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16 VISTA PACIFICA ENTERPRISES, INC.

17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
18 **COUNTY OF RIVERSIDE**

19 MARIACRUZ GONZALEZ, as an aggrieved
20 employee and private attorney general;

21 Plaintiff,

22 vs.

23 VISTA PACIFICA ENTERPRISES, INC., a
24 California corporation, and DOES 1 through 50,
inclusive,

25 Defendants.
26
27

Case No. RIC2001557

REPRESENTATIVE ACTION

**JOINT STIPULATION OF PAGA
SETTLEMENT AND RELEASE OF
CLAIMS**

*Assigned to all purposes: Hon. Sunshine
Sykes, Department 6*

Complaint Filed: June 8, 2020

Trial Date: Not Set

1 This Joint Stipulation of PAGA Settlement and Release of Claims (“Settlement,”
2 “Agreement,” or “Settlement Agreement”) is made and entered into by and between Plaintiff
3 MARIACRUZ GONZALEZ (“Plaintiff”) as a Private Attorney General on behalf of the State of
4 California and Defendant VISTA PACIFICA ENTERPRISES, INC. (“Defendant”). Plaintiff and
5 Defendant are collectively referred to herein as “the Parties.”

6 **DEFINITIONS**

7 The following definitions are applicable to this Settlement, in addition to other terms defined
8 elsewhere in this Settlement:

9 1. The “Action” shall mean the civil action entitled “*Mariacruz Gonzalez v. Vista*
10 *Pacifica Enterprises, Inc.*,” pending before the Superior Court of California, County of Riverside,
11 Case No. RIC2001557.

12 2. “Aggrieved Employee List” means a complete list of all PAGA Members that
13 Defendant will diligently and in good faith compile from its records and confidentially provide to
14 the Settlement Administrator no later than thirty (30) calendar days after the date on which the
15 Court enters an order granting approval of this Settlement. The Aggrieved Employee List will be
16 formatted in a readable Microsoft Office Excel spreadsheet containing the following information for
17 each PAGA Member, to the extent such information is readily available: (1) full name; (2) last
18 known home address; (3) last known telephone number; (4) social security number; (5) start and
19 end dates of active employment as a non-exempt employee of Defendant in the State of California;
20 (6) total pay periods during the PAGA Period; and (8) any other information required by the
21 Settlement Administrator in order to effectuate the terms of the Settlement. This is a material term
22 of the Settlement, and if Defendant fails to comply, Plaintiff shall have the right to void the
23 Settlement.

24 3. “Defense Counsel” shall mean the attorneys representing Defendant in the Action,
25 Richard D. Marca, Esq. and Ankit H. Bhakta, Esq. of Varner & Brandt LLP.

26 4. “Effective Date” shall mean the later of the following: (a) if no timely objections are
27 filed or if all objections are withdrawn, the date upon which the Court enters an order approving the
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1 Settlement; (b) if there are objections to the settlement, and if an appeal, review or writ is not sought
2 from the order granting final approval of the settlement, the 61st day after service of notice of entry
3 of the order; or (c) if an appeal, review or writ is sought from the order, the day after the order is
4 affirmed or the appeal, review or writ is dismissed or denied, and the order is no longer subject to
5 further judicial review. Prior to the Effective Date of the settlement, Defendant will not be required
6 to fund this settlement, in whole or in part, through the Settlement Administrator or any third party.

7 5. "Gross Settlement Amount" shall mean Two Hundred and Seventy-Five Thousand
8 Dollars and No Cents (\$275,000.00) payable by Defendant as provided by this Settlement
9 Agreement.

10 6. "Individual Pay Periods" shall mean the number of Pay Periods for an individual
11 PAGA Member.

12 7. "Judgment" shall mean the order granting approval of the Settlement, granting
13 approval of the PAGA Notice, and entering judgment by the Superior Court that the Parties
14 anticipate will be entered following a hearing for approval of the Settlement in this Action.

15 8. "LWDA Payment" shall mean the payment to the California Labor and Workforce
16 Development Agency ("LWDA") constituting seventy-five percent (75%) of the Net Settlement
17 Amount.

18 9. "Net Settlement Amount" shall mean the Gross Settlement Amount, less (i) the
19 Plaintiff's Representative Payment approved by the Superior Court; (ii) the Plaintiff's Counsel Fees
20 Payment approved by the Superior Court; (iii) the Plaintiff's Counsel Litigation Costs Payment
21 approved by the Superior Court; (iv) the Settlement Administrator Payment approved by the
22 Superior Court; and (v) any other fees or expenses (other than Plaintiff's Counsel Fees Payment and
23 Plaintiff's Counsel Litigation Costs Payment) incurred in implementing the terms and conditions of
24 this Settlement Agreement as approved by the Superior Court.

25 10. "PAGA Payment" shall mean the remaining twenty-five percent (25%) of the Net
26 Settlement Amount to be distributed on a *pro-rata* basis based upon the number of Pay Periods
27 worked by each PAGA Member.

11. “PAGA Payment Share” shall mean the value of each PAGA Member’s share of the PAGA Payment as provided by this Settlement Agreement.

12. “PAGA Notice” shall mean the Notice of Settlement and Approval, a sample of which is attached hereto as **Exhibit A**. The PAGA Notice shall further contain (i) a PAGA Member’s first and last name, (ii) last known address, (iii) the PAGA Member’s Individual Pay Periods; and (vi) the PAGA Member’s individual share of the PAGA Payment.

13. “PAGA Period” shall mean the period of time commencing on February 13, 2019, and ending on September 18, 2021.

14. “PAGA Members” shall mean all current and former non-exempt employees of Defendant employed by Defendant in the State of California at any time during the PAGA Period.

15. “Pay Period” shall mean any pay period in which a PAGA Member worked at least one (1) day.

16. “Plaintiff’s Counsel” shall mean the attorneys representing Plaintiff in the Action, Heather Davis, Esq., Amir Navebdadash, Esq., and D. Luke Clapp of Protection Law Group, LLP.

17. “Plaintiff’s Counsel Fees Payment” shall mean Ninety One Thousand, Six Hundred and Sixty-Five Dollars and Seventy-Five Cents (\$91,665.75) subject to approval by the Superior Court as Plaintiff’s Counsel’s attorneys’ fees incurred in connection with the Action, including fees incurred in pre-filing investigation, filing of the Action, and all related litigation activities, this Settlement, and all post-settlement compliance procedures. Defendant has agreed not to oppose Plaintiff’s Counsel’s request for fees in the amount set forth above.

18. “Plaintiff’s Counsel Litigation Costs Payment” shall mean the actual litigation expenses and/or costs expended by Plaintiff’s Counsel subject to approval by the Superior Court incurred in connection with the Action, including pre-filing investigation, filing of the Action, and all related litigation activities, this Settlement, and all post-settlement compliance procedures. Plaintiff’s Counsel’s costs are not to exceed Twenty Thousand Dollars and No Cents (\$20,000.00). Defendant has agreed not to oppose Plaintiff’s Counsel’s request for costs and expenses in the amount set forth above.

1 19. “Plaintiff’s Representative Payment” shall mean the payment made to Plaintiff in her
2 capacity as the PAGA representative to compensate her for prosecuting the Action, and performing
3 work in support of the Action, in the amount of Five Thousand Dollars and No Cents (\$5,000.00),
4 subject to approval by the Superior Court.

5 20. “Released Parties” shall mean Defendant together with its past, present, and/or
6 future, officers, directors, employees, and agents.

7 21. Settlement Administrator” shall mean Phoenix Settlement Administrators.

8 22. “Settlement Administrator Payment” shall mean the payment to the Settlement
9 Administrator for its fees and expenses in administering this Settlement in an amount not to exceed
10 Three Thousand One Hundred and Fifty Dollars and No Cents (\$3,150.00).

11 23. “Superior Court” shall mean the Superior Court of the State of California for the
12 County of Riverside.

13 **RECITALS**

14 24. On February 13, 2020, Plaintiff’s Counsel, on behalf of Plaintiff and PAGA
15 Members, gave written notice to the LWDA of the Labor Code violations Defendant is alleged to
16 have violated (“PAGA Letter”).

17 25. On June 8, 2020, Plaintiff commenced the Action against Defendant by filing a
18 Complaint in the Superior Court. In the Complaint, Plaintiff, on behalf of herself and all others
19 similarly situated, alleged a cause of action for Civil Penalties pursuant to the Private Attorneys’
20 General Act (“PAGA”).

21 26. In connection with the Action, and in order to work toward a mediated resolution
22 without the time and expense of formal discovery, the Parties produced voluminous documents and
23 data (including, by Defendant, human resources documents and policies, time records, and payroll
24 data during the PAGA Period) which were reviewed, investigated, and analyzed by Plaintiff’s
25 Counsel.

26 27. On July 20, 2021, the Parties in the Action participated in a full day of mediation
27 before an experienced employment and class action mediator, Lynn Frank, Esq., which resulted in a
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1 settlement of the Action (the “Mediation”).

2 28. The Settlement described in this Settlement Agreement represents a compromise and
3 settlement of highly disputed claims. Nothing in this Settlement is intended or will be construed as
4 an admission by Defendant that Plaintiff’s claims in the Action have any merit or that it has any
5 liability to Plaintiff, PAGA Members, or the State on those claims, or as an admission by Plaintiff
6 that Defendant’s defenses in Action have any merit. This Settlement is intended to fully, finally, and
7 forever compromise, release, resolve, discharge, and settle the released claims subject to the terms
8 and conditions set forth in this Settlement.

9 29. Based on its own thorough, independent investigation and evaluation of this case,
10 Plaintiff’s Counsel is of the opinion that the Settlement of the Action with Defendant for the
11 consideration and on the terms set forth in this Settlement is fair, reasonable, adequate, and in the
12 best interest of PAGA Members in light of all known facts and circumstances, including the risk of
13 significant costs and delay, the defenses asserted by Defendant including the risks of adverse
14 determinations on the merits, and numerous potential appellate issues. Although Defendant
15 contends that they have no liability in the Action, Defense Counsel shares Plaintiff’s Counsel’s
16 belief that the Settlement represents a fair and adequate settlement given the respective risks
17 associated with the case.

18 30. Based on the foregoing Recitals, the Parties agree as follows:

19 **PROCEDURE FOR APPROVING SETTLEMENT**

20 31. **Motion for Approval of Settlement by the Superior Court.** Plaintiff will move the
21 Superior Court for an order granting approval of the Settlement and approving the PAGA Notice
22 (attached as **Exhibit A** to this Stipulation) (“Motion for Approval”).

23 32. At the hearing on the Motion for Approval, the Parties anticipate that they will
24 jointly appear, support the granting of the Motion for Approval, and obtain an order granting
25 approval of the Settlement, and granting approval of the PAGA Notice.

26 33. Should the Superior Court require any amendments to this Settlement Agreement or
27 the Motion for Approval, the Parties agree to work jointly to resolve any issues in order to secure

1 the Superior Court's approval.

2 34. In the event that the Court does not finally approve the Settlement as provided herein
3 then this Settlement Agreement, and any documents generated to bring it into effect, will be null
4 and void, and the Parties will be returned to their respective original positions. If the Court fails to
5 approve the Settlement and the Parties are unable to work out any differences informally, the Parties
6 agree to attend a second mediation in an effort to reach a settlement that may be approved by the
7 Court, which cost shall be split equally between the Parties.

8 35. Upon approval of the Settlement by the Superior Court, the Parties will present for
9 the Superior Court's approval and entry a Proposed Final Order and Judgment.

10 36. **PAGA Notice.** After the Superior Court enters its order granting approval, every
11 PAGA Member will be provided with the PAGA Notice (in English and Spanish), which will
12 include the PAGA Notice completed to reflect the order granting approval of the Settlement and the
13 PAGA Member's information as follows:

14 (a) No later than thirty (30) calendar days after the date on which the Court
15 enters an order granting approval of this Settlement, Defendant will provide to the Settlement
16 Administrator the "Aggrieved Employee List" containing the following information for each PAGA
17 Member: (1) full name; (2) last known home address; (3) last known telephone number; (4) social
18 security number; (5) start and end dates of active employment as a non-exempt employee of
19 Defendant in the State of California; (6) total pay periods during the PAGA Period; and (8) any
20 other information required by the Settlement Administrator in order to effectuate the terms of the
21 Settlement. This is a material term of the Settlement, and if Defendant fails to comply, Plaintiff
22 shall have the right to void the Settlement.

23 (b) If a PAGA Notice is returned by the U.S. Postal Service because of an
24 incorrect address, the Settlement Administrator will promptly, and not later than five (5) calendar
25 days from receipt of the returned packet, search for a more current address for the PAGA Member
26 and re-mail the PAGA Notice to the PAGA Member. The Settlement Administrator will use the
27 Aggrieved Employee List and otherwise work with Defense Counsel or utilize its own resources

1 such as skip traces to find a more current address. The Settlement Administrator will be responsible
2 for taking reasonable steps, consistent with its agreed-upon job parameters, court orders, and fee, to
3 trace the mailing address of any PAGA Member for whom a PAGA Notice is returned by the U.S.
4 Postal Service. These reasonable steps shall include the tracking of all undelivered mail, performing
5 address searches for all mail returned without a forwarding address, and promptly re-mailing to
6 PAGA Members for whom new addresses are found.

7 **37. Funding of the Gross Settlement Amount.** Within thirty (30) days of the Effective
8 Date, Defendant will deposit the Gross Settlement Amount into a Qualified Settlement Fund
9 (“QSF”) to be established by the Settlement Administrator.

10 **38. Payment of PAGA Payment Shares.** The Settlement Administrator shall pay to
11 each PAGA Member his or her PAGA Payment Share by sending a check in the appropriate amount
12 to the PAGA Member at the address indicated in the Aggrieved Employee List. Such payment, with
13 the PAGA Notice, shall be sent by the Settlement Administrator via U.S. Mail within fourteen (14)
14 calendar days of its receipt of the Gross Settlement Amount from Defendant.

15 **39. Uncashed PAGA Payment Share Checks.** Any checks paid to PAGA Members
16 shall be negotiable for one hundred eighty (180) calendar days from the date of their issuance. A
17 PAGA Member must cash his or her PAGA Payment Share check within one hundred eighty (180)
18 calendar days after it is mailed to him or her. If a check remains uncashed after one hundred eighty
19 (180) calendar days from the initial mailing, or if a check is returned to the Settlement
20 Administrator as undeliverable during the one hundred eighty-day period, the Settlement
21 Administrator shall take all reasonable efforts to identify the PAGA Member’s correct address,
22 including the performance of a “skip-trace.” If an updated address can be identified, the Settlement
23 Administrator shall issue another check to the PAGA Member and mail it to the PAGA Member at
24 his or her updated address. If an updated address for the PAGA Member cannot be identified, if a
25 reissued check is once again returned to the Settlement Administrator as undeliverable, or if the
26 reissued check remains uncashed after one hundred eighty (180) calendar days, the Settlement
27 Administrator will keep an accounting of such funds and shall give notice to the Parties of the total
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1 balance of uncashed PAGA Payment Shares.

2 40. The funds represented by PAGA Payment Share checks remaining uncashed for
3 more than one hundred eighty (180) calendar days after issuance shall be voided and then shall be
4 transmitted to the Controller of the State of California to be held pursuant to the Unclaimed
5 Property Law, California Code of Civil Procedure § 1500, *et seq.* in the names of those PAGA
6 Members who did not cash their checks until such time they claim their property. After the
7 expiration of the 180-calendar day check cashing period, as outlined above, the Settlement
8 Administrator shall begin the process of transferring the funds in accordance with California Code
9 of Civil Procedure §§ 1500-1582 and the timing requirements set forth by the Office of the State
10 Controller. The Parties agree that this disposition results in no “unpaid residue” under California
11 Civil Procedure Code § 384, as the entire Net Settlement Amount will be paid out to the LWDA and
12 PAGA Members, whether or not all PAGA Members cash their settlement checks. Therefore,
13 Defendant will not be required to pay any interest on such amounts.

14 **SETTLEMENT TERMS AND CONDITIONS**

15 41. **Gross Settlement Amount.** The total value of the Settlement is Two Hundred and
16 Seventy-Five Thousand Dollars and No Cents (\$275,000.00). The Gross Settlement Amount is non-
17 reversionary and includes all (1) Plaintiff’s Counsel’s Fee Payment, (2) Plaintiff’s Counsel
18 Litigation Costs Payment, (3) Settlement Administration Costs, (4) Plaintiff’s Representative
19 Payment; and (5) Payment of PAGA penalties to be paid to the LWDA and PAGA Members. The
20 Gross Settlement Amount is based on Defendant's representation that the PAGA Members worked
21 approximately 11,774 Pay Periods during the PAGA Period through the dates analyzed prior to the
22 Mediation. The Parties anticipate approximately 14,133 Pay Periods through the PAGA Period.
23 Should the qualifying Pay Periods worked by the PAGA Members during the PAGA Members
24 ultimately increase by more than 10% (i.e., by more than 1,413 Pay Periods), Defendant shall
25 increase the Gross Settlement Amount on a pro-rata basis equal to the percentage increase in the
26 number of Pay Periods worked by the PAGA Members above 10%. For example, if the number of
27 Pay Periods increases by 11 % the Gross Settlement Amount will increase by 1%.

1 42. **Total Payment Amount.** Except as set forth herein as the result of an increase in the
2 number of pay periods within the PAGA Period, in no other event will Defendant be required to pay
3 more than the Gross Settlement Amount for distribution to the Plaintiff, Plaintiff's Counsel, PAGA
4 Members, LWDA, Settlement Administrator, or for any other costs or expenses not otherwise
5 enumerated.

6 43. **Payments to Plaintiff, Plaintiff's Counsel, and Others.** Subject to the terms and
7 conditions of this Settlement, the Settlement Administrator will make the following payments out of
8 the Gross Settlement Amount as follows:

9 (a) **To Plaintiff:** In addition to her PAGA Payment Share, Plaintiff will apply to
10 the Superior Court for a Plaintiff's Representative Payment in an amount not to exceed Five
11 Thousand Dollars and No Cents (\$5,000.00). Defendant will not oppose Plaintiff's Representative
12 Payment. The Settlement Administrator will pay the Plaintiff's Representative Payment approved
13 by the Superior Court out of the Gross Settlement Amount. Payroll tax withholding and deductions
14 will not be taken from the Plaintiff's Representative Payment, and an IRS Form 1099 will be issued
15 to Plaintiff for this payment. Any amount of the Plaintiff's Representative Payment not approved by
16 the Court shall become part of the Net Settlement Amount.

17 (b) **To Plaintiff's Counsel:** Plaintiff's Counsel will apply to the Superior Court
18 for the Plaintiff's Counsel Fees Payment in an amount not to exceed Ninety-One Thousand
19 Six Hundred Sixty-Five Dollars and Seventy-Five Cents (\$91,665.75), or one-third (33.333%) of
20 the Gross Settlement Amount. Plaintiff's Counsel will also submit to the Superior
21 Court a memorandum of costs for the Plaintiff's Counsel Litigation Costs Payment in an
22 amount not to exceed Twenty Thousand Dollars and No Cents (\$20,000.00) as requested reasonable
23 costs incurred in the Action to be paid from the Gross Settlement Amount. Defendant will not
24 oppose these requests. The costs and fees provided under the Settlement Agreement and approved
25 by the Court shall be the total costs and attorneys' fees recoverable in the Action. Plaintiff's
26 Counsel shall not seek additional costs or fees arising from the litigation of the Action. The
27 Settlement Administrator will pay the amounts approved by the Superior Court out of the
28 Gross Settlement Amount.

1 Withholding and deductions will not be taken from the Plaintiff's Counsel Fees Payment or
2 Plaintiff's Counsel Litigation Costs Payment, and one or more IRS Forms 1099 will be issued to
3 Plaintiff's Counsel with respect to those payments. Any amount from the Plaintiff's Counsel's Fee
4 Payment or Plaintiff's Counsel Litigation Costs Payment not approved by the Court shall become
5 part of the Net Settlement Amount.

6 (c) **To the Settlement Administrator:** The Settlement Administrator will be
7 paid from the Gross Settlement Amount its reasonable fees and expenses as approved by the
8 Superior Court, which are estimated to be Three Thousand One Hundred and Fifty Dollars and No
9 Cents (\$3,150.00).

10 (d) **Distribution of the Net Settlement Amount:** As part of their Motion for
11 Approval, the Parties will jointly apply to the Superior Court to approve the distribution of the Net
12 Settlement Amount to the LWDA and PAGA Members. Seventy-five percent (75%) of the Net
13 Settlement Amount shall be distributed to the LWDA ("LWDA Payment"). The remaining 25% of
14 the Net Settlement Amount shall be distributed to the PAGA Members on a *pro-rata* basis based
15 upon the number of pay periods worked by each PAGA Member ("PAGA Payment").

16 44. **PAGA Payment Shares.** Subject to the terms and conditions of this Settlement, the
17 Settlement Administrator will calculate the PAGA Payment Shares for each PAGA Member within
18 ten (10) calendar days after Defendant provides the Settlement Administrator with the Aggrieved
19 Employee List. The PAGA Payment Share for each PAGA Member will be calculated as follows,
20 understanding that the formulas below do not constitute an admission by either Party, and are
21 intended only to provide a practical means to simplify and administer the claims process:

22 (a) **Number of PAGA Members and Pay Periods.** Defendant shall determine
23 the total number of PAGA Members and the aggregate number of Pay Periods for those PAGA
24 Members during the PAGA Period. This information shall be provided to the Settlement
25 Administrator along with the Aggrieved Employee List as described above.

26 (b) **Calculation of the Pay Period Value.** The Settlement Administrator shall
27 determine the value of a Pay Period ("Pay Period Value") by taking the PAGA Payment amount
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(i.e., 25% of the Net Settlement Amount) and dividing it by the sum of all PAGA Members' Pay Periods.

(c) **Calculation of PAGA Payment Shares.** The Settlement Administrator shall assign to each PAGA Member a PAGA Payment Share which shall be equal to the Pay Period Value multiplied by each PAGA Member's Individual Pay Periods. Upon calculation of the PAGA Members' PAGA Payment Shares, the Settlement Administrator shall furnish to Plaintiff's Counsel and Defense Counsel a worksheet containing a list of employee identification numbers for the PAGA Members with their corresponding Individual Pay Periods and PAGA Payment Shares. Personal contact information of Defendant's employees, including but not limited to, employee names, phone numbers, addresses, social security number, and/or other personal identifying information shall not be shared by the Settlement Administrator with Plaintiff's Counsel without prior written authorization from Defendant, or its counsel.

45. **Taxes and Withholdings.** One hundred percent (100%) of each PAGA Payment Share shall represent civil penalties. The PAGA Payment Share shall be paid to the PAGA Member in full without deductions or withholdings, and the Settlement Administrator shall issue an IRS Form 1099 to each PAGA Member for that amount. Each PAGA Member shall be individually responsible for their own share of applicable income tax withholdings and deductions for his or her PAGA Payment Share.

46. **Appointment of Settlement Administrator.** The Parties will ask the Superior Court to appoint Phoenix Settlement Administrators a qualified and experienced administrator based in California where the Action is venued, to serve as the Settlement Administrator, which, as a condition of appointment, will agree to be bound by this Settlement Agreement with respect to the performance of its duties and its compensation. The Settlement Administrator's duties will include (i) calculating PAGA Payment Shares; (ii) preparing, translating, printing, and mailing the PAGA Notice to all PAGA Members; (iii) using reasonable measures to contact all PAGA Members, including conducting a National Change of Address search on all PAGA Members before mailing the PAGA Notice to each PAGA Member's address; (iv) re-mailing the PAGA Notice to the PAGA

1 Member's new address for those PAGA Members whose address had changed; (v) setting up a toll-
2 free telephone number to receive calls from PAGA Members; (vi) issuing the checks to effectuate
3 the payments due under the Settlement; (vii) using reasonable measures to deliver issued checks to
4 PAGA Members, including use of a "skip-trace" for undeliverable checks; and (viii) otherwise
5 administering the Settlement pursuant to this Settlement Agreement. The Settlement Administrator
6 will have the final authority to resolve all disputes concerning the calculation of a PAGA Member's
7 PAGA Payment Share, subject to the terms set forth in this Settlement Agreement. The Settlement
8 Administrator's reasonable fees and expenses are estimated to be Three Thousand One Hundred and
9 Fifty Dollars and No Cents (\$3,150.00) and will be paid out of the Gross Settlement Amount, as set
10 forth herein, subject to Court approval.

11 **RELEASE OF CLAIMS**

12 47. **Released Claims.** Upon remittance of the Gross Settlement Amount by Defendant to
13 the Settlement Administrator, Plaintiff and the State of California will fully and finally release and
14 discharge Defendant and the Released Parties from any and all claims for the recovery for civil
15 penalties, attorneys' fees and costs permissible under PAGA which Plaintiff and/or the Aggrieved
16 Employees had, or may claim to have, against the Released Parties, arising out of the violations
17 alleged in the Complaint and/or the PAGA Notice, or reasonably could have been alleged based on
18 the facts contained in the Complaint and/or PAGA Notice, including but not limited to, allegations
19 regarding unpaid straight and overtime wages (including any off-the-clock work), failure to pay
20 employees all minimum wages and overtime wages owed including by failing to pay all overtime
21 and double time at the correct regular rate of pay, failure to provide compliant meal and rest breaks,
22 failure to pay them all premium wages owed for short, late or missed meal and rest periods, failure
23 to pay all wages owed at discharge or resignation; failure to timely pay wages within the times
24 permissible under Labor Code section 204; failure to provide complete and accurate wage
25 statements; failure to keep complete and accurate payroll records; failure to reimburse necessary
26 business-related expenses; and violations of Labor Code sections 201, 202, 203, 204, 226(a), 226.2,
27 226.3, 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, 2698, et seq., 2800, and

1 2802, (collectively, the “Released Claims”). This release shall apply to claims arising during the
2 PAGA Period. Pursuant to applicable law, the Parties understand and agree that State remains
3 bound by this release regardless of whether the Aggrieved Employees cash and/or otherwise
4 negotiate their individual PAGA Payment.

5 48. The Released Claims expressly exclude all claims made by PAGA Members for
6 individual wage claims, vested benefits, wrongful termination, unemployment insurance, disability,
7 social security, workers’ compensation, claims while classified as exempt, and claims outside of the
8 PAGA Period.

9 49. **Plaintiff’s General Release of Claims.** Upon the funding of the Gross Settlement
10 Amount, in exchange for the consideration set forth in this Settlement Agreement, Plaintiff—on
11 behalf of herself only—will agree to the additional following General Release: In consideration of
12 Defendant’s promises and agreements as set forth herein, Plaintiff hereby releases all claims related
13 to her employment or alleged employment with the Defendant including all claims alleged in the
14 Action, and all claims known and unknown, without exception, except as may be prohibited by law.
15 Plaintiff agrees to execute a separate, formal general release of claims in exchange for the
16 consideration set forth in this Settlement Agreement.

17 50. **Plaintiff’s Waiver of California Civil Code § 1542.** Upon the funding of the Gross
18 Settlement Amount, in exchange for the consideration set forth in this Settlement Agreement,
19 Plaintiff also agrees to expressly waive the provisions of California Civil Code § 1542, which
20 provides as follows:

21
22 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS
23 WHICH THE CREDITOR OR RELEASING PARTY DOES NOT
24 KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT
25 THE TIME OF EXECUTING THE RELEASE AND THAT, IF
26 KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY
27 AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR
28 OR RELEASED PARTY.

26 Plaintiff’s general release and waiver of California Civil Code §1542 shall cover the time
27 period from the start of her employment with Defendant up to the Effective Date. This release
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1 general release and waiver of California Civil Code §1542 by Plaintiff is not intended to release any
2 claims that cannot be waived or released as a matter of law, including specifically, without
3 limitation, any claim under the California workers' compensation statute.

4 **MISCELLANEOUS PROVISIONS**

5 51. **Effect on Other Benefit Plans.** The payment of PAGA Payment Shares made to
6 PAGA Members under this Settlement will not be used to calculate any additional benefits under
7 any benefit plans to which any PAGA Member may be eligible, including, but not limited to profit-
8 sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans,
9 PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement
10 Agreement will not affect any rights, contributions, or amounts to which any PAGA Member may
11 be entitled under any benefit plans.

12 52. **No Prior Assignments.** The Parties and their counsel represent, covenant, and
13 warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to
14 assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand,
15 action, cause of action or right herein released and discharged.

16 53. **Continued Jurisdiction.** After entry of the Judgment, the Superior Court will have
17 continuing jurisdiction over the Action and the Settlement solely for purposes of addressing: (i) the
18 interpretation and enforcement of the terms of the Settlement, (ii) settlement administration matters,
19 and (iii) such post-dismissal matters as may be appropriate under court rules or as set forth in this
20 Settlement.

21 54. **Stay of Litigation.** The Parties agree that upon the signing of this Agreement, the
22 continuing litigation of this action shall be stayed absent any filings necessary to obtain approval of
23 the settlement, and the time to bring this action to trial shall be extended pending the outcome of the
24 settlement process.

25 55. **Integrated Agreement.** After this Settlement is signed and delivered by all Parties
26 and their counsel, this Settlement and its exhibits will constitute the entire agreement between the
27 Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties,
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1 covenants, or inducements have been made to any Party concerning this Settlement or its exhibits
2 other than the representations, warranties, covenants, and inducements expressly stated in this
3 Settlement and its exhibits.

4 56. **Amendment or Modification of Agreement.** This Settlement Agreement may be
5 amended or modified only by a written instrument signed by counsel for all Parties or their
6 successors-in-interest.

7 57. **Waiver of Certain Appeals.** The Parties agree to waive appeals; except, that either
8 Party may appeal any court order that materially modifies the Settlement Agreement's terms.

9 58. **Authorization to Enter into Settlement Agreement.** Counsel for all Parties warrant
10 and represent they are expressly authorized by the Parties whom they represent to negotiate this
11 Settlement Agreement and to take all appropriate action required or permitted to be taken by such
12 Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other
13 documents required to effectuate the terms of this Settlement Agreement. The Parties and their
14 counsel will cooperate with each other and use their best efforts to affect the implementation of the
15 Settlement. If the Parties are unable to reach agreement on the form or content of any document
16 needed to implement the Settlement, or on any supplemental provisions that may become necessary
17 to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve
18 such disagreement.

19 59. **Settlement Binding on Successors and Assigns.** This Settlement Agreement will be
20 binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as
21 previously defined.

22 60. **California Law Governs.** All terms and conditions of this Settlement and its
23 exhibits will be governed by and interpreted according to the laws of the State of California.

24 61. **Execution and Counterparts.** This Settlement Agreement is subject only to the
25 execution of all Parties. However, the Settlement Agreement may be executed in one or more
26 counterparts. All executed counterparts and each of them, including facsimile and scanned copies of
27 the signature page, will be deemed to be one and the same instrument provided that counsel for the
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1 Parties will exchange among themselves original signed counterparts.

2 62. **Acknowledgment that the Settlement is Fair and Reasonable.** The Parties and
3 their respective counsel believe and warrant that this Settlement is a fair, reasonable, and adequate
4 settlement of the Action and have arrived at this Settlement after arms-length negotiations by
5 experienced counsel, taking into account all relevant factors, current and potential.

6 63. **Invalidity of Any Provision.** Before declaring any provision of this Agreement
7 invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible
8 consistent with applicable precedents so as to define all provisions of this Agreement valid and
9 enforceable.

10 64. **Captions.** The captions of any section or paragraph of this Agreement are inserted
11 for the reader's convenience and in no way define, limit, construe or describe the scope or intent of
12 the provisions of this Agreement.

13 65. **Waiver.** No waiver of any condition or covenant contained in this Settlement
14 Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to
15 imply or constitute a further waiver by such party of the same or any other condition, covenant,
16 right or remedy.

17 66. **Enforcement Action.** In the event that one or more of the Parties institutes any legal
18 action or other proceeding against any other Party or Parties arising out of that other Party's or
19 Parties' breach of this Agreement, the successful Party or Parties will be entitled to recover from the
20 unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees
21 incurred in connection with any enforcement actions.

22 67. **Mutual Preparation.** The Parties have had a full opportunity to negotiate the terms
23 and conditions of this Agreement. Accordingly, this Agreement will not be construed more strictly
24 against one Party than another merely by virtue of the fact that it may have been prepared by
25 counsel for one of the Parties, it being recognized that, because of the arms-length negotiations
26 between the Parties, all Parties have contributed to the preparation of this Settlement Agreement.

27 68. **Representation By Counsel.** The Parties acknowledge that they have been
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1 represented by counsel throughout all negotiations that preceded the execution of this Agreement,
2 and that this Agreement has been executed with the consent and advice of counsel and reviewed in
3 full. The Parties further acknowledge that they have had an opportunity to consult with their counsel
4 regarding the fairness and reasonableness of this Settlement.

5 **69. Cooperation and Execution of Necessary Documents.** The Parties will cooperate
6 in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of
7 this Settlement Agreement. If the Parties are unable to reach agreement on the form or content of
8 any document needed to implement the Settlement, or on any supplemental provisions that may
9 become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of
10 the Court to resolve such disagreement.

11 **70. Voluntary Agreement.** The Parties acknowledge that they have entered into this
12 Settlement Agreement voluntarily, on the basis of their own judgment and without coercion, duress,
13 or undue influence of any Party, and not in reliance on any promises, representations, or statements
14 made by the other Parties other than those contained in this Settlement Agreement. Each of the
15 Parties hereto expressly waives any right she/they might ever have to claim that this Settlement
16 Agreement was in any way induced by fraud.

17 **71. Binding Agreement.** The Parties warrant that they understand and have full
18 authority to enter into this Settlement, and further intend that this Settlement Agreement will be
19 fully enforceable and binding on all Parties and agree that it will be admissible and subject to
20 disclosure in any proceeding to enforce its terms.

21 **72. Non-Admission of Liability.** The Parties enter into this Agreement to resolve the
22 dispute that has arisen between them and to avoid the burden, expense, and risk of continued
23 litigation. In entering into this Agreement, Defendant does not admit, and specifically denies, that it
24 violated any federal, state, or local law; violated any regulations or guidelines promulgated pursuant
25 to any statute or any other applicable laws, regulations or legal requirements; breached any contract;
26 violated or breached any duty; engaged in any misrepresentation or deception; or engaged in any
27 other unlawful conduct with respect to its employees. Neither this Agreement, nor any of its terms
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1 or provisions, nor any of the negotiations connected with it, shall be construed as an admission or
2 concession by Defendant of any such violations or failures to comply with any applicable law.
3 Except as necessary in a proceeding to enforce the terms of this Agreement, this Agreement and its
4 terms and provisions shall not be offered or received as evidence in any action or proceeding to
5 establish any liability or admission on the part of Defendant or to establish the existence of any
6 condition constituting a violation of, or a non-compliance with, federal, state, local or other
7 applicable law.

8 **73. Neutral Employment Reference.** Defendant agrees that it will adopt a neutral
9 reporting policy regarding any future employment references related to Plaintiff. In the event that
10 any potential or future employers of Plaintiff request a reference regarding Defendant's
11 employment of Plaintiff, Defendant shall only provide Plaintiff's dates of employment, job titles
12 during employment, and final rate of pay. Defendant shall not refer to the Action or this Settlement.

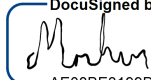
13 **74. Confidentiality.** Prior to the filing of the PAGA approval motion, Plaintiff and her
14 Counsel agree not to discuss the terms or the fact of the Settlement with third parties other than (1)
15 their immediate family members, (2) their respective accountants or lawyers as necessary for tax
16 purposes; or (3) other PAGA Members. Plaintiff and PAGA Counsel agree not to publish any of the
17 terms or conditions of this settlement other than as necessary for approval of this agreement.
18

19 APPROVED AS TO FORM AND CONTENT:

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21 DATED: 1/7/2022

PLAINTIFF MARIACRUZ GONZALEZ

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DocuSigned by:

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1 DATED: January 18, 2023 DEFENDANT VISTA PACIFICA
2 ENTERPRISES, INC.

3 By: 
4 Its: President
5

6 APPROVED AS TO FORM ONLY:
7

8 DATED: January 10, 2022 PROTECTION LAW GROUP LLP
9

10 By: 
11 Heather Davis, Esq.
12 Amir Nayebdadash, Esq.

13 *Attorneys for Plaintiff*
14 MARIACRUZ GONZALEZ

15 DATED: 1/18/22 VARNER & BRANDT LLP
16

17 By: 
18 Richard D. Marca, Esq.
19 Ankit H. Bhakta, Esq.

20 *Attorneys for Defendant*
21 VISTA PACIFICA ENTERPRISES, INC.
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EXHIBIT A

SETTLEMENT ADMINISTRATOR LETTERHEAD

NOTICE OF SETTLEMENT

Name
Address

Gonzalez v. Vista Pacifica Enterprises, Inc.
Riverside County Superior Court Case No. RIC2001557

Dear NAME:

You are receiving the enclosed check from the settlement of a lawsuit entitled *Gonzalez v. Vista Pacifica Enterprises, Inc.*, Riverside County Superior Court Case No. RIC2001557. In this lawsuit, MariaCruz Gonzalez (“Plaintiff”) pursued various claims against Vista Pacifica Enterprises, Inc. (“Vista Pacifica”) under Labor Code § 2699 *et seq.*, the California Private Attorney General Act (“PAGA”). Vista Pacifica denied all the claims and contentions made by Plaintiff in the lawsuit and contends that it has fully complied with the law. Plaintiff’s lawsuit sought to recover penalties for Labor Code violations she alleges were committed against herself and other Aggrieved Employees. Although Vista Pacifica denies these claims, it has agreed to settle the lawsuit to avoid the expense of litigation. The Court has not made a ruling on the merits of the case. As part of this settlement, all non-exempt employees who worked for Vista Pacifica in California between February 13, 2019, and September 18, 2021 (“PAGA Members”) shall receive a portion of the recovered penalties.

The enclosed check for \$ [REDACTED], is your share of the settlement. Your settlement amount represents penalties and will be reported on an IRS Form 1099. Your check is valid for 180 days from the date of mailing. Funds attributable to any uncashed check will escheat to the California State Controller’s Office and may be claimed from there.

As a result of this settlement, Plaintiff and the State of California shall release Vista Pacifica together with its past, present, and/or future, officers, directors, employees, and agents from any and all claims for the recovery for civil penalties, attorneys’ fees and costs permissible under PAGA which Plaintiff and/or the Aggrieved Employees had, or may claim to have, against the Released Parties, arising out of the violations alleged in the Complaint and/or the PAGA Notice, or reasonably could have been alleged based on the facts contained in the Complaint and/or PAGA Notice, including but not limited to, allegations regarding unpaid straight and overtime wages (including any off-the-clock work), failure to pay employees all minimum wages and overtime wages owed including by failing to pay all overtime and double time at the correct regular rate of pay, failure to provide compliant meal and rest breaks, failure to pay them all premium wages owed for short, late or missed meal and rest periods, failure to pay all wages owed at discharge or resignation; failure to timely pay wages within the times permissible under Labor Code section 204; failure to provide complete and accurate wage statements; failure to keep complete and accurate payroll records; failure to reimburse necessary business-related expenses; and violations of Labor Code sections 201, 202, 203, 204, 226(a), 226.2, 226.3, 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, 2698, *et seq.*, 2800, and 2802, that arose between February 13, 2019, and September 18, 2021. This means you cannot file a suit against Vista Pacifica for claims arising under PAGA during this period. It does not affect your right to bring an individual lawsuit or mean you have released any individual claims.

Any questions regarding the settlement should be directed to the settlement administrator at: [TELEPHONE NUMBER].