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

EMILIO RAMIREZ BENITEZ,
Plaintiff,

v.

PREMIUM PACKING INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendant.

CASE NO.: 20CV000634
[Complex Jurisdiction]
Consolidated with Case No. 21CV002679

*Assigned for all purposes to the
Honorable Carrie M. Panetta, Dept. 14*

PAGA SETTLEMENT AGREEMENT

Complaint Filed: February 14, 2020
First Amended Complaint: June 23, 2020
Second Amended Complaint: November 5, 2020
Trial Date: None Set

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This PAGA Representative Settlement Agreement (“Agreement”) is made by and between Emilio Ramirez Benitez (“Plaintiff Benitez”) and Cirilo Ramirez Marcial (“Plaintiff Marcial” and together with Plaintiff Benitez, “Plaintiffs”) and Premium Packing, Inc. (“Defendant”). Plaintiffs and Defendant are referred to collectively as the “Parties.” This Agreement is intended to resolve all disputes and extinguish those obligations described below.

1. DEFINITIONS.

1.1. “Action” means Plaintiffs’ lawsuits alleging wage and hour violations pursuant to the Private Attorneys General Act, California Labor Code § 2698, *et seq.* entitled (i) *Emilio Ramirez Benitez v. Premium Packing, Inc. et al.*, filed in the Superior Court of the State of California, County of Monterey, Case No. 20CV000634 (“Benitez Action”); and (ii) *Cirilo Ramirez Marcial v. Premium Packing, Inc. et al.*, filed in the Superior Court of the State of California, County of Monterey, Case No. 21CV002679 (“Marcial Action”).

1.2. “Administrator” or “Settlement Administrator” means ILYM Group, the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Approval of the Settlement.

1.4. “Aggrieved Employee” or “Aggrieved Employees” consists of all persons within the State of California who are or were employed by Defendant as non-exempt employees in the State of California during the PAGA Period (defined below).

1.5. “Plaintiffs’ Counsel” means Bradley/Grombacher, LLP and Moon Law Group, P.C.

1.6. “Plaintiffs’ Counsel Fees Payment” and “Plaintiffs’ Counsel Litigation Expenses Payment” mean the amounts allocated to Plaintiffs’ Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.

1.7. “Aggrieved Employee Data” means Aggrieved Employee-identifying information in Defendant’s possession including the Aggrieved Employee’s name, last-known mailing address, Social Security number, and number of PAGA Period Pay Periods.

1.8. “Aggrieved Employee Address Search” means the Administrator’s investigation and search for current Aggrieved Employee’s mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Aggrieved Employees.

1.9. “PAGA Representative Action Settlement Notice” means the COURT APPROVED NOTICE OF PAGA REPRESENTATIVE ACTION SETTLEMENT AND HEARING DATE FOR PAGA SETTLEMENT APPROVAL, to be mailed to Aggrieved Employees in English with a Spanish translation in the form, without material variation, attached as **Exhibit A** and incorporated by reference into this Agreement.

1.10. “PAGA Representatives” means Plaintiffs Emilio Ramirez Benitez and Cirilo Ramirez Marcial seeking Court approval to serve as PAGA Representatives.

1.11. “PAGA Representative Service Payments” means the payments to the PAGA Representatives for initiating the Action and providing services in support of the Action.

1.12. “Court” means the Superior Court of California, County of Monterey.

1.13. “Defense Counsel” means Alden J. Parker, Rebecca Hause-Schultz and Christina M. Anton, Fisher & Phillips LLP.

1.14. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Approval of the PAGA Settlement; and (b) the Judgment is final. If a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur is considered “final judgment.”

1.15. “PAGA Settlement Approval” means the Court’s order granting approval of the PAGA Settlement.

1.16. “PAGA Settlement Approval Hearing” means the Court’s hearing on the Motion for Approval of the PAGA Settlement.

1.17. “Gross Settlement Amount” means one hundred nine thousand five hundred thirty (\$109,530.00) which is the total amount Defendant agrees to pay under the Settlement. The Gross Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment,

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1 Plaintiffs' Counsel Fees, Plaintiffs' Counsel Expenses, PAGA Representative Service Payment and the
2 Administrator's Expenses.

3 1.18. "Individual PAGA Payment" means the Aggrieved Employees' pro rata share of the 25%
4 of the PAGA Penalties calculated according to the number of Pay Periods worked during the PAGA
5 Period.

6 1.19. "Judgment" means the judgment entered by the Court based upon the PAGA Settlement
7 Approval.

8 1.20. "LWDA" means the California Labor and Workforce Development Agency, the agency
9 entitled, under Labor Code section 2699, subd. (i)

10 1.21. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA
11 under Labor Code section 2699, subd. (i).

12 1.22. "PAGA Penalties" means the Gross Settlement Amount, less the following payments in
13 the amounts approved by the Court: PAGA Representative Service Payments, Plaintiffs' Counsel Fees
14 Payment, Plaintiffs' Counsel Litigation Expenses Payment, and the Administration Expenses Payment.
15 The remainder is to be paid as Individual PAGA Payments and LWDA PAGA Payment.

16 1.23. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked
17 for Defendant for at least one day during the PAGA Period.

18 1.24. "PAGA Period" means the period from February 22, 2020 through September 15, 2023.

19 1.25. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

20 1.26. "PAGA Notices" means Plaintiffs' letters to Defendant and the providing notices
21 pursuant to Labor Code section 2699.3, subd.(a).

22 1.27. "Released PAGA Claims" means the claims being released as described in Paragraph 5
23 below.

24 1.28. "Released Parties" means: Defendant and each of its subsidiaries, parents, managing
25 agents, employees, former employees, servants, consultants, agents, directors, officers, independent
26 contractors, representative, insurance carriers, reinsurers, and attorneys (and their servants, agents,
27 employees, former employees, directors, officers, independent contractors, representative, consultants,

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insurance carriers and attorneys of any such subsidiaries, or parents), and all persons acting by, through, under or in concert with any of them, and each of its respective heirs, successors, and assigns.

1.29. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.

2. RECITALS.

2.1. On or about February 7, 2020, Plaintiff Benitez initiated the *Benitez* Action by filing a Complaint against Defendant, alleging seven causes of action for (1) failure to pay all wages/overtime in violation of California Labor Code sections 1194, 510; (2) failure to pay reporting time pay in violation of California Labor Code sections 218, 1194; (3) failure to furnish an accurate itemized wage statement upon payment of wages in violation of California Labor Code section 226; (4) failure to reimburse expenses in violation of California Labor Code section 2802; (5) failure to pay all wages at time of termination in violation of California Labor Code sections 201 to 203; and (6) violations of California Business and Professions Code sections 17200 et seq..

2.2. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff Benitez gave timely written notice to Defendant and the LWDA by sending a PAGA Notice on February 7, 2020.

2.3. On or about June 23, 2020, Plaintiff Benitez filed a First Amended Complaint, adding a seventh cause of action for civil penalties pursuant to California Labor Code sections 2698 to 2699 for violations of California Labor Code sections 1194, 510, 226, 2802, 201-203.

2.4. On or about November 5, 2020, Plaintiff Benitez filed a Second Amended Complaint, dismissing the class action causes of action and proceeding with a single cause of action for civil penalties pursuant to California Labor Code sections 2698 to 2699 for violations of California Labor Code sections 1194, 510, 226, 2802, 201-203.

2.5. On or about August 13, 2021, Plaintiff Marcial initiated the *Marcial* Action by filing a Complaint against Defendant, alleging nine causes of action for (1) failure to pay minimum wages; (2) failure to pay overtime compensation; (3) failure to provide meal periods; (4) failure to authorize and permit rest breaks; (5) failure to indemnify necessary business expenses; (6) failure to timely pay final wages at termination; (7) failure to provide accurate itemized wage statements; and (8) unfair business practices.

2.6. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff Marcial gave timely written notice to Defendant and the LWDA by sending a PAGA Notice on August 14, 2021 and an amended PAGA Notice on August 16, 2021.

2.7. On or about December 28, 2021, Plaintiff Marcial filed a First Amended Complaint, adding a ninth cause of action for civil penalties under PAGA.

2.8. Plaintiffs and Plaintiffs' Counsel also represent that they will be dismissing the class action claims against Defendant in the *Marcial* Action and that they will consolidate the *Marcial* Action and the *Benitez* Action.

2.9. Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.

3. MONETARY TERMS.

3.1. Gross Settlement Amount. Except as otherwise provided, Defendant promise to pay one hundred nine thousand five hundred thirty dollars (\$109,530.00) and no more as the Gross Settlement Amount. Defendant has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the PAGA Settlement Approval.

3.2.1. To Plaintiff: PAGA Representative Service Payments of not more than five thousand dollars (\$5,000.00) to each Plaintiff for a total of ten thousand dollars (\$10,000.00), in addition to any Individual PAGA Payment the PAGA Representatives are entitled to receive as Aggrieved Employees. Defendant will not oppose Plaintiffs' request for a PAGA Representative Service Payment that does not exceed this amount. As part of the motion for Plaintiffs' Counsel Fees Payment and Litigation Expenses Payment, Plaintiffs will seek Court approval for any PAGA Representative Service Payments no later than sixteen (16) court days prior to the PAGA Settlement Approval Hearing. If the

Court approves PAGA Representative Service Payments less than the amount requested, the Administrator will retain the remainder as PAGA Penalties. The Administrator will pay the PAGA Representative Service Payments using IRS Form 1099. Plaintiffs assume full responsibility and liability for employee taxes owed on the PAGA Representative Service Payments.

3.2.2. To Plaintiffs' Counsel: A Plaintiffs' Counsel Fees Payment of not more than 33.33%, which is currently estimated to be \$36,510.00 and a Plaintiffs' Counsel Litigation Expenses Payment of not more than \$22,500.00. Defendant will not oppose requests for these payments provided they do not exceed these amounts. Plaintiffs and/or Plaintiffs' Counsel will file a motion for Plaintiffs' Counsel Fees Payment and Litigation Expenses Payment no later than sixteen (16) court days prior to the PAGA Settlement Approval Hearing. If the Court approves a Plaintiffs' Counsel Fees Payment and/or a Plaintiffs' Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder as PAGA Penalties. Released Parties shall have no liability to Plaintiffs' Counsel or any other Plaintiffs' counsel arising from any claim to any portion any Plaintiffs' Counsel Fee Payment and/or Plaintiffs' Counsel Litigation Expenses Payment. The Administrator will pay the Plaintiffs' Counsel Fees Payment and Plaintiffs' Counsel Litigation Expenses Payment using one or more IRS 1099 Forms. Plaintiffs' Counsel assumes full responsibility and liability for taxes owed on the Plaintiffs' Counsel Fees Payment and the Plaintiffs' Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$4,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less, or the Court approves payment less than \$4,000.00, the Administrator will retain the remainder as PAGA Penalties.

3.2.4. To Each Participating Aggrieved Employee: An Individual PAGA Payment calculated by (a) dividing the 25% of the PAGA Penalties by the total number of Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's Pay Periods.

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3.2.5. Tax Allocation of Individual PAGA Payments. 100% of each Aggrieved Employees' Individual PAGA Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portion are not subject to wage withholdings and will be reported on IRS 1099 Forms. Aggrieved Employees assume full responsibility and liability for any employee taxes owed on their Individual PAGA Payment.

3.2.6. Estimated PAGA Penalties. Based on the foregoing, the Parties estimate the PAGA Penalties to be calculated as follows:

Gross Settlement Amount:	\$109,530.00
Requested PAGA Representative Service Payments:	\$10,000.00
Requested Plaintiffs' Counsel Fees Payment:	\$36,510.00
Requested Plaintiffs' Counsel Litigation Expenses	\$22,500.00
Payment:	
Administrator Expenses Payment:	\$4,000.00
PAGA Penalties	\$36,520.00

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. PAGA Pay Periods. Based on a review of its records to date, Defendant estimate there are 89 Aggrieved Employees who worked a total of 2,434 PAGA Pay Periods. Should the actual number of PAGA Pay Periods exceed 2,434 by more than ten percent (10%), then the Gross Settlement Amount shall be increased on a pro rata basis for any Pay Periods above the 10% cushion. For example, if the PAGA Pay Periods exceed 2,434 by 16%, Defendant shall owe an additional amount equal to 6% of the Gross Settlement Amount.

4.2. Aggrieved Employee Data. Not later than fourteen (14) days after the Court grants Approval of the Settlement, Defendant will deliver the Aggrieved Employee Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employee's privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved

Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement.

4.3. Funding of Gross Settlement Amount. Defendant shall fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than thirty (30) days after the Effective Date.

4.4. Payments from the Gross Settlement Amount. Within fourteen (14) days after Defendant fully funds the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Plaintiffs' Counsel Fees Payment, the Plaintiffs' Counsel Litigation Expenses Payment, and the PAGA Representative Service Payment. Disbursement of the Plaintiffs' Counsel Fees Payment, the Plaintiffs' Counsel Litigation Expenses Payment and the PAGA Representative Service Payment shall not precede disbursement of Individual PAGA Payments.

4.4.1. The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees who qualify as Aggrieved Employees (including those for whom PAGA Notice was returned undelivered). Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2. The Administrator must conduct an Aggrieved Employee Address Search for all other Aggrieved Employees whose checks are returned undelivered without a USPS forwarding address. Within seven (7) days of receiving a returned check, the Administrator must re-mail the checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver the checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced and requested by the Aggrieved Employee prior to the void date.

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4.4.3. For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks, plus any interest accrued thereon, shall be submitted to the State Controller's Unclaimed Property Fund, such that there is no remainder.

4.4.4. The payment of Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASES OF CLAIMS. Effective on the date when Defendant fully funds the entire Gross Settlement Amount, Plaintiffs, Aggrieved Employees, and Plaintiffs' Counsel will release claims against all Released Parties as follows:

5.1 Plaintiffs' Release. Plaintiffs and their former and present spouse, Representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, Plaintiffs' PAGA Notice, or ascertained during the Action and released under 5.2, below. ("Plaintiffs' Release.") Plaintiffs' Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the PAGA Period. Plaintiffs acknowledge that Plaintiffs may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now knows or believes to be true but agrees, nonetheless, that Plaintiffs' Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs' discovery of them.

5.1.1 Plaintiffs' Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiffs' Release, Plaintiffs expressly waive and relinquish the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of

executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or Released Party.

5.2 Release by Aggrieved Employees: All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present Representative, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice and ascertained in the course of the Action including, but not limited to: (1) failure to pay all wages/overtime in violation of California Labor Code sections 1194, 510; (2) failure to pay reporting time pay in violation of California Labor Code sections 218, 1194; (3) failure to furnish an accurate itemized wage statement upon payment of wages in violation of California Labor Code section 226; (4) failure to reimburse expenses in violation of California Labor Code section 2802; (5) failure to pay all wages at time of termination in violation of California Labor Code sections 201 to 203; (6) violations of California Business and Professions Code sections 17200 et seq.; (7) failure to authorize and permit rest breaks in violation of California Labor Code sections 226 and 512; (8) failure to authorize and permit rest breaks in violation of California Labor Code section 226.7; and (9) any claims under the Private Attorney General Act of 2004.

6. MOTION FOR ORDER APPROVING SETTLEMENT.

6.1 Plaintiffs' Responsibilities. Plaintiffs will prepare and deliver to Defense Counsel all documents necessary for obtaining approval of this Settlement, including: (i) a draft of the notice, and memorandum in support, of the Motion for Approval of PAGA Settlement that includes a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Approval of PAGA Settlement; (iii) a draft proposed PAGA Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Aggrieved Employee Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Aggrieved Employees; and the nature and extent of any financial relationship with Plaintiffs, Plaintiffs' Counsel or Defense Counsel; (v) a signed declaration from Plaintiffs confirming willingness and competency to

serve and disclosing all facts relevant to any actual or potential conflicts of interest with Aggrieved Employees and the Administrator; (v) a signed declaration from each Plaintiffs' Counsel firm attesting to its competency to represent the Aggrieved Employees; its timely transmission to the LWDA of all necessary PAGA documents; and (vi) all facts relevant to any actual or potential conflict of interest with Aggrieved Employees and the Administrator. In their Declarations, Plaintiffs and Plaintiffs' Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2 Responsibilities of Counsel. Plaintiffs' Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Approval of PAGA Settlement no later than forty-five (45) days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Approval; and for appearing in Court to advocate in favor of the Motion for Approval. Plaintiffs' Counsel is responsible for delivering the Court's Approval to the Administrator.

6.3 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Approval and/or the supporting declarations and documents, Plaintiffs' Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Approval or conditions Approval on any material change to this Agreement, Plaintiffs' Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

7.1 Selection of Administrator. The Parties have jointly selected ILYM Group to serve as the Administrator and verified that, as a condition of appointment, ILYM Group agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

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7.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-1.

7.4 Notice to Aggrieved Employees.

7.4.1 No later than three (3) business days after receipt of the Aggrieved Employee Data, the Administrator shall notify Plaintiffs’ Counsel that the list has been received and state the number of Aggrieved Employees and Pay Periods in the Aggrieved Employee Data.

7.4.2 Using best efforts to perform as soon as possible, and in no event later than fourteen (14) days after receiving the PAGA Data, the Administrator will send to all Aggrieved Employees identified in the Aggrieved Employee Data, via first-class United States Postal Service (“USPS”) mail, the PAGA Notice with Spanish translation substantially in the form attached to this Agreement as **Exhibit A**. Before mailing the PAGA Notices, the Administrator shall update Aggrieved Employee addresses using the National Change of Address database.

7.4.3 Not later than three (3) business days after the Administrator’s receipt of any PAGA Notice returned by the USPS as undelivered, the Administrator shall re-mail the PAGA Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct an Aggrieved Employee Address Search, and re-mail the PAGA Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send the PAGA Notice to Aggrieved Employees whose PAGA Notice is returned by the USPS a second time.

7.4.4 If the Administrator, Defendant or Plaintiffs’ Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Aggrieved Employee Data and should have received PAGA Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Aggrieved Employees. If the Parties agree, such persons will be Aggrieved Employees entitled to the same rights as other

Aggrieved Employees, and the Administrator will send, via email or overnight delivery, a PAGA Notice requiring them to exercise options under this Agreement not later than fourteen (14) days after receipt of PAGA Notice, or the deadline dates in the PAGA Notice, whichever is later.

7.5 Requests for Exclusion (Opt-Outs).

7.5.1 Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, all Aggrieved Employees are deemed to release the claims identified in Paragraph 5 of this Agreement and are eligible for an Individual PAGA Payment and cannot request exclusion from the Settlement.

7.6 Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

7.6.1 Email Address and Toll-Free Number. The Administrator will establish and maintain and monitor an email address and a toll-free telephone number to receive Aggrieved Employee calls, and emails.

7.6.2 Weekly Reports. The Administrator must provide a written report(s) to Plaintiffs' Counsel and Defense Counsel that, among other things, tally the number of: PAGA Notices mailed or re-mailed, PAGA Notices returned undelivered, and checks mailed for Individual PAGA Payments ("Weekly Report").

7.6.3 Final Report by Settlement Administrator. Within ten (10) days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Plaintiffs' Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least fifteen (15) days before any deadline set by the Court, the Administrator will prepare, and submit to Plaintiffs' Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Plaintiffs' Counsel is responsible for filing the Administrator's declaration in Court.

8. PAGA GROUP SIZE ESTIMATES

8.1 Aggrieved Employee Pay Periods. Based on its records, Defendant estimates that, as of the date of this Settlement Agreement there were 89 Aggrieved Employees who worked 2,434 Pay

Periods during the PAGA Period. Should the actual number of PAGA Pay Periods exceed 2,434 by more than ten percent (10%), then the Gross Settlement Amount shall be increased on a pro rata basis for any Pay Periods above the 10% cushion. For example, if the PAGA Pay Periods exceed 2,434 by 16%, Defendant shall owe an additional amount equal to 6% of the Gross Settlement Amount.

9. MOTION FOR PAGA SETTLEMENT APPROVAL. Not later than sixteen (16) court days before the calendared PAGA Settlement Approval Hearing, Plaintiffs will file in Court, a Motion for Approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed PAGA Settlement Approval Order and a proposed Judgment (collectively “Motion for Settlement Approval”). Plaintiffs shall provide drafts of these documents to Defense Counsel not later than seven (7) days prior to filing the Motion for Settlement Approval. Defense Counsel shall have three (3) business days from the date Plaintiffs deliver drafts of the Motion for Settlement Approval to review and provide comments to Plaintiffs’ Counsel. Plaintiffs’ Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Settlement Approval.

9.1 Duty to Cooperate. If the Court does not grant Approval or conditions Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Aggrieved Employees), the Parties will expeditiously work together in good faith to address the Court’s concerns by revising the Agreement as necessary to obtain Approval. The Court’s decision to award less than the amounts requested for the PAGA Representative Service Payment, Plaintiffs’ Counsel Fees Payment, Plaintiffs’ Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

9.2 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

9.3 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Plaintiffs’ Counsel Fees Payment and Plaintiffs’ Counsel Litigation Expenses Payment set forth in this Settlement, the Parties, their respective counsel,

and all Aggrieved Employees waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

9.4 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Aggrieved Employees), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Settlement Approval and entry of Judgment. An appellate decision to vacate, reverse, or modify the Court's award of the PAGA Representative Service Payment or any payments to Plaintiffs' Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

10. AMENDED JUDGMENT. If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

11. ADDITIONAL PROVISIONS.

11.1 No Admission of Liability, Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted, nor should it be intended or construed as an admission by Plaintiffs that Defendant's defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. If for any reason the Court does grant Approval or enter Judgment, Defendant reserves all available defenses to the claims in the Action. The Settlement, this Agreement and the Parties' willingness to settle the

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1 Action will have no bearing on, and will not be admissible in connection with, any litigation (except for
2 proceedings to enforce or effectuate the Settlement and this Agreement).

3 11.2 Confidentiality Prior to Approval. Plaintiffs, Plaintiffs' Counsel, Defendant and Defense
4 Counsel separately agree that each of them will not disclose, disseminate and/or publicize, or cause or
5 permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly
6 or indirectly, specifically or generally, to any person, corporation, association, government agency, or
7 other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed
8 to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report
9 income to appropriate taxing authorities; (4) in response to a court order or subpoena; (5) in response to
10 an inquiry or subpoena issued by a state or federal government agency, or (6) Court filings necessary to
11 effectuate the Settlement. Each Party agrees to immediately notify each other Party of any judicial or
12 agency order, inquiry, or subpoena seeking such information. Plaintiffs, Plaintiffs' Counsel, Defendant
13 and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other
14 communication, with any third party regarding this Agreement or the matters giving rise to this
15 Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph
16 does not restrict Plaintiffs' Counsel's communications with Aggrieved Employees in accordance with
17 Plaintiffs' Counsel's ethical obligations owed to Aggrieved Employees.

18 11.3 No Solicitation. The Parties separately agree that they and their respective counsel and
19 employees will not solicit any Aggrieved Employee to appeal from the Judgment. Nothing in this
20 paragraph shall be construed to restrict Plaintiffs' Counsel's ability to communicate with Aggrieved
21 Employees in accordance with Plaintiffs' Counsel's ethical obligations owed to Aggrieved Employees.

22 11.4 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
23 together with its attached exhibits shall constitute the entire agreement between the Parties relating to
24 the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made
25 to or by any Party.

26 11.5 Attorney Authorization. Plaintiffs' Counsel and Defense Counsel separately warrant and
27 represent that they are authorized by Plaintiffs and Defendant, respectively, to take all appropriate action
28 required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and

to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

11.6 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

11.7 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

11.8 No Tax Advice. Neither Plaintiffs, Plaintiffs' Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

11.9 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their Representative, and approved by the Court.

11.10 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

11.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the State of California, without regard to conflict of law principles.

11.12 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

11.13 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

11.14 Use and Return of Aggrieved Employee Data. Information provided to Plaintiffs' Counsel pursuant to Cal. Evid. Code § 1152, and all copies and summaries of the Aggrieved Employee Data provided to Plaintiffs' Counsel by Defendant, including Aggrieved Employee Data provided through the Administrator, in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than ninety (90) days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiffs and Plaintiffs' Counsel shall destroy, all paper and electronic versions of Aggrieved Employee Data received from Defendant unless, prior to the Court's discharge of the Administrator's obligation, Defendant makes a written request to Plaintiffs' Counsel for the return, rather than the destructions, of Aggrieved Employee Data.

11.15 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

11.16 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

11.17 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiffs:

Marcus J. Bradley
Kiley L. Grombacher
BRADLEY/GROMBACHER, LLP
31365 Oak Crest Drive, Suite 240
Westlake Village, CA 91361
Telephone: (805) 270-7100
E-mail: mbradleygrombacher.com

E-mail: kgrombacher@bradleygrombacher.com

Kane Moon
Allen Feghali
Lannie Pham
MOON LAW GROUP, PC
725 S Figueroa St., Suite 3100
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125
E-mail: kmoon@moonlawgroup.com
E-mail: afeghali@moonlawgroup.com
E-mail: lpham@moonlawgroup.com

To Defendant:

Alden J. Parker (SBN 196808)
E-Mail: aparker@fisherphillips.com
Rebecca Hause-Schultz (SBN 292252)
E-Mail: rhause-schultz@fisherphillips.com
Christina M. Anton (SBN 340329)
E-Mail: canton@fisherphillips.com

FISHER & PHILLIPS LLP
621 Capitol Mall, Suite 2400
Sacramento, California 95814
Telephone: (916) 210-0400
Facsimile: (916) 210-0401

11.18 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e., DocuSign or Adobe Sign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

11.19 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to Code of Civil Procedure section 583.330 to extend the date to bring a case to trial under Code of Civil Procedure section 583.310 for the entire period of this settlement process.

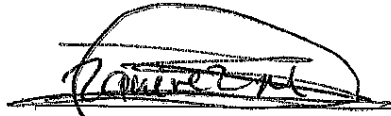
[Signature Page on Following Page]

1
2 Dated: 11/18/2024

Signed by:
Emilio B
E72565F3AE5D44C...

3 Plaintiff Emilio Ramirez Benitez

4
5
6 Dated: 11/26/2024



7 Plaintiff Cirilo Ramirez Marcial

8
9
10 Dated: Nov 19, 2024

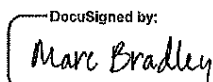
Ronnie Alderete
Ronnie Alderete (Nov 19, 2024 14:42 PST)

11 Ronnie Alderete
12 Defendant Premium Packing, Inc.

13 APPROVED AS TO FORM ONLY:

14
15 DATE: 11/18/2024

BRADLEY/GROMBACHER, LLP

16
17 By: 
18 MARCUS J. BRADLEY
19 KILEY L. GROMBACHER

20 Attorneys for Plaintiff
21 EMILIO RAMIREZ BENITEZ

22 DATE: 12/02/2024

MOON LAW GROUP, PC

23
24 By: 
25 KANE MOON
26 ALLEN FEGHALI
27 LANNIE PHAM
28 Attorneys for Plaintiff
CIRILO RAMIREZ MARCIAL

1 DATE: November 19, 2024

FISHER & PHILLIPS LLP

2
3 By:


ALDEN J. PARKER
REBECCA HAUSE-SCHULTZ
CHRISTINA M. ANTON

Attorneys for Defendant
PREMIUM PACKING, INC.