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JORGE LEYVA, individually and on behalf of
all others similarly situated,

PLAINTIFF,

v.

FRESHPOINT CENTRAL CALIFORNIA,
INC., a Delaware corporation; and
DOES 1 through 50, inclusive,

DEFENDANTS.

Case No. CV-20-002633

**JOINT STIPULATION OF CLASS
ACTION AND PAGA SETTLEMENT
AND RELEASE BETWEEN PLAINTIFF
AND DEFENDANT**

This Joint Stipulation of Class Action and PAGA Settlement and Release (hereinafter
“Stipulation of Settlement”) is made and entered into by and between Plaintiff Jorge Leyva, as an

1 individual and on behalf of all similarly situated and aggrieved employees ("Plaintiff"), and
2 FreshPoint Central California, Inc. ("Defendant").

3 This Stipulation of Settlement shall be binding on Plaintiff and those persons Plaintiff seeks
4 to represent, and on (i) Defendant; (ii) each of Defendant's respective past, present and future
5 parents, subsidiaries, and affiliates including, without limitation, any corporation, limited liability
6 company, or partnership; (iii) the past, present and future members, directors, officers, agents,
7 employees, attorneys, insurers, members, partners, managers, contractors, agents, consultants,
8 representatives, administrators, fiduciaries, benefit plans, transferees, predecessors, successors,
9 and assigns of any of the foregoing; and (iv) any individual or entity which could be jointly liable
10 with any of the foregoing including, but not limited to, temporary agencies. The Settlement
11 contemplated by this Stipulation of Settlement may hereinafter be referred to as the "Settlement."

12 THE PARTIES STIPULATE AND AGREE as follows:

13 1. Plaintiff and Defendant are collectively referred to herein as "the Parties."

14 2. On June 12, 2020, Plaintiff filed a class action complaint, individually and on behalf
15 of other similarly situated, in the Stanislaus County Superior Court alleging claims of failure to
16 pay wages pursuant to Labor Code sections 226, 510, 1194, a claim for penalties for wage and
17 hour violations under the California Private Attorneys' General Act ("PAGA"), and violation of
18 Business and Professions Code section 17200, against Defendant under Case No. CV-20-002633
19 (the "Action"). The "Class Period" is from March 29, 2016 through the date of preliminary court
20 approval of the Settlement. The "PAGA Period" will be from March 29, 2019, through the date
21 the Court grants preliminary approval of the settlement.

22 3. This Action has been actively litigated. There have been on-going investigations,
23 there has been an exchange of extensive documentation and information, and the Parties have
24 participated in extensive private settlement negotiations. Plaintiff has not filed a motion for class
25 certification in this Action, nor has a date been set by the Court for the filing of such a motion.

26 4. For purposes of this Settlement, the "Settlement Class" or "Class Members" shall
27 include all persons who are employed or have been employed by Defendant in California as
28 non-exempt employees who worked overtime and earned non-discretionary incentive pay from

1 March 29, 2016 through preliminary approval of the Settlement. The Settlement Class will not
2 include any person who previously settled or released any of the claims covered by this Settlement,
3 or any person who previously was paid or received awards through civil or administrative actions
4 for the claims covered by this Settlement. The Settlement Class will also not include any person
5 who submits a timely and valid Request for Exclusion as provided in this Settlement.

6 5. All Class Members who worked any hours for Defendant in California during the
7 PAGA Period are aggrieved employees with respect to PAGA ("PAGA Members") and will be
8 paid their PAGA Share and release the Released PAGA Claims regardless of whether they submit
9 a timely and valid Request for Exclusion from the Settlement.

10 6. Solely for purpose of settling this case, the Parties stipulate and agree that the
11 requisites for establishing class certification with respect to the Settlement Class have been met
12 and are met. More specifically, the Parties stipulate and agree that:

13 a. The Settlement Class is ascertainable and so numerous as to make it
14 impracticable to join all Class Members.

15 b. There are common questions of law and fact, including but not limited to
16 the following:

17 i. Whether Defendant complied with applicable laws affecting
18 Plaintiff and the Settlement Class under the California Labor Code and the Wage Orders of the
19 California Industrial Welfare Commission; and

20 ii. Whether Plaintiff and the Settlement Class are entitled to alleged
21 unpaid wages, penalties, interest, and attorneys' fees and costs.

22 c. Plaintiff believes that Plaintiff's claims are typical of the claims of the
23 members of the Settlement Class.

24 d. Plaintiff believes that Plaintiff will fairly and adequately protect the
25 interests of the Settlement Class, and that William L. Marder of Polaris Law Group LLP and
26 Dennis S. Hyun of Hyun Legal APC, should be "Class Counsel" and will fairly and adequately
27 protect the interests of the Settlement Class.
28

1 e. The prosecution of separate actions by individual members of the
2 Settlement Class would create the risk of inconsistent or varying adjudications, which would
3 establish incompatible standards of conduct.

4 f. With respect to the Settlement Class, Plaintiff believes that questions of law
5 and fact common to the members of the Settlement Class predominate over any questions affecting
6 any individual member in such Class, and a class action is superior to other available means for
7 the fair and efficient adjudication of the controversy.

8 7. Defendant denies any liability or wrongdoing of any kind whatsoever associated
9 with the claims alleged in the Complaint, and further denies that, for any purpose other than settling
10 this Action, this Action is appropriate for class or representative treatment. With respect to
11 Plaintiff's claims, Defendant contends, among other things, that it has complied with all applicable
12 state, federal and local laws affecting Plaintiff and the Settlement Class.

13 8. It is the desire of the Parties to fully, finally and forever settle, compromise and
14 discharge all disputes and claims arising from the allegations and causes of action stated in the
15 Complaint. To achieve a full and complete release of Defendant, each Class Member
16 acknowledges that this Stipulation of Settlement is intended to include in its effect all claims of
17 any nature reasonably arising out of the allegations made in the Complaint.

18 9. It is the intention of the Parties that this Stipulation of Settlement shall constitute
19 a full and complete settlement and release of all claims arising from the allegations in the
20 Complaint against: (i) Defendant; (ii) each of Defendant's respective past, present and future
21 parents, subsidiaries, and affiliates including, without limitation, any corporation, limited liability
22 company, or partnership; (iii) the past, present and future members, directors, officers, agents,
23 employees, attorneys, insurers, members, partners, managers, contractors, agents, consultants,
24 representatives, administrators, fiduciaries, benefit plans, transferees, predecessors, successors,
25 and assigns of any of the foregoing; and (iv) any individual or entity which could be jointly liable
26 with any of the foregoing, including, but not limited to, temporary agencies (collectively "Released
27 Parties").
28

10. Counsel for the Settlement Class have conducted a thorough investigation into the facts of this Action, and have diligently pursued an investigation of Class Members' claims against Defendant. Based on their own independent investigation and evaluation, Class Counsel are of the opinion that the Settlement with Defendant for the consideration and on the terms set forth in this Stipulation of Settlement is fair, reasonable, and adequate and is in the best interest of the Settlement Class in light of all known facts and circumstances, including the risk of significant delay, the risk the Settlement Class will not be certified by the Court, defenses asserted by Defendant, and numerous potential appellate issues. Defendant and Defendant's Counsel also agree that the Settlement is fair and in the best interest of the Parties.

11. The Parties agree to cooperate and take all steps necessary and appropriate to consummate this Settlement and for entry of judgment in accordance with this Stipulation of Settlement.

12. This Settlement provides that Defendant will pay Settlement Awards (defined below) according to a specified formula to each Settlement Class Member who does not request to be excluded from this Settlement. The total payment under the Settlement is \$170,000.00, which includes the payment of all claims of Class Members, attorneys' fees and costs, the enhancement award, penalties of any nature, including penalties under PAGA, interest, and claims administration expenses (the "Maximum Settlement Amount"). It is understood and agreed that Defendant shall have no obligation to pay any person, entity or organization more than the amount of its maximum total liability under the Settlement. The Maximum Settlement Amount shall not include employer-side payroll taxes, which shall be paid by Defendant in addition to and separate from the Maximum Settlement Amount.

TERMS OF SETTLEMENT

13. NOW THEREFORE, in consideration of the mutual covenants, promises and agreements set forth herein, the Parties agree, subject to the Court's approval, as follows:

a. It is agreed by and among Plaintiff and Defendant that this Action and any claims, damages or causes of action arising out of the Complaint which are the subject of this Action, be settled and compromised as between the Settlement Class and Defendant, subject to the

1 terms and conditions set forth in this Stipulation of Settlement and the approval of the Court.

2 b. Effective Date: The Settlement embodied in this Stipulation of Settlement
3 shall become effective when all of the following events have occurred: (i) this Stipulation of
4 Settlement has been executed by all Parties and by counsel for Plaintiff and Defendant; (ii) the
5 Court has given preliminary approval to the Settlement; (iii) the class settlement notice has been
6 given to the Settlement Class, providing them with an opportunity to opt out of or to object to the
7 Settlement; (iv) the Court has held a formal Final Fairness hearing and entered a final order and
8 judgment certifying the Settlement Class and finally approving this Stipulation of Settlement,
9 without objection by the California Labor and Workforce Development Agency ("LWDA"); and
10 (v) in the event there are objections to the Settlement which are not later withdrawn, the later of
11 the following events: when the period for filing any appeal, writ or other appellate proceeding
12 opposing the Settlement has elapsed without any appeal, writ or other appellate proceeding having
13 been filed; or any appeal, writ or other appellate proceeding opposing the Settlement has been
14 dismissed finally and conclusively with no right to pursue further remedies or relief; or any appeal,
15 writ or other appellate proceeding has upheld the Court's final order with no right to pursue further
16 remedies or relief. In this regard, it is the intention of the Parties that the Settlement shall not
17 become effective until the Court's order approving the Settlement is completely final, and there is
18 no further recourse by an appellant or objector who seeks to contest the Settlement. It is further
19 agreed by the Parties that this Settlement will not become effective if Defendant, contrary to
20 Paragraph 12 above, is required to pay more than the total amount of its maximum total liability
21 under the Settlement as set forth in Paragraph 12 under any circumstances. It is further agreed by
22 and between the Parties that this Settlement shall not become effective, and Defendant shall not
23 have any obligation (monetary or otherwise) under the terms of this Settlement, unless and until
24 any objections, writs and/or appeals, and any rights of appeal with respect to any objections or the
25 judgment, have been finally exhausted and resolved upholding the terms of this Settlement.

26 c. Maximum Settlement Amount, and Net Settlement Amount: To implement
27 the terms of this Settlement, Defendant, on behalf of the Released Parties, agrees to pay a
28 maximum of \$170,000.00, which includes: all payments to Class Members; Class Counsel's

attorneys' fees; Class Counsel's litigation expenses and costs; the enhancement award to the class representative; \$10,000.00 allocated to penalties under the PAGA with seventy-five percent (75%) of that amount, or in other words \$7,500.00, paid to the LWDA and twenty-five percent (25%) of that amount, or in other words \$2,500.00, paid to the PAGA Members as described below; and settlement administration expenses ("Maximum Settlement Amount"). The Parties agree the Maximum Settlement Amount will be fully paid out, with no residue returning to Defendant. At no time shall the Released Parties have the obligation to segregate the funds comprising the Maximum Settlement Amount, and Defendant shall retain exclusive authority over, and the responsibility for, those funds. All payments to Class Members, Class Counsel's attorneys' fees, Class Counsel's litigation expenses and costs, the enhancement award, and settlement administration expenses will be paid out of the Maximum Settlement Amount. Under no condition will the Released Parties' aggregate liability exceed the Maximum Settlement Amount, except that Defendant will pay the employer payroll taxes for the wage portion of the settlement awards in addition to the Maximum Settlement Amount. The "Net Settlement Amount", the amount available for potential distribution to Class Members, shall be calculated by deducting from the Maximum Settlement Amount: (i) all Class Counsel's attorneys' fees and litigation costs; (ii) the enhancement award to the class representative; (iii) the PAGA penalty payment to the LWDA as described further below; (iv) PAGA Shares to PAGA Members described further below; and (v) settlement administration expenses. Settlement Awards to the Class Members will be calculated by the settlement Administrator and paid out of the Net Settlement Amount as set forth below. The entire Net Settlement Amount will be paid out pro rata to Class Members who do not opt out.

i. Settlement Awards to Class Members: Payments to Class Members under the Settlement ("Settlement Awards") will be determined based on the number of allegedly underpaid weeks worked by all Class Members during the Class Period as calculated by Defendant. Defendant's workweek data will be presumed to be correct, unless a particular Class Member proves otherwise to the "Settlement Administrator," as defined below, by credible written evidence. All workweek disputes will be resolved and decided by the Settlement Administrator,

1 and the Settlement Administrator's decision on all workweek disputes will be final and
2 non-appealable. The amount to be paid per workweek to Class Members will be calculated by the
3 Settlement Administrator by dividing the Net Class Settlement Amount by the total number of
4 workweeks for all Class Members; any person who opts out of the Settlement is not a Class
5 Member. No claim form shall be required for Settlement Class Members to receive their
6 Settlement Awards.

7 ii. Private Attorneys General Act Award: Subject to Court approval,
8 the Parties have agreed to allocate \$10,000.00 of the Maximum Settlement Amount to Plaintiff's
9 claims under PAGA. Seventy-five percent (75%) of this amount, or in other words \$7,500.00, will
10 be paid out of the Maximum Settlement Amount to the LWDA of the State of California, and the
11 remaining twenty-five percent (25%), or in other words \$2,500.00, will be available to PAGA
12 Members ("Net PAGA Settlement Amount"). The Claims Administrator will calculate the number
13 of allegedly underpaid workweeks worked by the PAGA Members during the PAGA Period based
14 on information to be provided by Defendant. The allegedly underpaid workweeks will be
15 calculated by Defendant. Partial workweeks will not be counted; however, if a PAGA Member
16 worked only one day as a PAGA Member, such PAGA Member will be credited with having
17 worked one workweek for purposes of the Settlement. Defendant's workweek data will be
18 presumed to be correct, unless a particular PAGA Member proves otherwise to the Claims
19 Administrator by credible written evidence. All workweek disputes will be resolved and decided
20 by the Claims Administrator, and the Claims Administrator's decision on all workweek disputes
21 will be final and non-appealable. The amount to be paid per workweek to PAGA Members will
22 be calculated by the Claims Administrator by dividing the Net PAGA Settlement Amount by the
23 aggregate number of weeks worked by PAGA Members ("PAGA Share(s)").

24 iii. Allocation of Settlement Awards: The Parties have agreed, based
25 on the allegations in the Action, that individual Settlement Awards payable to eligible Class
26 Members will be allocated from the Net Settlement Amount and paid as follows: twenty-five
27 percent (25%) will be allocated to alleged unpaid wages for which IRS Forms W-2 will issue;
28 seventy-five percent (75%) will be allocated to alleged unpaid penalties and interest for which

1 IRS Forms 1099-MISC will issue. Individual PAGA Shares for the PAGA Members will be paid
2 from the Net PAGA Settlement Amount as alleged penalties for which IRS Form 1099-MISC will
3 issue.

4 iv. Settlement Awards Do Not Trigger Additional Benefits: All
5 Settlement Awards to Class Members shall be deemed to be income to such Class Members solely
6 in the year in which such awards actually are received by the Class Members. It is expressly
7 understood and agreed that the receipt of such Settlement Awards will not entitle any Class
8 Member to additional compensation or benefits under any company bonus, contest or other
9 compensation or benefit plan or agreement in place during the period covered by the Settlement,
10 nor will it entitle any Class Member to any increased retirement, 401(k) benefits or matching
11 benefits, or deferred compensation benefits. It is the intent of this Settlement that the Settlement
12 Awards provided for in this Agreement are the sole payments to be made by Defendant to the
13 Class Members in connection with this Settlement, and that the Class Members are not entitled to
14 any new or additional compensation or benefits as a result of having received the Settlement
15 Awards (notwithstanding any contrary language or agreement in any benefit or compensation plan
16 document that might have been in effect during the period covered by this Settlement).

17 v. Attorneys' Fees and Litigation Costs: Subject to Court approval or
18 modification, Defendant agrees to pay, from the Maximum Settlement Amount, Class Counsel's
19 attorneys' fees and litigation costs as set forth in Paragraph 15 below.

20 vi. Class Representative: The Parties agree to the designation of
21 Plaintiff Jorge Leyva as "Class Representative." Subject to Court approval, and subject to
22 Plaintiff's execution of a general release of all claims under California Code of Civil Procedure
23 section 1542, Defendant agrees to pay Plaintiff, from the Maximum Settlement Amount, an award
24 at no additional cost to the Released Parties, ("Enhancement Award"). The Enhancement Award
25 paid to the Class Representative cannot exceed \$7,500.00, is subject to Court approval, and is in
26 addition to any claimed individual Settlement Award or PAGA Share to which the Class
27 Representative is entitled under this Stipulation of Settlement. The Enhancement Award is to be
28 part of, and to be deducted from, the Maximum Settlement Amount. Defendant or the Settlement

1 Administrator will issue an IRS Form 1099-MISC for the Enhancement Award to Plaintiff for
2 Plaintiff's service as a Class Representative, and Plaintiff will be responsible for correctly
3 characterizing this compensation for tax purposes and for paying any taxes on the amount received.
4 Should the Court approve an Enhancement Award to the Class Representative in an amount less
5 than that set forth above, the difference between the lesser amount approved by the Court and the
6 Enhancement Award set forth above shall be added to the Net Settlement Amount.

7 vii. Settlement Administrator: The Parties have agreed to retain ILYM
8 Group, Inc. as the Settlement Administrator. The Settlement Administrator shall be paid its costs
9 to administer the settlement in the amount of \$9,000. All settlement administration expenses shall
10 be paid out of the Maximum Settlement Amount.

11 viii. Mailing of Settlement Awards: The Settlement Administrator will
12 cause the Settlement Awards to be mailed to the Class Members who have not opted out of the
13 Settlement and have not previously released their claims as to Defendant, within forty-five (45)
14 calendar days after the Settlement becomes effective as defined in Paragraph 13.b.

15 d. Enhancement Award to Plaintiff for Service as Class Representative: The
16 Settlement Administrator will pay the Enhancement Award approved by the Court to Plaintiff
17 within forty-five (45) calendar days after the Settlement becomes effective as defined in
18 Paragraph 13.b.

19 SETTLEMENT ADMINISTRATION

20 14. The Settlement Administrator shall be mutually agreed upon by the Parties to
21 perform the customary duties of Settlement Administrator, subject to Court approval. The
22 Settlement Administrator will mail the Class Notice to all Class Members. Defendant will
23 calculate the number of allegedly underpaid weeks worked ("workweeks") by Class Members
24 during the Class Period and by PAGA Members during the PAGA Period, and the amount to be
25 paid to Class and PAGA Members per workweek based on Defendant's information. The amount
26 to be paid per workweek to eligible Class and PAGA Members will be confirmed by the Settlement
27 Administrator by dividing the Net Class and PAGA Settlement Amounts by the total number of
28 workweeks for all Class and PAGA Members. The Settlement Administrator shall report, in

summary or narrative form, the substance of its findings. The Settlement Administrator shall be granted reasonable access to Defendant's records to perform its duties. At the request of Defendant, and upon receipt of funds from Defendant, the Settlement Administrator will issue and send out Settlement Award checks to Class and PAGA Members. Defendant shall be able to review proposed distributions and class workweek data to ensure correct and accurate distributions and representations to the Class and PAGA Members through the Class Notice are accurate. Tax treatment of the Settlement Awards will be as set forth herein and in accordance with state and federal tax laws. All disputes relating to the Settlement Administrator's performance of its duties shall be referred to the Court, if necessary, which will have continuing jurisdiction over the terms and conditions of this Stipulation of Settlement until all payments and obligations contemplated by this Stipulation of Settlement have been fully carried out. The Settlement Administrator shall create and maintain a webpage, which will include links to the Settlement Agreement, Class Notice, Motions for Preliminary and Final Approval, and Motion for Attorneys' Fees as they become available, until the Effective Date. The website shall also include links to any other documents or information the Settlement Administrator deems necessary to perform its duties.

ATTORNEYS' FEES AND LITIGATION COSTS

15. In consideration for settling this Action, in exchange for the release of claims by the Settlement Class, and subject to final approval or modification by the Court, Defendant agrees to pay, from the Maximum Settlement Amount, Class Counsel attorneys' fees not to exceed thirty-three and one-third percent (33 1/3%) of the Maximum Settlement Amount, or in other words up to \$56,666.67, and attorneys' costs not to exceed \$30,000.00 from the Maximum Settlement Amount. Defendant will not object to Class Counsel's application for attorneys' fees and litigation costs up to these amounts. The amounts set forth above will cover all work performed and all fees and costs incurred to date, and all work to be performed and all fees and costs to be incurred in connection with the approval by the Court of this Stipulation of Settlement, the administration of the Settlement, and obtaining the final judgment. Should Class Counsel request lesser amounts, or should the Court approve lesser amounts for attorneys' fees and litigation costs, the difference between the lesser amounts and the Maximum Settlement Amount shall be added to the Net

Settlement Amount.

16. The attorneys' fees and litigation costs approved by the Court shall be paid to Class Counsel within forty-five (45) calendar days after the Settlement becomes effective as defined in Paragraph 13.b.

NOTICE TO THE PLAINTIFF CLASS

17. The Class Notice shall be jointly drafted by the Parties, and as approved by the Court, shall be sent by the Settlement Administrator to the Class Members by first-class mail. The Class Notice shall be substantially in the form identified as **Exhibit 1** to this Settlement.

a. Within thirty (20) calendar days after preliminary approval of this Settlement by the Court, Defendant shall provide the Settlement Administrator with the Class Members' names, last-known addresses, last-known telephone numbers, Social Security numbers ("Class Member Information"), and workweek data from the Class Period. The Parties agree the Social Security Numbers will be used only by the Settlement Administrator for the sole purpose of effectuating the Settlement and will not be provided to Class Counsel at any time or in any form. Notwithstanding anything herein to the contrary, the Settlement Administrator will not be entitled to receive confidential information of Defendant (including non-public personal information of its employees) unless and until the Settlement Administrator signs and delivers to Defendant a confidentiality agreement compliant with the California Consumer Privacy Act. To the extent Class Counsel possesses or comes to possess the Class Members' contact information and/or Social Security Numbers from the Settlement Administrator, Class Counsel shall return all such information (including copies and data or information derived therefrom) within seven (7) calendar days from the date the Court finally approves the Settlement, shall not retain copies of such information, and shall not maintain or use such information for any purpose. The information provided for above shall be based on Defendant's payroll and other business records and in a format acceptable to the Settlement Administrator. Defendant agrees to consult with the Settlement Administrator prior to the production date to ensure that the format will be acceptable to the Settlement Administrator. Within thirty (30) calendar days of preliminary approval of this Settlement, the Settlement Administrator will mail the Class Notice to Class Members.

b. Class Notices returned to the Settlement Administrator as non-delivered shall be resent to the forwarding address, if any, on the returned envelope. If there is no forwarding address, the Settlement Administrator will do an NCOA check and will skip-trace return mail and re-mail within three (3) calendar days of receipt using the Class Member's Social Security Number; this search will be performed only once per Class Member by the Settlement Administrator. Class Members will have a maximum of fifteen (15) calendar days from the date of the re-mailing due to an undeliverable notice, or until the end of the opt out deadline, whichever is later, to opt-out, object and/or dispute his/her estimated Settlement Award. Upon completion of these steps by the Settlement Administrator, Defendant and the Settlement Administrator shall be deemed to have satisfied their obligations to provide the Class Notice to the affected member of the Settlement Class. The affected member of the Settlement Class shall remain a member of the Settlement Class and shall be bound by all the terms of the Stipulation of Settlement and the Court's Order and Final Judgment.

c. The Class Notice shall also identify the procedures for opting out of or objecting to the Settlement.

d. Class Counsel shall provide to the Court, at least sixteen (16) court days before the Final Fairness hearing, an initial declaration by the Settlement Administrator of due diligence and proof of mailing with regard to the mailing of the Class Notice.

ADMINISTRATION PROCESS

18. The Class Members will have forty-five (45) calendar days from the date of mailing in which to submit requests for exclusion, or 15 days from the date of re-mailing, whichever is later (“opt out”).

19. Settlement Awards to Class Members and PAGA Shares to PAGA Members will be mailed by the Settlement Administrator within forty-five (45) calendar days after the Settlement becomes effective as defined in Paragraph 13.b. Settlement Award checks shall remain valid and negotiable for one hundred eighty (180) calendar days from the date of their issuance; the Parties agree the Settlement Administrator will send one (1) reminder notice to all Class Members who have not cashed the Settlement Award check thirty (30) calendar days prior to the deadline; upon

1 the deadline to cash the Settlement Award checks, the checks will automatically be cancelled by
2 the Settlement Administrator if not cashed by the Class Member within that time, at which point
3 the Class Member's claim will be deemed void and of no further force or effect, and the Class
4 Member's claims will remain released by the Settlement. The checks provided to Class Members
5 shall prominently state the expiration date or a statement that the checks will expire in one hundred
6 eighty (180) days, or alternatively, such a statement may be made in a letter accompanying the
7 check. Expired Settlement Award checks will not be reissued, except for good cause and as
8 mutually agreed by the Parties in writing. Any residue from uncashed Settlement Award checks
9 after the expiration date will be paid within fourteen (14) calendar days after the one hundred
10 eighty (180)-day check cashing period expires pursuant to California Code of Civil Procedure
11 section 384(b)(3) as follows: one-half to Koinonia Family Services, a non-profit 501(c)(3)
12 organization with child advocacy programs in the State of California, as the *cy pres* recipient,
13 subject to Court approval; and one-half to Legal Aid at Work, as the other *cy pres* recipient, subject
14 to Court approval. Any residue received by Koinonia shall be ordered by the Court to be used
15 solely for child advocacy programs within the State of California pursuant to California Code of
16 Civil Procedure section 384(b). Upon completion of its calculation of payments, the Settlement
17 Administrator shall provide Defendant with a report listing the amount of all payments to be made
18 to each Class Member. Defendant, on behalf of the Released Parties, will pay to the Settlement
19 Administrator the Maximum Settlement Amount within thirty (30) calendar days after the
20 Settlement becomes effective as defined in Paragraph 13.b. The Settlement Administrator will be
21 responsible for making appropriate deductions, calculating and reporting the employer payroll
22 taxes on the Settlement Awards, paying to Class Counsel any Court-approved attorneys' fees and
23 litigation costs, paying to the Class Representative any Court-approved Enhancement Award,
24 paying the LWDA seventy-five percent (75%) of the amount allocated for PAGA penalties above,
25 paying the settlement administration expenses, meeting tax reporting obligations, and for issuing
26 the individual Settlement Awards to Class Members and PAGA Shares to PAGA Members. Proof
27 of compliance with the Court's final approval order will be provided to counsel for the Parties by
28 the Settlement Administrator within twenty-one (21) days after all payment obligations, the check

1 cashing deadline for Class Members and PAGA Members, and payment to the *cypres* beneficiaries
2 have passed.

3 OPTING OUT OF / OBJECTING TO THE SETTLEMENT

4 20. Opting Out of the Settlement. For those Class Members who do not wish to
5 participate in the Settlement, such Class Members may exclude themselves by submitting a timely
6 written request to the Settlement Administrator. The written request ("Request for Exclusion")
7 should state that he/she has received the "Notice of Proposed Class Action Settlement and Hearing
8 Date for Final Court Approval of Settlement", he/she has decided not to participate in the
9 Settlement, and words to the effect that he/she desires to be excluded from the Settlement. The
10 Request for Exclusion must also state the individual's full name, address, and dates he/she worked
11 as a Class Member for Defendant in California. The Request for Exclusion must be signed, dated
12 and mailed by First-Class U.S. Mail, to the Settlement Administrator. All Requests for Exclusion
13 must be postmarked and mailed to the Settlement Administrator no later than forty-five (45)
14 calendar days after the Settlement Administrator mails the Class Notice to the Class Members, or
15 fifteen (15) calendar dates after re-mailing, whichever is later. Any individual who submits
16 a Request for Exclusion will not be allowed to object to the terms of the Settlement.

17 21. Objecting to the Settlement. Any individual who does not exclude himself/herself
18 from the Settlement can object to the terms of the Settlement in writing before the deadline to
19 object to the Settlement. To object, the individual must file a written objection and a notice of
20 intention to appear at the Final Approval hearing with the Clerk of the Stanislaus County Superior
21 Court of the State of California and send copies to the Settlement Administrator, Class Counsel,
22 and counsel for Defendant. Any written objection must state each specific reason in support of
23 the objection and any legal support for each objection. The individual must state his/her full name,
24 address, and dates he/she worked as a Class Member in California for Defendant. To be valid and
25 effective, any written objections to approval of the Settlement must be filed with the Clerk of the
26 Court and delivered to the Settlement Administrator, Class Counsel, and counsel for Defendant no
27 later than forty-five (45) calendar days after the Settlement Administrator mails the Class Notice
28 to the Class Members, or a maximum of maximum of fifteen (15) calendar days from the date of

1 the re-mailing due to an undeliverable notice, whichever is later. However, a Class Member may
2 appear at the Final Approval hearing, either in person or through his/her own counsel, and object
3 to the Settlement Agreement and any of its terms without submitting a prior objection in the
4 manner and by the deadline specified above. If the Court rejects the objection, the individual will
5 be bound by the terms of the Settlement.

6 RELEASE BY THE CLASS

7 22. Effective upon the date of final approval by the Court of this Stipulation of
8 Settlement, and except as to such rights or claims as may be created by this Stipulation of
9 Settlement, the Settlement Class and each member of the Class who has not submitted a valid
10 Request for Exclusion fully release and discharge the Released Parties from all claims under state,
11 federal and local law that were or could have been asserted based on the facts and allegations made
12 in the Action, and any amendments thereto, as to the Class Members, including without limitation,
13 California Labor Code sections 201-204, 218.5, 226, 226.3, 510, 558, 1194, 1197.1, 2698, *et seq.*,
14 California Industrial Commission Wage Orders, Cal. Code Regs., Title. 8, section 11040, *et seq.*,
15 and Business and Professions Code sections 17200, *et seq.*, California Code of Civil Procedure
16 section 1021.5, and including all claims for or related to alleged unpaid wages, overtime or double
17 time wages, regular rate of pay, timely payment of wages during employment, timely payment of
18 wages at separation, wage statements, payroll records and recordkeeping, failure to pay additional
19 401(k) benefits and/or deferred compensation benefits and/or matching benefits for payments
20 received under the Settlement, unfair competition, unfair business practices, unlawful business
21 practices, or fraudulent business practices, conversion, class actions, representative actions,
22 aggrieved party claims, declaratory relief, penalties of any nature (including but not limited to civil
23 penalties, waiting-time penalties, and PAGA penalties), interest, fees, costs, as well as all other
24 claims and allegations alleged in the Action (collectively "Released Class Claims"), from
25 March 29, 2016 through the date the Court finally approves the Settlement. Expressly excluded
26 from the release are claims for retaliation, discrimination, unemployment insurance, disability,
27 workers compensation, and claims outside the Released Class Claims.

23. Effective upon the date of final approval by the Court of this Stipulation of Settlement, the claims to be released by the PAGA Members include all claims arising during the PAGA Period seeking civil penalties under the PAGA, that Plaintiff in his capacity as proxy for the State of California and/or the LWDA, to the maximum extent permitted by law, and as a private attorney general acting on behalf of himself and the PAGA Members, asserted or could reasonably have asserted based on the facts alleged in the Action and/or the LWDA letter, including but not limited to all such claims arising under the California Labor Code (including, but not limited to, sections 201-204, 218.5, 226, 226.3, 510, 558, 1194, 1197.1, 2698 et seq., as alleged in the Complaint) and the wage orders of the California Industrial Welfare Commission and any other Labor Code section or Wage Order based the facts alleged in the Action (collectively "Released PAGA Claims"). This release shall release all Released PAGA Claims by or on behalf of Plaintiff and all PAGA Members through the date the Court finally approves the Settlement ("PAGA Release Period") and for the entire PAGA Release Period regardless of whether Plaintiff and/or a PAGA Member negotiates their/his/her settlement checks sent pursuant to this Settlement and regardless of whether any such PAGA Member opts out and excludes himself or herself from the Settlement.

24. In addition to the Released Claims identified in Paragraphs 22 and 23, Plaintiff Jorge Leyva agrees to generally release the Released Parties from any and all claims, whether known or unknown, under all federal, state and local statutes, and federal and state common law (including but not limited to those for contract, tort and equity). Plaintiff acknowledges the language of Section 1542 of the California Civil Code, which provides:

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.

Plaintiff expressly waives the protection of Section 1542. Plaintiff understands and agrees that claims or facts in addition to or different from those which are now known or believed by him to exist may hereafter be discovered. It is Plaintiff's intention to settle fully and release all of the claims Plaintiff now has against the Released Parties, whether known or unknown, suspected or

1 unsuspected.

2 DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL

3 25. To effectuate the terms of the Settlement, the Parties agree all formal and informal
4 discovery shall be stayed pending Court approval of the Settlement. Class Counsel agree to notify
5 the Court of the Settlement through a Notice of Proposed Class Action Settlement, and to request
6 that all current Court deadlines be continued pending Court approval of the Settlement. Class
7 Counsel agree to cease all affirmative communication (oral and written) with the putative class
8 members, other than through Court-approved notices and/or to fulfill their obligations as Class
9 Counsel, including with respect to administering this settlement; this provision does not prevent
10 Class Counsel from communicating with any Class Members who may contact Class Counsel.
11 Plaintiff shall promptly submit this Stipulation of Settlement to the Stanislaus County Superior
12 Court in support of Plaintiff's Motion for Preliminary Approval and determination by the Court as
13 to its fairness, adequacy and reasonableness. Plaintiff agrees to provide Defendant the opportunity
14 to review, and to approve before filing, Plaintiff's Motion for Preliminary Approval. At the same
15 time Plaintiff submits this Stipulation of Settlement to the Stanislaus County Superior Court,
16 Plaintiff agrees to submit a copy of the Stipulation of Settlement to the LWDA. Promptly upon
17 execution of this Stipulation of Settlement, Plaintiff shall apply to the Court for the entry of an
18 order preliminarily approving the Settlement in a form that is mutually agreeable between the
19 Parties and also provides for the following:

20 a. Scheduling a Final Fairness hearing on the question of whether the proposed
21 Settlement, including payment of attorneys' fees and litigation costs, costs of administration and
22 the Class Representative's Enhancement Award should be finally approved as fair, reasonable and
23 adequate as to the members of the Settlement Class;

24 b. Certifying a Settlement Class, Plaintiff Jorge Leyva as Class
25 Representative, and Dennis Hyun of Hyun Legal, APC and William Marder of Polaris Law Group,
26 LLP, as Class Counsel;

27 c. Approving as to form and content the proposed Class Notice;

1 d. Approving the manner and method for Class Members to request exclusion
2 from the Settlement as contained herein and within the Class Notice;

3 e. Directing the mailing of the Class Notice by first-class mail to the Class
4 Members;

5 f. Preliminarily approving the Settlement subject only to the objections of
6 Class Members and final review by the Court; and

7 g. To the extent permitted by the Court, enjoining Plaintiff and all Class
8 Members from filing or prosecuting any other cases, claims, suits or administrative proceedings
9 (including filing claims with the Division of Labor Standards Enforcement of the California
10 Department of Industrial Relations) regarding the Released Claims unless and until such Class
11 Members have filed valid Requests for Exclusion with the Settlement Administrator and the time
12 for filing Requests for Exclusion with the Settlement Administrator has elapsed. In the event that
13 the Court finds that this clause is unenforceable, the Parties stipulate that it shall be severed and
14 stricken in its entirety.

15 26. The Preliminary Approval Order shall be substantially in the form identified as
16 **Exhibit 2** to this Settlement.

17 DUTIES OF THE PARTIES FOR FINAL COURT APPROVAL

18 27. Class Counsel agreed to return all confidential documents, lists and data in all forms
19 and formats (originals and copies) within seven (7) calendar days from final Court approval of the
20 Settlement. Plaintiff agrees to provide Defendant the opportunity to review, and to approve before
21 filing, Plaintiff's Motion for Final Approval of Class Action and PAGA Settlement. Class Counsel
22 agrees to submit a proposed final order and judgment mutually agreeable between the Parties, and
23 substantially in the form identified as Exhibit 3 to this Settlement, and provides for the following:

24 a. Approving the Settlement, adjudging the terms thereof to be fair, reasonable
25 and adequate, and directing consummation of its terms and provisions;

26 b. Approving Class Counsel's application for an award of attorneys' fees and
27 litigation costs;

28 c. Approving the Enhancement Award to the Class Representative; and

1 d. Entering judgment in accordance with California Rules of Court,
2 rule 3.769(h), and permanently barring and enjoining all members of the Settlement Class from
3 prosecuting against Defendant; each of Defendant's respective past, present and future parents,
4 subsidiaries and affiliates; past, present and future partners, shareholders, directors, officers,
5 agents, employees, attorneys, insurers, predecessors, successors and assigns of any of the
6 foregoing; and any individual or entity which could be jointly liable with any of the foregoing.

7 28. The Final Approval Order shall be substantially in the form identified as **Exhibit 3**
8 to this Settlement.

9 PARTIES' AUTHORITY

10 29. The signatories hereto hereby represent that they are fully authorized to enter into
11 this Stipulation of Settlement and bind the Parties hereto to the terms and conditions thereof.

12 MUTUAL FULL COOPERATION

13 30. The Parties agree to fully cooperate with each other to accomplish the terms of this
14 Stipulation of Settlement, including but not limited to execution of such documents and taking
15 such other action as reasonably may be necessary to implement the terms of this Stipulation of
16 Settlement. The Parties shall use their best efforts, including all efforts contemplated by this
17 Stipulation of Settlement and any other efforts that may become necessary by order of the Court,
18 or otherwise, to effectuate this Stipulation of Settlement and the terms set forth herein. As soon
19 as practicable after execution of this Stipulation of Settlement, Class Counsel shall, with the
20 assistance and cooperation of Defendant and its counsel, take all necessary steps to secure the
21 Court's final approval of this Stipulation of Settlement.

22 31. The Parties and their respective counsel agree that they will not attempt to
23 encourage or discourage Class Members from filing Requests for Exclusion.

24 NO PRIOR ASSIGNMENTS

25 32. The Parties and their counsel represent, covenant and warrant that they have not,
26 directly or indirectly, assigned, transferred or encumbered, or purported to assign, transfer or
27 encumber, to any person or entity any portion of any liability, claim, demand, action, cause of
28 action or right herein released and discharged except as set forth herein.

NO ADMISSION

33. Nothing contained herein, nor the consummation of this Stipulation of Settlement, is to be construed or deemed an admission of liability, culpability, negligence or wrongdoing on the part of Defendant. Each of the Parties hereto has entered into this Stipulation of Settlement solely with the intention to avoid further disputes and litigation with the attendant inconvenience and expenses.

ENFORCEMENT ACTIONS

34. The Parties agree that the Stanislaus County Superior Court shall retain jurisdiction to enforce the terms of this Settlement pursuant to California Code of Civil Procedure section 664.6. In the event one or more of the Parties to this Stipulation of Settlement institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Stipulation of Settlement or to declare rights or obligations under this Stipulation of Settlement, the successful Party or Parties shall be entitled to recover from the unsuccessful Party or Parties' reasonable attorneys' fees and litigation costs, including expert witness fees, incurred in connection with any enforcement actions.

NOTICES

35. Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third (3rd) business day after mailing by United States registered or certified mail, return receipt requested, addressed as follows:

To Plaintiff and the Settlement Class

Dennis S. Hyun
HYUN LEGAL, APC
515 S. Figueroa Street, Suite 1250
Los Angeles, California 90071

William L. Marder
Polaris Law Group LLP
501 San Benito Street, Suite 200
Hollister, CA 95023

To Defendant

Cary G. Palmer
Evan D. Beecher
JACKSON LEWIS P.C.
400 Capitol Mall, Suite 1600
Sacramento, CA 95814

NO PUBLIC COMMENT

36. The Class Representative and Class Counsel will not make any public disclosure of the Settlement, except through Court filings to preliminary and finally approve the Settlement. Class Counsel will take all steps necessary to ensure that the Class Representative is aware of, and will ensure that the Class Representative adheres to, the restriction against any public disclosure of the Settlement. Following preliminary Court approval of the Settlement, the Class Representative and Class Counsel will not initiate any communications (directly or indirectly) with the media regarding the Action. Notwithstanding the foregoing, the Class Representative and Class Counsel may, in response to a communication initiated by the media, direct the inquiring media member to the public records of the Action on file with the Court. Class Counsel will take all steps reasonably necessary to ensure that the Class Representative is aware of, and will ensure that he will adhere to, the restriction against any media comment on the Settlement and its terms.

CONSTRUCTION

37. The Parties hereto agree that the terms and conditions of this Stipulation of Settlement are the result of lengthy, intensive arms-length negotiations between the Parties and this Stipulation of Settlement shall not be construed in favor of or against any party by reason of the extent to which any party or his, her or its counsel participated in the drafting of this Stipulation of Settlement.

CAPTIONS AND INTERPRETATIONS

38. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend or describe the scope of this Stipulation of Settlement or any provision of it. Each term of this Stipulation of Settlement is contractual and not merely a recital.

MODIFICATION

39. This Stipulation of Settlement may not be changed, altered or modified, except in writing and signed by the Parties hereto and approved by the Court. This Stipulation of Settlement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

INTEGRATION CLAUSE

40. This Stipulation of Settlement and the Confidential Memorandum of Understanding contain the entire agreement between the Parties relating to the Settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations and statements, whether oral or written and whether by a Party or such Party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

BINDING ON ASSIGNS

41. This Stipulation of Settlement shall be binding upon and inure to the benefit of the Parties and the Released Parties hereto, and their respective heirs, trustees, executors, administrators, successors and assigns.

CLASS MEMBER SIGNATORIES

42. It is agreed that because the members of the Class are so numerous, it is impossible or impractical to have each member of the Class execute this Stipulation of Settlement. The Class Notice will advise all Class Members of the binding nature of the release, and the release shall have the same force and effect as if this Stipulation of Settlement were executed by each member of the Class.

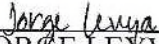
COUNTERPARTS

43. This Stipulation of Settlement may be executed in counterparts, by DocuSign, and by facsimile signatures, and when each Party has signed and delivered at least one such counterpart, each counterpart, including e-mail and PDF versions, shall be deemed an original and, when taken together with other signed counterparts, shall constitute one Stipulation of Settlement binding upon and effective as to all Parties.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Class Action and PAGA Settlement and Release between Plaintiff and Defendant as of the date(s) set forth below:

Plaintiff and Class Representative

Dated: 11/28/2022

DocuSigned by:

JORGE LEYVA

Defendant

Dated: 12/12/2022 | 9:26 AM PST

FRESHPOINT CENTRAL CALIFORNIA, INC.
DocuSigned by:
By: 
Pamela Bava
Authorized Officer or Agent

APPROVED AS TO FORM:

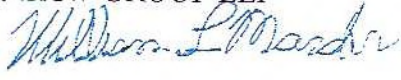
HYUN LEGAL, APC

Dated: 11/29/2022

By: 
Dennis S. Hyun
Attorneys for Plaintiff and
Class and PAGA Members

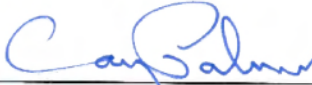
POLARIS LAW GROUP LLP

Dated: 11/28/2022

By: 
William L. Marder
Attorneys for Plaintiff and
Class and PAGA Members

JACKSON LEWIS P.C.

Dated: 12/14/22

By: 
Cary G. Palmer
Evan D. Beecher
Attorneys for Defendant
FRESHPOINT CENTRAL CALIFORNIA, INC.

4884-3955-7696, v. 1

EXHIBIT 1

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

JORGE LEYVA, individually and on behalf of all others
similarly situated,
PLAINTIFF,

v.

FRESHPOINT CENTRAL CALIFORNIA, INC., a
Delaware corporation; and DOES 1 through 50, inclusive,
DEFENDANTS.

Case No. CV-20-002633

**NOTICE OF PROPOSED CLASS ACTION
SETTLEMENT AND HEARING DATE FOR
FINAL COURT APPROVAL OF SETTLEMENT**

ATTENTION: ALL PERSONS WHO ARE EMPLOYED OR HAVE BEEN EMPLOYED BY FRESHPOINT CENTRAL CALIFORNIA AS NON-EXEMPT EMPLOYEES WHO WORKED OVERTIME AND EARNED NON-DISCRETIONARY INCENTIVE PAY FROM MARCH 29, 2016 THROUGH [PRELIMINARY APPROVAL DATE]:

PLEASE READ THIS NOTICE CAREFULLY. THIS NOTICE RELATES TO A PROPOSED SETTLEMENT OF CLASS ACTION LITIGATION. IF YOU ARE A CLASS MEMBER, IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHT TO RECEIVE PAYMENT OR TO OPT OUT OF THE SETTLEMENT ACCORDING TO THE PROCEDURES DESCRIBED BELOW.

IF YOU DO NOT WISH TO RECEIVE PAYMENT UNDER THE SETTLEMENT OR PARTICIPATE IN THE SETTLEMENT, YOU MUST REQUEST TO BE EXCLUDED FROM THE SETTLEMENT CLASS ON OR BEFORE [REDACTED].

Pursuant to the Order Granting Preliminary Approval of Class Action and PAGA Settlement of the Superior Court of the State of California in and for Stanislaus County entered [PRELIMINARY APPROVAL DATE], YOU ARE HEREBY NOTIFIED AS FOLLOWS:

A class action settlement has been reached between the Parties in the above-captioned lawsuit pending in the Superior Court of the State of California for the County of Stanislaus on behalf of all persons who are employed or have been employed by FreshPoint Central California, Inc. ("Defendant") in California as non-exempt employees who worked overtime and earned non-discretionary incentive pay from March 29, 2016 through [PRELIMINARY APPROVAL DATE] (the "Settlement Class" or "Class Members"); the Settlement Class does not include persons who submit valid Requests for Exclusion (as explained below), or who previously settled, released or received awards for claims covered by the Settlement.

The "Released Parties" in the Action include: (i) Defendant; (ii) each of Defendant's respective past, present and future parents, subsidiaries, and affiliates including, without limitation, any corporation, limited liability company, or partnership; (iii) the past, present and future members, directors, officers, agents, employees, attorneys, insurers, members, partners, managers, contractors, agents, consultants, representatives, administrators, fiduciaries, benefit plans, transferees, predecessors, successors, and assigns of any of the foregoing; and (iv) any individual or entity which could be jointly liable with any of the foregoing, including, but not limited to, temporary agencies.

You have received this notice because records indicate you worked for Defendant in California as a non-exempt employee who worked overtime and earned non-discretionary incentive pay during the Class Period (defined below). This notice is to advise you of how you can either participate in the Settlement or be excluded from the Settlement.

I. BACKGROUND OF THE CASE

On June 12, 2020, Plaintiff Jorge Leyva a complaint against Defendant in the Stanislaus County Superior Court on behalf of himself and other non-exempt employees who worked for Defendant in California for unpaid wages and penalties for alleged wage and hour violations of the California Labor Code, penalties for wage and hour violations under the California Private Attorneys' General Act ("PAGA"), and claims under the California Business and Professions Code section 17200, *et seq.* The term "Action" means this putative class and representative action pending in Stanislaus County Superior Court, Case No. CV-20-002633. The class period is from September March 29, 20216 to [PRELIMINARY APPROVAL DATE] (the "Class Period"). The "PAGA Period" will be from March 29, 2019, through the date the Court preliminarily approves the settlement.

Plaintiff's Complaint alleges a failure to provide accurate itemized wage statements, failure to pay overtime wages, failure to timely pay final wages, unfair competition, and a PAGA cause of action, on behalf of all persons currently and formerly employed by

Defendant as non-exempt employees in California from March 29, 2016 to the present. Plaintiff's Complaint seeks recovery of compensatory damages, penalties, interest, and attorneys' fees and costs. Defendant denies all claims and denies that Plaintiff and the Class Members are entitled to any recovery.

The Action has been actively litigated. There have been on-going investigations, and there has been an exchange of extensive documentation and information. Furthermore, the Parties have participated in extensive private settlement negotiations. Based upon the negotiations, and all known facts and circumstances, including the various risks and uncertainties related to legal actions including the complete defenses to liability potentially available to Defendant, the inherent risk of trial on the merits, the risk of denial of class certification, and the delays associated with litigation, the Parties reached a class wide and PAGA Settlement. By settling, the Parties will avoid the risks associated with a lengthy litigation process. Despite agreeing to and supporting the Settlement, Defendant continues to deny all allegations and claims.

The Parties have since entered into a Joint Stipulation of Class Action and PAGA Settlement and Release between Plaintiff and Defendant, which has been preliminarily approved by the Court.

If you are part of the Settlement Class, you have the opportunity to participate in the Settlement, or to exclude yourself ("opt out") from the Settlement. All members of the Settlement Class who worked any hours for Defendant in California during the PAGA Period are aggrieved employees with respect to PAGA ("PAGA Members") and will be paid their PAGA Share and release the Released PAGA Claims regardless of whether he/she submit a timely and valid Request for Exclusion from the Settlement

II. SUMMARY OF THE PROPOSED SETTLEMENT

A. The Amount of the Settlement

Under the terms of the Settlement, Defendant agrees to pay a Gross Settlement Amount of \$170,000 for all claims, attorneys' fees and costs, enhancement award, penalties, and settlement administration expenses ("Maximum Settlement Amount"). Deducted from this Maximum Settlement Amount will be sums approved by the Court for attorneys' fees not to exceed thirty-three and one-third percent (33 1/3%) of the Maximum Settlement Amount which equals \$56,666.67, attorneys' costs not to exceed \$30,000, an Enhancement Award to the Class Representative not to exceed \$7,500, the fees and expenses of the settlement administrator estimated not to exceed \$9,000, and \$7,500 payable to the California Labor and Workforce Development Agency ("LWDA") for alleged PAGA penalties, and \$2,500 to PAGA Members ("Net PAGA Settlement Amount"), which will result in a "Net Settlement Amount" for distribution to all Class Members. As explained further below, the amount of each Class Member's Settlement Award will depend on the number of weeks in which they worked as non-exempt employees who worked overtime and earned non-discretionary incentive pay during the Class Period ("workweeks").

This notice will list for each Class Member the number of qualifying workweeks each Class Member worked during the Class Period and his/her estimated Settlement Award.

B. Settlement Formula, and Settlement Awards

Defendant will pay Settlement Awards through a Settlement Administrator, as described below, to each Class Member who has not submitted a Request for Exclusion from the Settlement. All Settlement Awards will be subject to appropriate taxation. The Parties have agreed, based on the allegations in the Action, that all Settlement Awards payable to eligible Class Members will be allocated from the Net Settlement Amount and paid as follows: twenty-five percent (25%) will be allocated to alleged unpaid wages for which IRS Forms W-2 will issue and seventy-five percent (75%) will be allocated to alleged unpaid penalties and interest for which IRS Forms 1099-MISC will issue. Individual PAGA Shares for the PAGA Members will be paid from the Net PAGA Settlement Amount as alleged penalties for which IRS Form 1099-MISC will issue.

Settlement Awards to Class Members will be based on the number of qualifying workweeks worked by individual Class Members during the Class Period. Defendant will calculate the number of qualifying workweeks by Class Members during the Class Period, and the amount to be paid to Class Members per workweek based on Defendant's information. The amount to be paid per workweek to eligible Class Members will be confirmed by the Settlement Administrator by dividing the Net Class Settlement Amount by the total number of qualifying workweeks for all Class Members.

PAGA Shares to PAGA Members will be calculated by the Claims Administrator based on the number of workweeks worked by the PAGA Members during the PAGA Period based on information to be provided by Defendant. The workweeks will be calculated by Defendant. Partial workweeks will not be counted; however, if a PAGA Member worked only one day as a PAGA Member, such PAGA Member will be credited with having worked one workweek for purposes of the Settlement.

Receipt of the Settlement Awards and PAGA Shares will not entitle any Class Member or PAGA Member to additional compensation or benefits under any company compensation or benefit plan or agreement in place during the period covered by the

Settlement.

C. Calculations to Be Based on Defendant's Records

For each Class Member and PAGA Member, the amounts payable will be calculated by Defendant and confirmed by the Settlement Administrator from Defendant's records. Defendant's records will be presumed correct unless evidence to the contrary is provided to the Settlement Administrator. Defendant's records and any additional evidence will be reviewed by the Settlement Administrator in the event of a dispute about the number of workweeks worked by an individual Class Member or PAGA Member. If a Class Member or PAGA Member disputes the accuracy of Defendant's records, all supporting documents evidencing additional workweeks must be submitted by the Class Member or PAGA Member. The dispute will be resolved by the Settlement Administrator as described in Section E below.

D. Release of Claims

The Joint Stipulation of Class Action and PAGA Settlement and Release between Plaintiff and Defendant contains a release which releases Defendant and the Released Parties from all claims under state, federal and local law that were or could have been asserted based on the facts and allegations made in the Action, and any amendments thereto, as to the Class Members, including without limitation, California Labor Code sections 201-204, 218.5, 226, 226.3, 510, 558, 1194, 1197.1, 2698 et seq., California Industrial Commission Wage Orders, Cal. Code Regs., Title 8, section 11040, et seq., and Business and Professions Code sections 17200, et seq., California Code of Civil Procedure section 1021.5, and including all claims for or related to alleged unpaid wages, overtime or double time wages, regular rate of pay, timely payment of wages during employment, timely payment of wages at separation, wage statements, payroll records and recordkeeping, failure to pay additional 401(k) benefits and/or deferred compensation benefits and/or matching benefits for payments received under the Settlement, unfair competition, unfair business practices, unlawful business practices, or fraudulent business practices, conversion, class actions, representative actions, aggrieved party claims, declaratory relief, penalties of any nature (including but not limited to civil penalties, waiting-time penalties, and PAGA penalties), interest, fees, costs, as well as all other claims and allegations alleged in the Action (collectively "Released Class Claims"), from March 29, 2016 through [PRELIMINARY APPROVAL DATE] (collectively "Released Class Claims"). Expressly excluded from the release are claims for retaliation, discrimination, unemployment insurance, disability, workers compensation, and claims outside the Released Class Claims.

The claims to be released by the PAGA Members include all claims arising during the PAGA Period seeking civil penalties under the PAGA, that Plaintiff in his capacity as proxy for the State of California and/or the LWDA, to the maximum extent permitted by law, and as a private attorney general acting on behalf of himself and the PAGA Members, asserted or could reasonably have asserted based on the facts alleged in the Action and/or the LWDA letter, including but not limited to all such claims arising under the California Labor Code (including, but not limited to, sections 201-204, 218.5, 226, 226.3, 510, 558, 1194, 1197.1, 2698 et seq., as alleged in the Complaint) and the wage orders of the California Industrial Welfare Commission and any other Labor Code section or Wage Order based the facts alleged in the Action (collectively "Released PAGA Claims").

E. Resolution of Workweek Disputes

If a Class Member or PAGA Member disputes the accuracy of Defendant's records as to the number of workweeks worked, any documentation supporting such dispute must be submitted to the Settlement Administrator. All workweek disputes will be resolved and decided by the Settlement Administrator, and the Settlement Administrator's decision on all disputes will be final and binding.

F. Enhancement Award for the Class Representative

Subject to approval by the Court, the Class Representative will receive an Enhancement Award up to \$7,500. This payment will be made for his service as a Class Representative, including active participation in prosecution of the Action, as well as willingness to accept the risk of incurring Class Counsel's costs or paying Defendant's attorneys' fees and costs for an unsuccessful outcome in the Action. The Class Representative also signed a general release of all claims, which is broader than the release applicable to all other Class Members, to be eligible for the Enhancement Award.

G. Attorneys' Fees and Costs

As consideration for the Settlement and in exchange for the release by the Settlement Class, Defendant agrees to pay Class Counsel's attorneys' fees and costs to be set by the Court, up to a maximum of thirty-three and one-third percent (33 1/3%) of the Maximum Settlement Amount which equals \$56,666.67, and attorneys' costs not to exceed \$30,000. Class Counsel's attorneys' fees and costs will be paid and deducted from the Maximum Settlement Amount.

III. WHAT ARE YOUR RIGHTS AS A CLASS MEMBER

A. Excluding Yourself from the Settlement

If you do not wish to participate in the Settlement, you may be excluded (*i.e.*, “opt out”) by submitting a timely written request to the Settlement Administrator stating you have received notice of the Settlement, decided not to participate in the Settlement, and desire to be excluded from the Settlement, or words to that effect (“Request for Exclusion”). Your Request for Exclusion must also state your full name, address, date of birth, and dates you were employed by Defendant as a non-exempt employee in California. The Request for Exclusion must be signed, dated and mailed by First-Class U.S. Mail, or the equivalent, to:

ILYM GROUP, INC.
[REDACTED]

Telephone: [REDACTED]

The Request for Exclusion must be postmarked no later than [REDACTED]. If you submit a Request for Exclusion which is not postmarked by [REDACTED], your Request for Exclusion will be rejected, and you will be bound by the Release and all other Settlement terms. If the Request for Exclusion is sent from within the United States, it must be sent through the United States Postal Service by First-Class Mail, or the equivalent. Do not use a postage meter as that may not result in a postmark appearing on the envelope containing your Request for Exclusion. Please note you may only exclude yourself from the class action settlement and not from the PAGA Settlement.

Any person who submits a complete and timely Request for Exclusion shall, upon receipt by the Claims Administrator, no longer be a Class Member, shall be barred from participating in any portion of the Settlement relating to the class claims, shall not be entitled to object to the Settlement, shall not receive his or her portion of the Net Settlement Amount, shall not be deemed to have relinquished the Released Class Claims against the Released Parties, and, at his or her own expense, may pursue any claims he or she may have against the Released Parties.

B. Objection to Settlement

If you do not exclude yourself from the Settlement, you can object to the terms of the Settlement before Final Approval. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. To object, you may file a written objection and a notice of intention to appear at the Final Approval hearing currently set for [REDACTED], [REDACTED] Department [REDACTED]. You must file the written objection and notice of intention to appear at the Final Approval Hearing with the Office of the Clerk of the Stanislaus County Superior Court, 801 10th Street, 4th Floor, Modesto, California 95354, and send copies to the Claims Administrator, and Counsel as follows:

CLASS COUNSEL

William L. Marder, Esq.
Polaris Law Group LLP
501 San Benito Street, Suite 200
Hollister, CA 95023

Dennis S. Hyun, Esq.
HYUN LEGAL, APC
515 S. Figueroa Street, Suite 1250
Los Angeles, California 90071

DEFENDANT’S COUNSEL

Cary G. Palmer, Esq.
Evan D. Beecher, Esq.
JACKSON LEWIS P.C.
400 Capitol Mall, Suite 1600
Sacramento, CA 95814

Any written objection must state each specific reason in support of your objection and any legal support for each objection. Your objection must also state your full name, address, date of birth, and dates you were employed as a non-exempt employee in California by Defendant. To be valid and effective, any objections to approval of the Settlement must be filed with the Clerk of the Court, Stanislaus County Superior Court, 801 10th Street, 4th Floor, Modesto, California 95354, and delivered to the Settlement Administrator and each of the above-listed attorneys no later than thirty (30) calendar days after the Settlement Administrator mails this Class Notice to the Class Members, or fifteen (15) calendar days after it has been re-mailed to you, whichever is later. **DO NOT TELEPHONE THE COURT.**

However, a Class Member may appear at the Final Approval Hearing, either in person or through their own counsel, and object to the Settlement Agreement and any of its terms without submitting a prior objection in the manner and by the deadline specified above. If you choose to file an objection to the terms of this Settlement, you may enter an appearance *in propria persona* (meaning you choose to represent yourself) or through your own attorney at your own expense. To do so, you must file an Entry of Appearance with the Clerk of the Stanislaus County Superior Court, and deliver copies to the Settlement Administrator and each of the attorneys listed above. Such Entry of Appearance must be filed with the Court and delivered to the above attorneys no later than thirty (30) days after the Settlement Administrator mails this Class Notice to Class Members, or fifteen (15) calendar days after it has been re-mailed to you, whichever is later. You will then continue as a Settlement Class Member either *in propria persona* or with representation by your own attorney, and you will be solely responsible for the fees and costs of your own attorney. The final fairness hearing at which the Court will be asked to approve the Settlement will be at [REDACTED] a.m./p.m. (Pacific Time) on [REDACTED], in Department [REDACTED], Superior Court of

the State of California for the County of Stanislaus, [REDACTED], or such other later date as the Court may authorize.

You may also learn more about making a remote appearance in this matter by reviewing the webpage located at <https://www.stanislaus.courts.ca.gov/online-services/remote-telephonic-hearings>

IV. EFFECT OF THE SETTLEMENT: RELEASED RIGHTS AND CLAIMS

Upon Final Approval being granted by the Court, each and every Class Member, who does not opt out of the Settlement, will release Defendant and the Released Parties from the Released Class Claims as described above. In other words, if you were employed as a Class Member by Defendant in California during the Class Period who worked overtime and received incentive pay, and you do not exclude yourself from the Settlement Class, you will be deemed to have entered into this release and to have released the above-described Released Class Claims. In addition, you will be barred from ever suing Defendant and the Released Parties with respect to the Released Claims covered by this Settlement. Upon Final Approval being granted, PAGA Members will release Defendant and the Released Parties from the Released PAGA Claims regardless of whether they opted out as a Class Member. If the Settlement is not approved by the Court or does not become final for some other reason, the litigation will continue.

V. FINAL SETTLEMENT APPROVAL HEARING

The Court will hold a hearing in Department [REDACTED] of the Superior Court of the State of California in and for the County of Stanislaus, 801 10th Street, [REDACTED] Floor, Modesto, California 95354, on [REDACTED], at [REDACTED] a.m./p.m. (Pacific Time), to determine whether the Settlement should be finally approved as fair, reasonable and adequate. The Court also will be asked to approve Class Counsel's request for attorneys' fees and costs, the costs of administration, and the Enhancement Award to be paid to the Class Representative. Class Counsel's application for attorneys' fees and litigation costs will be on file with the Court no later than [REDACTED], and will be available for review after that date. Class Counsel are seeking approval of a total of not more than thirty-three and one-third percent (33 1/3%) of the Settlement for attorneys' fees, which equals \$56,666.67.67, and not more than \$30,000 for attorneys' costs.

The hearing may be continued without further notice to the Settlement Class. It is not necessary for you to appear at this hearing, unless you wish to object to the Settlement.

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement, you should consult the detailed Joint Stipulation of Class Action and PAGA Settlement and Release between Plaintiffs and Defendant ("Settlement Agreement") which is on file with the Clerk of the Court. The pleadings and other records in this Action, including the Settlement Agreement, may be examined at any time during regular business hours at the Office of the Clerk of the Stanislaus County Superior Court, at 7801 10th Street, 4th Floor, Modesto, California 95354. You may also visit [www.\[REDACTED\]](http://www.[REDACTED]), which will include links to the Settlement Agreement, Class Notice, Motions for Preliminary and Final Approval, and Motion for Attorneys' Fees as they become available. If you want additional information about this lawsuit and its proceedings, you can contact Class Counsel:

Dennis S. Hyun (SBN 224240)
HYUN LEGAL, APC
515 S. Figueroa Street, Suite 1250
Los Angeles, California 90071

Telephone: (213) 488-6555

William L. Marder (SBN 170131)
Polaris Law Group LLP
501 San Benito Street, Suite 200
Hollister, CA 95023

Telephone: (831) 531-4214

**PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR
INFORMATION REGARDING THIS SETTLEMENT OR THE CLAIM PROCESS.
BY ORDER OF THE SUPERIOR COURT**

4865-1843-5136, v. 1

EXHIBIT 2

1 WILLIAM L. MARDER, ESQ. (CBN 170131)
2 **Polaris Law Group LLP**
3 501 San Benito Street, Suite 200
4 Hollister, CA 95023
5 Telephone: (831) 531-4214
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11 Telephone: (213) 488-6555
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13 Attorneys for Plaintiff and the Class

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF STANISLAUS

JORGE LEYVA, individually and on behalf of
all others similarly situated,

PLAINTIFF,

v.

FRESHPOINT CENTRAL CALIFORNIA,
INC., a Delaware corporation; and DOES 1
through 50, inclusive,
DEFENDANTS.

Case No. CV-20-002633

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Date:
Time:
Dept.:
Judge:

Complaint Filed: June 12, 2020
Trial Date: Not Set

Plaintiff Jorge Leyva's Motion for Preliminary Approval of Class Action and PAGA Settlement ("Motion") came before this Court on [REDACTED], in Department [REDACTED] before the Honorable [REDACTED], presiding. The Court having considered the papers submitted in support of the Motion and good cause appearing therefor,

IT IS HEREBY ORDERED:

1. The Court grants preliminary approval of the Settlement and the Settlement Class based upon the terms set forth in the Joint Stipulation of Class Action and PAGA Settlement and Release Between Plaintiff and Defendant ("Stipulation of Settlement") filed with the Motion. All terms used herein shall have the same meaning as defined in the Stipulation of Settlement.

1 2. The settlement set forth in the Stipulation of Settlement appears to be fair, adequate
2 and reasonable to the Class. The Settlement falls within the range of reasonableness and appears
3 to be presumptively valid, subject only to any objections that may be raised at the final fairness
4 hearing and final approval by this Court.

5 3. A final fairness hearing on the question of whether the proposed Settlement,
6 attorneys' fees to Class Counsel, costs of administration, and Class Representative's Enhancement
7 Award should be finally approved as fair, reasonable and adequate as to the members of the Class
8 is scheduled in Department [REDACTED] on the date and time set forth in the Implementation Schedule in
9 Paragraph 10 below.

10 4. This Court approves, as to form and content, the Notice of Proposed Class Action
11 Settlement and Hearing Date for Final Court Approval of Settlement ("Class Notice") (Exhibit 1).
12 The Court approves the procedure for Class Members to opt out of and to object to the Settlement
13 as set forth in the Stipulation of Settlement and Class Notice.

14 5. The Court directs the mailing of the Class Notice by first-class mail to the Class
15 Members in accordance with the Implementation Schedule set forth in Paragraph 10 below. The
16 Court finds the dates selected for the mailing and distribution of the Class Notice, as set forth in the
17 Implementation Schedule, meet the requirements of due process and provide the best notice
18 practicable under the circumstances and shall constitute due and sufficient notice to all persons
19 entitled thereto.

20 6. It is ordered that the Settlement Class is preliminarily certified for settlement
21 purposes only, which is defined as: all persons who are employed or have been employed by
22 Defendant in California as non-exempt employees who worked overtime and earned non-
23 discretionary incentive pay from March 29, 2016 through [REDACTED] [INSERT
24 DATE OF PRELIMINARY APPROVAL].

25 7. The Court confirms Plaintiff Jorge Leyva as Class Representative, and William L.
26 Marder of Polaris Law Group LLP and Dennis S. Hyun of Hyun Legal APC as Class Counsel.

27 8. The Court confirms the appointment of ILYM Group, Inc. as the Settlement
28 Administrator.

1 9. To facilitate administration of the Settlement pending final approval, the Court
2 hereby enjoins Plaintiff and all Class Members from filing or prosecuting any other cases, claims,
3 suits or administrative proceedings (including filing claims with the Division of Labor Standards
4 Enforcement of the California Department of Industrial Relations) regarding the Released Claims
5 unless and until such Class Members have filed valid Requests for Exclusion with the Settlement
6 Administrator and the time for filing Requests for Exclusion with the Settlement Administrator has
7 elapsed.

8 10. The Court orders the following Implementation Schedule for further proceedings:

a.	Deadline for Defendant to Submit Class Member Information to Settlement Administrator	20 calendar days after Order Granting Preliminary Approval
b.	Deadline for Settlement Administrator to Mail Class Notice to Class Members	30 calendar days after Order Granting Preliminary Approval
c.	Deadline for Class Members to Postmark Requests for Exclusion	45 calendar days after mailing of Class Notice
d.	Deadline for Receipt by Court, Settlement Administrator, and Counsel of any Objections to Settlement	45 calendar days after mailing of Class Notice
e.	Deadline for Class Counsel to file Motion for Final Approval of Settlement, including Request for Attorneys' Fees and Costs, and Enhancement Awards	16 Court days before Final Approval Hearing
f.	Deadline for Settlement Administrator to file Declaration of Due Diligence and Proof of Mailing	16 Court days before Final Approval Hearing
h.	Final Fairness Hearing and Final Approval	Date: , 2022 Time: Department:
i.	Deadline for Defendant to fund settlement	30 calendar days after Effective Date

j.	Deadline for Settlement Administrator to mail Settlement Awards and Enhancement Award, and to wire transfer Attorneys' Fees and Costs (if Settlement is Effective)	45 calendar days after Effective Date
k.	Deadline for Class Members to cash Settlement checks (if Settlement is Effective)	180 calendar days after Settlement Administrator mails Settlement Awards and Enhancement Awards
l.	Deadline for Settlement Administrator to distribute uncashed Settlement checks amount to <i>cy pres</i> beneficiaries (if Settlement is Effective)	Within 14 calendar days after deadline for class members to cash Settlement checks
m.	Settlement Administrator to provide Proof of Payment of Settlement Awards, Enhancement Award, Attorneys' Fees and Costs, <i>cy pres</i> payment, and payment to LWDA (if Settlement is Effective) to Class Counsel, who will then file the Proof of Payment with the Court.	Within 21 calendar days after deadline for Settlement Administrator to pay any unclaimed residue from uncashed Settlement checks to <i>cy pres</i> beneficiary

IT IS HEREBY ORDERED.

Dated: _____, 2022

Judge of the Superior Court

EXHIBIT 3

1 WILLIAM L. MARDER, ESQ. (CBN 170131)
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3 501 San Benito Street, Suite 200
4 Hollister, CA 95023
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13 Attorneys for Plaintiff and the Class

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF STANISLAUS

JORGE LEYVA, individually and on behalf of
all others similarly situated,

PLAINTIFF,

v.

FRESHPOINT CENTRAL CALIFORNIA,
INC., a Delaware corporation; and DOES 1
through 50, inclusive,

DEFENDANTS.

Case No. CV-20-002633

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION
AND PAGA SETTLEMENT AND ENTRY
OF JUDGMENT THEREON**

Date:
Time:
Dept.:
Judge:

Complaint Filed: June 12, 2020
Trial Date: Not Set

The above-referenced Class and Representative PAGA action ("Action") having come before the Court on [REDACTED], in Department [REDACTED] before the Honorable [REDACTED], presiding for a hearing and Order Granting Final Approval of Class Action and PAGA Settlement and Judgment ("Final Order"), consistent with the Court's Preliminary Approval Order ("Preliminary Approval Order"), filed and entered [REDACTED], and as set forth in the Joint Stipulation of Class Action and PAGA Settlement and Release Between Plaintiff and Defendant ("Stipulation of Settlement") in this Action, and due and adequate notice having been given to all Class Members as required in the Preliminary Approval Order, and the Court having considered all

papers filed and proceedings had herein and otherwise being fully informed, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. All terms used herein shall have the same meaning as defined in the Stipulation of Settlement.

2. Consistent with the definitions provided in the Stipulation of Settlement, the terms “Settlement Class” and “Class Members” shall mean the following: all persons who are employed or have been employed by Defendant in California as non-exempt employees who worked overtime and earned non-discretionary incentive pay from March 29, 2016 to [PRELIMINARY APPROVAL DATE]. The Settlement Class, however, shall not include any person who previously settled or released the claims covered by this Settlement, or any person who previously was paid or received awards through civil or administrative actions for the claims covered by this Settlement, or any person who submitted a timely and valid Request for Exclusion as provided in this Settlement. The “Class Period” shall be March 29, 2016 to [PRELIMINARY APPROVAL DATE]. The “PAGA Period” shall be from March 29, 2019 to [PRELIMINARY APPROVAL DATE]. For purposes of the Settlement and this Final Order, “Released Parties” as referenced herein and as released in the Settlement shall collectively mean: (i) Defendant FreshPoint Central California, Inc. (“Defendant”); (ii) each of Defendant’s respective past, present and future parents, subsidiaries, and affiliates including, without limitation, any corporation, limited liability company, or partnership; (iii) the past, present and future members, directors, officers, agents, employees, attorneys, insurers, members, partners, managers, contractors, agents, consultants, representatives, administrators, fiduciaries, benefit plans, transferees, predecessors, successors, and assigns of any of the foregoing; and (iv) any individual or entity which could be jointly liable with any of the foregoing, including, but not limited to, temporary agencies.

3. This Court has jurisdiction over the subject matter of this Action and over all Parties to this Action, including all Class Members.

4. Distribution of the Class Notice directed to the Class Members as set forth in the Stipulation of Settlement and the other matters set forth therein has been completed in conformity

1 with the Preliminary Approval Order, including notice to all Class Members who could be
2 identified through reasonable effort, and is the best notice practicable under the circumstances. The
3 Class Notice provided due and adequate notice of the proceedings and of the matters set forth
4 therein, including the proposed Settlement set forth in the Stipulation of Settlement, to all persons
5 entitled to such Class Notice, and the Class Notice fully satisfied the requirements of due process.
6 All Class Members and PAGA Members, and all Released Class Claims and Released PAGA
7 Claims are covered by and included within the Settlement and this Final Order.

8 5. The Court hereby finds the Settlement was entered into in good faith pursuant to and
9 within the meaning of California Code of Civil Procedure section 877.6. The Court further finds
10 that the Settlement is fair, adequate and reasonable and that Plaintiff has satisfied the standards and
11 applicable requirements for final approval of this class action Settlement under California
12 law, including the provisions of California Code of Civil Procedure section 382 and Federal Rule
13 of Civil Procedure 23, approved for use by the California state courts in *Vasquez v. Superior Court*
14 (1971) 4 Cal.3d 800, 821.

15 6. The Court hereby approves the Settlement set forth in the Stipulation of Settlement
16 and finds that the Settlement is, in all respects, fair, adequate and reasonable, and directs the Parties
17 to effectuate the Settlement according to its terms. The Court finds that the Settlement has been
18 reached as a result of intensive, serious and non-collusive arms-length negotiations. The Court
19 further finds that the Parties have conducted extensive investigation and research, and counsel for
20 the Parties are able to reasonably evaluate their respective positions. The Court also finds that
21 Settlement at this time will avoid additional substantial costs, as well as avoid the delay and risks
22 that would be presented by the further prosecution of the Action. The Court has reviewed the
23 benefits that are being granted as part of the Settlement and recognizes the significant value to the
24 Class Members. The Court also finds that the Class is properly certified as a class for settlement
25 purposes only.

26 7. As of the date of entry of this Final Order, the Released Class Claims (as defined
27 in the Stipulation of Settlement and set forth below) of each and every Class Member is and shall
28 be deemed to be conclusively released as against the Released Parties. As of the date of this Final

1 Order, the Class Representative and each and every Class Member who have not submitted a valid
2 Request for Exclusion are hereby released and forever barred and enjoined from prosecuting the
3 Released Class Claims, except as to such rights or claims as may be created by the Settlement,
4 against Defendant and the Released Parties from any and all claims under state, federal and local
5 law ultimately alleged in this Action and that reasonably could have been alleged in this Action
6 based on the factual allegations contained in the operative Complaint in this Action and any
7 amendments thereto, as to the Class Members, including but not limited to: California Labor Code
8 sections 201-204, 218.5, 226, 226.3, 510, 558, 1194, 1197.1, 2698 *et seq.*, California Industrial
9 Commission Wage Orders, Cal. Code Regs., Title. 8, section 11040, *et seq.*, and Business and
10 Professions Code sections 17200, *et seq.*, California Code of Civil Procedure section 1021.5, and
11 including all claims for or related to alleged unpaid wages, overtime or double time wages, regular
12 rate of pay, timely payment of wages during employment, timely payment of wages at separation,
13 wage statements, payroll records and recordkeeping, failure to pay additional 401(k) benefits
14 and/or deferred compensation benefits and/or matching benefits for payments received under the
15 Settlement, unfair competition, unfair business practices, unlawful business practices, or
16 fraudulent business practices, conversion, class actions, representative actions, aggrieved party
17 claims, declaratory relief, penalties of any nature (including but not limited to civil penalties,
18 waiting-time penalties, and PAGA penalties), interest, fees, costs, as well as all other claims and
19 allegations alleged in the Action (collectively “Released Class Claims”), from March 29, 2016
20 through the date of this order. Expressly excluded from the release are claims for retaliation,
21 discrimination, unemployment insurance, disability, workers compensation, and claims outside the
22 Released Class Claims.

23 8. As of the date of entry of this Final Order, the Released PAGA Claims (as defined
24 in the Stipulation of Settlement and set forth below) of each and every PAGA Member is and shall
25 be deemed to be conclusively released as against the Released Parties. The claims to be released
26 by the PAGA Members include all claims arising during the PAGA Period seeking civil penalties
27 under PAGA, that Plaintiff in his capacity as proxy for the State of California and/or the LWDA,
28 to the maximum extent permitted by law, and as a private attorney general acting on behalf of

1 himself and the PAGA Members, asserted or could reasonably have asserted based on the facts
2 alleged in the Action and/or the LWDA letter, including but not limited to: all such claims arising
3 under the California Labor Code (including, but not limited to, sections 201-204, 218.5, 226,
4 226.3, 510, 558, 1194, 1197.1, 2698 et seq., as alleged in the Complaint) and the wage orders of
5 the California Industrial Welfare Commission and any other Labor Code section or Wage Order
6 based the facts alleged in the Action (collectively “Released PAGA Claims”), from March 29,
7 2019 through the date of this order. This release shall release all Released PAGA Claims by or on
8 behalf of Plaintiff and all PAGA Members regardless of whether Plaintiff and/or a PAGA Member
9 negotiates their/his/her settlement checks sent pursuant to this Settlement and regardless of
10 whether any such PAGA Member opts out and excludes himself or herself from the Settlement.

11 9. Neither the Settlement nor any of the terms set forth in the Stipulation of Settlement
12 is an admission by Defendant, or any of the other Released Parties, nor is this Final Order a finding
13 of the validity of any claims in this Action, or of any wrongdoing by Defendant or any of the other
14 Released Parties. Neither this Final Order, the Stipulation of Settlement, nor any document referred
15 to herein, nor any action taken to carry out the Stipulation of Settlement, may be construed as, or
16 may be used as, an admission by or against Defendant, or any of the other Released Parties, of any
17 fault, wrongdoing or liability whatsoever. The entering into or carrying out of the Stipulation of
18 Settlement, and any negotiations or proceedings related thereto, shall not in any event be construed
19 as, or deemed to be evidence of, an admission or concession with regard to the denials or defenses
20 by Defendant, or any of the other Released Parties, and shall not be offered in evidence in any
21 action or proceeding in any court, administrative agency or other tribunal for any purpose
22 whatsoever other than to enforce the provisions of this Final Order, the Stipulation of Settlement,
23 the Released Class Claims, the Release PAGA Claims, or any related agreement or release.
24 Notwithstanding these restrictions, any of the Released Parties may file in this Action, or submit in
25 any other proceeding, the Final Order, the Stipulation of Settlement, and any other papers and
26 records on file in this Action as evidence of the Settlement to support a defense of *res judicata*,
27 *collateral estoppel*, release, or other theory of claim or issue preclusion or similar defense as to the
28 Released Claims.

1 9. The Court hereby enters judgment in the entire Action as of the filing date of this
2 Final Order, pursuant to the terms set forth in the Stipulation of Settlement. Without affecting the
3 finality of this Final Order in any way, the Court hereby retains continuing jurisdiction over the
4 interpretation, implementation and enforcement of the Settlement and all orders entered in
5 connection therewith pursuant to California Code of Civil Procedure section 664.6.

6 10. The Court finds the settlement payments provided for under the Settlement to be fair
7 and reasonable in light of all of the circumstances. The Court orders the calculations and the
8 payments to be made and administered in accordance with the terms of the Settlement.

9 11. The Court hereby confirms Dennis Hyun of Hyun Legal, APC and William Marder
10 of Polaris Law Group, LLP as Class Counsel in this Action.

11 12. The Court further finds that the common fund doctrine is applicable to this Action
12 because there is a sufficiently identifiable class of beneficiaries (the Class), the benefits can be
13 accurately traced to the Settlement that Plaintiff and Class Counsel negotiated on behalf of the
14 Class, and the fee can be shifted with exactitude to those benefiting as the fee request is a specific,
15 lump-sum percentage of the common fund. *See Serrano v. Priest* (1977) 20 Cal.3d 25, 34-35. The
16 Court finds the attorneys' fees request of thirty-three and one-third percent (33 1/3%) of the
17 common fund to be appropriate compensation for Class Counsel. The attorneys' fees request is
18 within the range that has been approved by other courts in similar cases and reasonable in light of
19 the circumstances of this Action, the substantial and beneficial results obtained on behalf of the
20 Class, and the contingent nature of the recovery over the course of this Action, which included
21 potential loss at summary judgment, certification and/or trial proceedings. Pursuant to the terms of
22 the Settlement, and the authorities, evidence and argument submitted by Class Counsel, the Court
23 hereby awards Class Counsel attorneys' fees in the amount of \$56,666.67 and attorneys' costs in
24 the amount of \$, from the Maximum Settlement Amount as final payment for and
25 complete satisfaction of any and all attorneys' fees and costs incurred by and/or owed to Class
26 Counsel and any other person or entity related to this Action. The Court further orders that the
27 award of attorneys' fees and costs set forth in this Paragraph shall be administered pursuant to the
28 terms of the Stipulation of Settlement and distributed by the Settlement Administrator to Class

1 Counsel.

2 13. The Court also hereby approves and orders payment of an Enhancement Award to
3 Plaintiff and Class Representative Jorge Leyva in the amount of \$7,500.00 from the Maximum
4 Settlement Amount.

5 14. The Court also hereby approves and orders payment in the amount of \$7,500.00
6 from the Maximum Settlement Amount for PAGA penalties, payable to the California Labor and
7 Workforce Development Agency. The Court also approves and orders payment in the amount of
8 \$2,500.00 to PAGA Members pursuant to calculation method specified in the Joint Stipulation of
9 Settlement.

10 15. The Court also hereby approves and orders payment from the Maximum Settlement
11 Amount for actual claims administration expenses incurred by the Claims Administrator, ILYM
12 Group, Inc., in the amount of \$9,000.

13 16. The Court also hereby approves and orders that 50 percent of any residue from
14 uncashed settlement award checks after the expiration date will be paid out to Koinonia Family
15 Services, a non-profit 501(c)(3) organization with child advocacy programs within the State of
16 California, as the *cy pres* recipient pursuant to California Code of Civil Procedure section 384(b);
17 any residue received by Koinonia Family Services shall be used solely for child advocacy programs
18 within the State of California pursuant to Code of Civil Procedure section 384(b). The Court also
19 approves and orders that 50 percent of any residue from uncashed settlement award checks after
20 the expiration date will be paid out to Legal Aid at Work.

21 17. The Court also hereby finds and orders that the Stipulation of Settlement is and
22 constitutes a fair, adequate and reasonable compromise of the Released Class Claims and Released
23 PAGA Claims against Defendant and the Released Parties.

24 18. Provided the Settlement becomes effective under the terms of the Stipulation of
25 Settlement, the Court also hereby orders that the deadline for mailing the Court-approved
26 Settlement Awards, attorneys' fees and costs, and Enhancement Award is as set forth in the
27 Implementation Schedule within the Preliminary Approval Order.

1 19. The Court also hereby finds that there were no objections to the Settlement raised
2 by any person on the record at the hearing on the Final Approval Order.

3 **IT IS SO ORDERED. LET JUDGMENT BE ENTERED ACCORDINGLY**

4 Dated: _____

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6 Judge of the Superior Court
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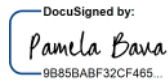
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