) handling inquiries about the calculation of individual
22 settlement payments; and (12) other tasks as the Parties mutually agree or the Court orders the
23 Settlement Administrator to perform. The Settlement Administrator shall keep the Parties timely
24 apprised of the performance of all Settlement Administrator responsibilities.

25 The Settlement Administrator shall establish a settlement payment center address,
26 telephone number, and email address to receive Class Members' inquiries about the Notice of
27 Class Action Settlement, requests to be excluded from the Settlement, and settlement payments.
28 In addition, the Settlement Administrator shall establish a static website and, on the website, post

1 this stipulation, any preliminary approval order and the Final Approval Order and Judgment.
2 Posting of the Final Approval Order and Judgment on such website shall constitute notice of
3 judgment to the Settlement Class, as required by California Rule of Court 3.771(b).

4 a. The Qualified Settlement Fund ("QSF") shall be an interest-bearing
5 account at a federally insured bank that is mutually acceptable to the Parties and the Settlement
6 Administrator. The funds in the QSF shall be invested either in short-term U.S. Treasury
7 securities with maturity dates of less than 90 days at the time of deposit, or in an SEC-registered
8 money market fund investing exclusively in U.S. Treasury securities with average maturities of
9 less than 90 days and rated AAA by Standard & Poor's. The Parties agree that the QSF is
10 intended to be a "Qualified Settlement Fund" under Section 468B of the Internal Revenue Code
11 and Treas. Reg. § 1.468B-1, 26 C.F.R. § 1.468B-1, et seq., and will be administered by the
12 Settlement Administrator as such. With respect to the QSF, the Settlement Administrator shall:
13 (1) open and administer the Settlement Account in such a manner as to qualify and maintain the
14 qualification of the QSF as a "Qualified Settlement Fund" under Section 468B of the Internal
15 Revenue Code and Treas. Reg. § 1.468B-1; (2) satisfy all federal, state, and local and income
16 and other tax reporting, return, and filing requirements with respect to the QSF and any interest
17 or other income earned by the QSF, and (3) satisfy out of the QSF all (i) taxes (including any
18 estimated taxes, interest, or penalties) with respect to the interest or other interest earned by the
19 QSF, and (ii) fees, expenses and costs incurred in connection with the opening and
20 administration of the QSF and the performance of its duties and functions as described in this
21 Agreement. The afore-mentioned taxes, fees, costs, and expenses shall be treated as and
22 included in the costs of administering the QSF and as Settlement Administration Expenses. The
23 Parties and the Settlement Administrator shall treat the QSF as coming into existence as a
24 Qualified Settlement Fund on the earliest date permitted as set forth in 26 C.F.R. § 1.468B-
25 1(j)(2)(i), and such election statement shall be attached to the appropriate returns as required by
26 26 C.F.R. § 1.468B-1(j)(e)(ii). The Parties agree to cooperate with the Settlement Administrator
27 and one another to the extent reasonably necessary to carry out the provisions of this Section.

28 47. Notice Procedure.

1 a. Class Data. No later than fourteen (14) business days after the

2 Preliminary Approval Date, Defendant shall provide the Settlement Administrator with the Class
3 Data for purposes of preparing and mailing Notice Packets to Class Members. The Class Data
4 shall be confidential. The Settlement Administrator shall not provide the Class Data to Class
5 Counsel or Plaintiff or any third party, or use the Class Data or any information contained therein
6 for any purpose other than to administer this Settlement.

7 b. Notice Packets.

8 i. The Notice of Class Action Settlement shall be disseminated in a
9 form substantially similar to the form attached hereto as **Exhibit A**. The Notice of Class Action
10 Settlement shall include the Class Member's the number of pay periods in which the employee
11 worked during the Class Period, and the estimated amount of their Individual Settlement
12 Payment if they do not request to be excluded from the Settlement. The Notice of Class Action
13 Settlement shall also inform Class Members that in order to receive an Individual Settlement
14 Payment, they do not need to do anything except to keep the Settlement Administrator apprised
15 of their current mailing addresses. The Notice of Class Action Settlement shall set forth the
16 release to be given by all members of the Settlement Class who do not request to be excluded
17 from the Settlement Class in exchange for an Individual Settlement Payment.

18 c. Notice by First Class U.S. Mail. Upon receipt of the Class Data, the
19 Settlement Administrator will perform a search based on the National Change of Address
20 Database to update and correct any known or identifiable address changes. No later than
21 fourteen (14) calendar days after receiving the Class Data from Defendant as provided herein,
22 the Settlement Administrator shall mail copies of the Notice Packet to all Class Members via
23 regular first-class U.S. Mail. The Settlement Administrator shall exercise its best judgment to
24 determine the current mailing address for each Class Member. The address identified by the
25 Settlement Administrator as the current mailing address shall be presumed to be the best mailing
26 address for each Class Member.

27 d. Undeliverable Notices. Any Notice Packets returned to the Settlement
28 Administrator as non-delivered on or before the Response Deadline shall be re-mailed to the

1 forwarding address affixed thereto. If no forwarding address is provided, the Settlement
2 Administrator shall promptly attempt to determine a correct address by lawful use of skip-tracing
3 or other search using the name, address, and/or Social Security number of the Class Member
4 involved, and shall then perform a re-mailing, if another mailing address is identified by the
5 Settlement Administrator. Class Members who received a re-mailed Notice Packet shall have
6 their Response Deadline extended by fifteen (15) days from the original Response Deadline.

7 e. Disputes Regarding Individual Settlement Payments. Class Members will
8 have the opportunity, should they disagree with Defendant's records stated on their Notice of
9 Class Action Settlement, to provide documentation and/or an explanation to show contrary
10 information. If there is a dispute, the Settlement Administrator will consult with the Parties to
11 determine whether an adjustment is warranted. The Settlement Administrator shall determine
12 the eligibility for, and the amounts of, any Individual Settlement Payments under the terms of
13 this Agreement, and that determination shall be binding.

14 f. Disputes Regarding Administration of Settlement. Any disputes not
15 resolved by the Settlement Administrator concerning the administration of the Settlement will be
16 resolved by the Court under the laws of the State of California. Prior to any such involvement of
17 the Court, counsel for the Parties will confer in good faith to resolve the disputes without the
18 necessity of involving the Court.

19 g. No Claim Form Required. Class Members are not required to submit a
20 claim form to receive an Individual Settlement Payment. The Notice of Class Action Settlement
21 contained in the Notice Packet shall state that Class Members who wish to receive Individual
22 Settlement Payments need not do anything except to keep the Settlement Administrator apprised
23 of a current mailing address in order to receive an Individual Settlement Payment check
24 following the Effective Date of the Settlement.

25 h. Exclusions. The Notice of Class Action Settlement contained in the
26 Notice Packet shall state that Class Members who wish to exclude themselves from the
27 Settlement must submit a written request for exclusion by the Response Deadline. The written
28 request for exclusion must state that the Class Member wishes to exclude himself or herself from

1 the Settlement and: (1) must contain the name, address, telephone number, and the last four
2 digits of the Social Security number of the person requesting exclusion; (2) must be signed by
3 the Class Member; (3) must be postmarked or fax stamped by the Response Deadline and
4 returned to the Settlement Administrator at the specified address; and (4) contain a typewritten or
5 handwritten notice stating in substance: "I wish to opt out of the class action and the settlement
6 of the case Dewey Anderson v. Graham Packaging PET Technologies, Inc." The request for
7 exclusion will not be valid if it is not timely submitted, if it is not signed by the Class Member,
8 or if it does not contain the name and address of the Class Member. The date of the postmark on
9 the request for exclusion shall be the exclusive means used to determine whether the request for
10 exclusion was timely submitted. Any Class Member who requests to be excluded from the
11 Settlement Class will not be entitled to any recovery under the Settlement and will not be bound
12 by the terms of the Settlement or have any right to object, appeal, or comment thereon. Class
13 Members who fail to submit a valid and timely written request for exclusion on or before the
14 Response Deadline shall be bound by all terms of the Settlement and any final judgment entered
15 in this Action if the Settlement is approved by the Court. No later than fourteen (14) calendar
16 days after the Response Deadline, the Settlement Administrator shall provide counsel for the
17 Parties with a final list of the Class Members who have timely submitted written requests for
18 exclusion. At no time shall any of the Parties or their counsel seek to solicit or otherwise
19 encourage members of the Class to submit requests for exclusion from the Settlement.

20 i. If there are any timely submitted requests for exclusion, the
21 Settlement Administrator shall proportionally increase the Individual Settlement Payment for
22 each Settlement Class Member so that the amount actually distributed to Settlement Class
23 Members equals 100% of the Net Settlement Amount.

24 ii. If any Class Member submits a defective request for exclusion
25 before the Response Deadline, the Settlement Administrator shall notify both Class Counsel and
26 Defendant's Counsel so that the Parties can meet and confer regarding any such defective request
27 for exclusion and thereafter promptly instruct the Settlement Administrator concerning the
28 defect(s).

i. Objections. The Notice of Class Action Settlement contained in the Notice Packet shall state that Class Members who wish to object to the Settlement must submit to the Settlement Administrator a written statement of objection ("Notice of Objection") by the Response Deadline. The Notice of Objection must be postmarked by the Response Deadline and returned to the Settlement Administrator at the specified address. The date of the postmark on the Notice of Objection shall be deemed the exclusive means for determining that a Notice of Objection was timely submitted. The Notice of Objection must be signed by the Class Member and state: (1) the full name of the Class Member; (2) the dates of employment of the Class Member; (3) the last four digits of the Class Member's Social Security number; (4) the basis for the objection; and (5) if the Class Member intends to appear at the Final Approval/Settlement Fairness Hearing. Class Members who fail to make objections in the manner specified above shall be deemed to have waived any objections and shall be foreclosed from making any objections (whether by appeal or otherwise) to the Settlement. Class Members who submit a timely Notice of Objection will have a right to appear at the Final Approval/Settlement Fairness Hearing in order to have their objections heard by the Court. However, even if a Class Member does not submit a written objection prior to the Final Approval/Settlement Fairness Hearing they may still appear in order to make an objection. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to file or serve written objections to the Settlement or appeal from the Order and Final Judgment. Class Members who submit a written request for exclusion are not entitled to object to the Settlement.

48. Funding and Allocation of the Maximum Settlement Amount. Defendant is required to pay the sum of the Individual Settlement Payments, Class Representative Enhancement Award, Class Counsel Award, and Settlement Administration Costs, as specified in this Agreement and as approved by the Court, up to the Maximum Settlement Amount.

a. Funding Due Date. No later than ten (10) business days after the Effective Date, Defendant shall provide the Maximum Settlement Amount to the Settlement Administrator to fund the Settlement, as set forth in this Agreement.

b. Individual Settlement Payments. Individual Settlement Payments shall be

1 paid from the Net Settlement Amount and shall be paid pursuant to the formula set forth herein.

2 i. Calculation of Individual Settlement Payments. Using the Class
3 Data, the Settlement Administrator will calculate the pay period count of all Class Members
4 during the Class Period by dividing the Net Settlement Amount by the total number of pay
5 periods worked by the Class during the Class Period in order to get a per pay period dollar
6 amount. This per pay period dollar amount will then be multiplied by the number of pay periods
7 worked by each given individual Class Member during the Class Period.

8 ii. Allocation and Taxes. For tax purposes, Individual Settlement
9 Payments shall be allocated and treated as follows: (i) ninety percent (90%) as penalties and
10 interest, and (ii) ten percent (10%) as wages. Such amounts shall be reported by W-2 and 1099
11 forms, as necessary, to be prepared by the Settlement Administrator as specified herein. It shall
12 be the responsibility of the Settlement Administrator to timely prepare and properly withhold
13 from the Individual Settlement Payments all applicable federal, state, and local income taxes, and
14 the employee's share of employment taxes and, thereafter, to cause the appropriate deposits of
15 withholding taxes and informational and other tax return filing to occur. Each Settlement Class
16 Members' share of all applicable federal, state, and local income and employment taxes withheld
17 and deposited with the applicable governmental authorities in accordance with this Settlement
18 shall be a part of, and paid out of, the Individual Settlement Payment to each Settlement Class
19 Member. Each Settlement Class Member claimant shall cooperate with Defendant and provide
20 documentation as requested to demonstrate such payment should any taxing authority challenge
21 the allocation of Individual Settlement Payments. Settlement Class Members will be responsible
22 for correctly characterizing this compensation for tax purposes and for paying any taxes on the
23 amounts received.

24 iii. Payment of Payroll Taxes. The amount paid to each Settlement
25 Class Member attributable to wages shall be subject to all applicable taxes and other
26 withholdings (such as federal, state, and local taxes and required withholdings, including without
27 limitation, FICA, Medicare tax, FUTA, and state unemployment taxes). The Employer's
28 Withholding Share shall be paid by Defendant separately and in addition to Defendant's payment

1 of the Maximum Settlement Amount.

2 For each Settlement Class Member, the Settlement Administrator shall determine the
3 Employer's Withholding Share. Information related to the Employer's Withholding Share for
4 each Settlement Class Member shall be provided to Defendant by the Settlement Administrator.
5 If Defendant disagrees with the Settlement Administrator's determination of the Employer's
6 Withholding Share, it will communicate with and share information reasonably necessary to
7 reach a good faith determination of the correct Employer's Withholding Share. To the extent a
8 Class Member cannot be found or otherwise does not cash the Settlement Check, the Settlement
9 Administrator will seek a refund from the appropriate tax authorities and return any Employer's
10 Withholding Share to Defendant.

11 iv. No Employment Relationship or Benefits. Settlement Class
12 Members' receipt of Individual Settlement Payments, or any parts thereof, shall not, and does
13 not, by itself establish any general, special, or joint employment relationship between and among
14 the Settlement Class Member(s) and Defendant. Additionally, and despite any contrary language
15 in any benefit or compensation plan document or other writing that might have been in effect
16 during any Settlement Class Member's period of employment, receipt of any Individual
17 Settlement Payment shall not entitle any Settlement Class Member to additional compensation or
18 benefits under any bonus, contest, or other compensation or benefit plan or agreement, nor shall
19 it entitle any Settlement Class Member to any increased pension and/or retirement, 401(k)
20 benefits or matching benefits, other deferred compensation benefits or any benefit under any
21 "Employee Benefit Plan" as defined by section 3(3) of ERISA maintained or sponsored by
22 Defendant based on any amount paid under this Settlement Agreement.

23 v. Mailing. Individual Settlement Payments shall be mailed by
24 regular first-class U.S. Mail to Settlement Class Members' respective last-known mailing
25 address no later than fourteen (14) calendar days after the Effective Date.

26 vi. Expiration. Any checks issued to Settlement Class Members shall
27 remain valid and negotiable for one hundred and eighty (180) days from the date of their
28 issuance. In the event an Individual Settlement Payment check has not been cashed within one

1 hundred and eighty (180) days, all funds represented by such uncashed checks shall be submitted
2 by the Settlement Administrator to the State of California's State Controller's Unclaimed
3 Property Fund in the Class Member's name.

4 c. Class Representative Enhancement Award. Plaintiff will seek a Class
5 Representative Enhancement Award of up to Ten Thousand Dollars (\$10,000.00). The
6 Settlement Administrator shall pay the Class Representative Enhancement Awards to Plaintiff
7 from the Maximum Settlement Amount no later than fourteen (14) calendar days after the
8 Effective Date. Any portion of the requested Class Representative Enhancement Award that is
9 not awarded to the Class Representative shall become part of the Net Settlement Amount and
10 shall be distributed to Settlement Class Members as provided in this Agreement. The Settlement
11 Administrator shall issue an IRS Form 1099-MISC to Plaintiff for his Class Representative
12 Enhancement Award. Plaintiff shall be solely and legally responsible to pay any and all
13 applicable taxes on his Class Representative Enhancement Awards and shall hold harmless
14 Defendant from any claim or liability for taxes, penalties, or interest arising as a result of the
15 Class Representative Enhancement Award. The Class Representative Enhancement Award shall
16 be in addition to the Plaintiff's Individual Settlement Payment as a Settlement Class Member. In
17 the event that the Court reduces or does not approve the requested Class Representative
18 Enhancement Award, Plaintiff shall not have the right to revoke the Settlement, and it will
19 remain binding.

20 d. Class Counsel Award. Defendant agrees not to oppose or object to any
21 application or motion by Class Counsel for attorneys' fees not to exceed one third (1/3) of the
22 Maximum Settlement Amount (\$166,333.33 of \$499,000.00), plus costs and expenses supported
23 by declaration and not to exceed Twenty Thousand Dollars (\$20,000.00), from the Maximum
24 Settlement Amount. Any portion of the requested Class Counsel Award that is not awarded to
25 Class Counsel shall become part of the Net Settlement Amount and shall be distributed to
26 Settlement Class Members as provided in this Agreement. The Settlement Administrator shall
27 pay the Class Counsel Award to Class Counsel from the Maximum Settlement Amount no later
28 than fourteen (14) calendar days after the Effective Date. Class Counsel shall be solely and

1 legally responsible to pay all applicable taxes on the payment made pursuant to this paragraph.
2 The Settlement Administrator shall issue an IRS Form 1099-MISC to Class Counsel for the
3 payments made pursuant to this paragraph. In the event that the Court reduces or does not
4 approve the requested Class Counsel Award, Plaintiff and Class Counsel shall not have the right
5 to revoke the Settlement, but do retain the right to appeal such order.

6 e. Settlement Administration Costs. The Settlement Administrator shall be
7 paid for the costs of administration of the Settlement from the Maximum Settlement Amount, not
8 to exceed Nine Thousand Dollars (\$9,000.00). The Settlement Administrator shall be paid the
9 Settlement Administration Costs no later than fourteen (14) calendar days after Defendant
10 provide funds to the Settlement Administrator for disbursement under this Agreement.

11 49. Tax Liability. The Parties make no representations as to the tax treatment or legal
12 effect of the payments called for hereunder, and Settlement Class Members are not relying on
13 any statement or representation by the Parties in this regard. Settlement Class Members
14 understand and agree that they will be responsible for the payment of any taxes and penalties
15 assessed on the Individual Settlement Payments described herein, and will hold the Parties free
16 and harmless from and against any claims, liabilities, costs and expenses, including attorney's
17 fees, resulting in any way from personal tax treatment of the payments made pursuant to this
18 Agreement, including the treatment of such payments as not subject to withholding or deduction
19 for payroll and employment taxes.

20 50. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this
21 section, the "acknowledging party" and each Party to this Agreement other than the
22 acknowledging party, an "other party") acknowledges and agrees that: (1) no provision of this
23 Agreement, and no written communication or disclosure between or among the Parties or their
24 attorneys and other advisers, is or was intended to be, nor shall any such communication or
25 disclosure constitute or be construed or be relied upon as, tax advice within the meaning of
26 United States Treasury Department circular 230 (31 CFR part 10, as amended); (2) the
27 acknowledging party (a) has relied exclusively upon his, her or its own, independent legal and
28 tax counsel for advice (including tax advice) in connection with this Agreement, (b) has not

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

9 51. No Effect on Benefits. The payments due to Settlement Class Members shall not
10 result in any additional value (such as 401(k) or bonus) beyond those provided by this Settlement
11 Agreement to Plaintiff or Settlement Class Members, and Plaintiff and Settlement Class
12 Members will be deemed to have waived all such claims, whether known or unknown by them,
13 as part of their release of claims under this Agreement. Specifically, despite any contrary
14 language in any benefit or compensation plan document or other writing that might have been in
15 effect during any Settlement Class Member's period of employment, receipt of any Individual
16 Settlement Payment shall not entitle any Settlement Class Member to additional compensation or
17 benefits under any bonus, contest or other compensation or benefit plan or agreement, nor shall it
18 entitle any Settlement Class Member to any increased pension and/or retirement, 401(k) benefits
19 or matching benefits, other deferred compensation benefits or any benefit under any "Employee
20 Benefit Plan" as defined by section 3(3) of ERISA maintained or sponsored by Defendant based
21 on any amount paid under this Settlement Agreement. Settlement Class Members waive any and
22 all claims for additional contributions to, and/or benefits under, any Employee Benefit Plan
23 maintained or sponsored by Defendant based on any amount paid under this Agreement; and
24 they release any claim for employee benefits, including any and all claims arising under ERISA,
25 arising out of, or related to, the amounts paid under this Agreement.

26 52. Conditions Precedent: This Settlement will become final and effective only upon
27 the occurrence of all of the following events:

- 28 a. The Court enters an order granting preliminary approval of the Settlement;

1 b. The Court enters the Final Approval Order and Judgment;

2 c. If there are objectors, the time for appeal from the Final Approval Order
3 and Judgment expires or, if an appeal is timely filed, there is a final resolution of any appeal
4 from the Final Approval Order and Judgment; and

5 d. Defendant does not invoke its right to revoke the Settlement as described
6 in Paragraph 55 herein.

7 53. Nullification of Settlement Agreement. In the event that this Settlement
8 Agreement is not preliminarily or finally approved by the Court, fails to become effective, or is
9 reversed, withdrawn or modified by the Court, or in any way prevents or prohibits Defendant
10 from obtaining a complete resolution of the claims as described herein:

11 a. This Settlement Agreement shall be void ab initio and of no force or
12 effect, and shall not be admissible in any judicial, administrative, or arbitral proceeding for any
13 purpose or with respect to any issue, substantive or procedural;

14 b. The conditional class certification (obtained for any purpose) shall be void
15 ab initio and of no force or effect, and shall not be admissible in any judicial, administrative, or
16 arbitral proceeding for any purpose or with respect to any issue, substantive or procedural; and

17 c. None of the Parties to this Settlement will be deemed to have waived any
18 claims, objections, defenses, or arguments in the Action, including with respect to the issue of
19 class certification.

20 54. Certification of the Settlement Class. The Parties stipulate to conditional class
21 certification for the Class Period for purposes of settlement only. In the event that this
22 stipulation is not approved by the Court, fails to become effective, or is reversed, withdrawn, or
23 modified by the Court, or in any way prevents or prohibits Defendant from obtaining a complete
24 resolution of the claims as described herein, the conditional class certification (obtained for any
25 purpose) shall be void ab initio and of no force or effect, and shall not be admissible in any
26 judicial, administrative, or arbitral proceeding for any purpose or with respect to any issue,
27 substantive or procedural, regarding class or representative action treatment, or regarding the
28 merits (or lack thereof) of the claims asserted in the Action.

1 55. Defendant's Option to Terminate Settlement. Within sixty (60) calendar days of
2 mailing the Notice Packet to Class Members, the Settlement Administrator shall inform the
3 Parties of the percentage of Class Members who have submitted timely and valid requests for
4 exclusion from the Settlement. Defendant has the right to terminate the Settlement if the number
5 of Class Members who submitted timely and valid written requests for exclusion from the
6 Settlement is equal to or greater than five percent (5%) of all Class Members. Defendant shall
7 then have, in its sole discretion, the option to terminate this Settlement. If Defendant exercises
8 the option to terminate this Settlement, Defendant shall: provide written notice to Class Counsel
9 within fourteen (14) calendar days after the Settlement Administrator provides notice to the
10 Parties of the opt-outs, and the Parties shall proceed in all respects as if this Agreement had not
11 been executed.

12 56. Preliminary Approval Motion. At the earliest practicable time, Plaintiff shall file
13 with the Court a motion for an order granting preliminary approval and supporting papers, which
14 shall include this Settlement Agreement.

15 57. Final Approval Motion. At the earliest practicable time following the expiration
16 of the Response Deadline, Plaintiff shall file with the Court a motion for final approval of this
17 Settlement, which motion shall request final approval of the Settlement and the amounts payable
18 for the Class Representative Enhancement Awards, Class Counsel Award, and Settlement
19 Administration Costs.

20 a. Declaration by Settlement Administrator. The Settlement Administrator
21 shall submit a declaration in support of Plaintiff's motion for final approval of this Settlement
22 detailing the number of Notice Packets mailed and re-mailed to Class Members, the number of
23 undeliverable Notice Packets, the number of timely requests for exclusion, the number of
24 objections received, the amount of the average Individual Settlement Payment, the Settlement
25 Administration Costs, and any other information as the Parties mutually agree or the Court
26 orders the Settlement Administrator to provide.

27 58. Defendant's Review of the Motions for Preliminary and Final Approval. Class
28 Counsel will provide an opportunity for Counsel for Defendant to review the motions for

1 preliminary and final approval prior to filing with the Court. Class Counsel shall provide a draft
2 of each motion to Defendant's counsel for review three (3) business days before filing them with
3 the Court. The Parties and their counsel will cooperate with each other and use their best efforts
4 to effect the Court's approval of the motions.

5 59. Cooperation. The Parties and their counsel will cooperate with each other and use
6 their best efforts to effect the implementation of the Settlement.

7 60. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the
8 Action, except such proceedings necessary to implement and complete the Settlement, pending
9 the Final Approval/Settlement Fairness Hearing to be conducted by the Court.

10 61. Amendment or Modification. This Agreement may be amended or modified only
11 by a written instrument signed by counsel for all Parties or their successors-in-interest.

12 62. Entire Agreement. This Agreement and any attached Exhibits constitute the
13 entire Agreement among these Parties, and no oral or written representations, warranties, or
14 inducements have been made to any Party concerning this Agreement or its Exhibits other than
15 the representations, warranties, and covenants contained and memorialized in the Agreement and
16 its Exhibits.

17 63. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant
18 and represent they are expressly authorized by the Parties whom they represent to negotiate this
19 Agreement and to take all appropriate actions required or permitted to be taken by such Parties
20 pursuant to this Agreement to effectuate its terms, and to execute any other documents required
21 to effectuate the terms of this Agreement. The persons signing this Agreement on behalf of
22 Defendant represent and warrant that they are authorized to sign this Agreement on behalf of
23 Defendant. Plaintiff represents and warrants that he is authorized to sign this Agreement and that
24 he has not assigned any claim, or part of a claim, covered by this Settlement to a third-party.

25 64. Binding on Successors and Assigns. This Agreement shall be binding upon, and
26 inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

27 65. California Law Governs. All terms of this Agreement and the Exhibits hereto and
28 any disputes arising hereunder shall be governed by and interpreted according to the laws of the

1 State of California.

2 66. Counterparts. This Agreement may be executed in one or more counterparts. All
3 executed counterparts and each of them shall be deemed to be one and the same instrument
4 provided that counsel for the Parties to this Agreement shall exchange among themselves copies
5 or originals of the signed counterparts.

6 67. This Settlement is Fair, Adequate, and Reasonable. The Parties believe this
7 Settlement is a fair, adequate, and reasonable settlement of this Action and have arrived at this
8 Settlement after extensive arm's-length negotiations, taking into account all relevant factors,
9 present and potential.

10 68. Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction
11 with respect to the interpretation, implementation, and enforcement of the terms of this
12 Agreement and all orders and judgments entered in connection therewith, and the Parties and
13 their counsel hereto submit to the jurisdiction of the Court for purposes of interpreting,
14 implementing, and enforcing the settlement embodied in this Agreement and all orders and
15 judgments entered in connection therewith.

16 69. Invalidity of Any Provision. Before declaring any provision of this Agreement
17 invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible
18 consistent with applicable precedents so as to define all provisions of this Agreement valid and
19 enforceable.

20 70. Publicity. Plaintiff will not disclose or publicize the Settlement, including the fact
21 of the Settlement, its terms or contents, and the negotiations underlying the Settlement, in any
22 manner or form, directly or indirectly, to any person or entity. Likewise, Class Counsel will not
23 disclose or publicize the Settlement, including the fact of the Settlement, its terms or contents,
24 and the negotiations underlying the Settlement, in any manner or form, directly or indirectly, to
25 any person or entity prior to the entry of the Final Approval Order and Judgment. However,
26 nothing in this paragraph shall restrict Class Counsel from responding to questions from Class
27 Members or describing and explaining the specific terms of the Settlement to Class Members. In
28 addition, nothing in this paragraph shall restrict statements made in papers filed with the Court or

any other court of competent jurisdiction in connection with the Settlement of the claims against Defendant in this Action or any continuing prosecution of the Action in other respects.

Similarly, nothing in this paragraph shall restrict Plaintiff and Class Counsel from disclosing information to judicial, administrative, or arbitral entities; or to Plaintiff's and Class Counsel's respective attorneys, accountants, or other professional advisors to whom disclosure is reasonably necessary to effect the purpose for which they consulted such persons or entities.

71. No Admissions. Plaintiff has claimed and continue to claim that the Released Claims have merit and give rise to liability on the part of Defendant. Defendant claims that the Released Claims have no merit and do not give rise to liability. This Agreement is a compromise of disputed claims. Nothing contained in this Agreement and no documents referred to herein and no action taken to carry out this Agreement may be construed or used as an admission by or against the Defendant or Plaintiff or their Counsel as to the merits or lack thereof of the claims asserted.

72. No Inducements. The Parties acknowledge that they are entering into this Agreement as a free and voluntary act without duress or undue pressure or influence of any kind or nature whatsoever and that neither Plaintiff nor Defendant have relied on any promises, representations, or warranties regarding the subject matter hereof other than as set forth in this Joint Stipulation.

IN WITNESS WHEREOF, this Settlement Agreement is executed by and on behalf of the Settling Parties, as of the day and year herein set forth.

DATED: January ⁹, 2023


PLAINTIFF

DocuSigned by:


Plaintiff Dewy Anderson

1 DATED: December 31, 2022


DEFENDANT GRAHAM PACKAGING PET
TECHNOLOGIES, INC.

3 By: 
4 Name: Douglas Cassel
5 Title: General Counsel

7 Approved as to form:


9 DATED: January 9, 2022

DIVERSITY LAW GROUP, P.C.

11 By: 
12 Larry W. Lee
13 Kristen M. Agnew
14 Nicholas Rosenthal
Attorneys for Plaintiff and the Class


15 DATED: January 9th, 2023

POLARIS LAW GROUP P

16 By: 
17 William L. Marder
18 Attorneys for Plaintiff and the Class

19 DATED: December __, 2022

BUCHANAN INGERSOLL & ROONEY LLP

21 By: 
22 Jason E. Murtagh
23 Attorneys for Defendant Graham Packaging PET
24 Technologies, Inc.