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SUPERIOR COURT OF CALIFORNIA

COUNTY OF SANTA CRUZ

ABELINA CORTEZ, on behalf of herself,
those similarly situated, and all aggrieved
employees,

Plaintiff,

vs.

**D'LA COLMENA, INC.; ADRIAN J.
GONZALES and DOES 1-50,**

Defendants.

Case No.: 20CV01149

[Assigned to Hon Timothy Volkmann, Dept. 5]

Class Action

**STIPULATION OF CLASS ACTION
AND PAGA SETTLEMENT**

Complaint Filed: May 7, 2020
Trial Date: None Set

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

2 IT IS HEREBY STIPULATED, by and between Plaintiff ABELINA CORTEZ, and
3 Defendants D’LA COLMENA, INC. and ADRIAN J. GONZALES on the other hand, and
4 subject to the approval of the Court, that the Action is hereby being compromised and settled
5 pursuant to the terms and conditions set forth in this Stipulation of Class Action and PAGA
6 Settlement and that the Court shall make and enter judgment, subject to the continuing
7 jurisdiction of the Court as set forth below, subject to the definitions, recitals and terms set forth
8 herein which by this reference become an integral part of this Agreement:
9

10 **DEFINITIONS**

- 11 1. “Agreement” means this Stipulation of Class Action and PAGA Settlement.
- 12 2. “Action” means the lawsuit known as *Cortez v. D’La Colmena, Inc., et al.*, filed
13 in Santa Cruz Superior Court on or about May 7, 2020, Case No. 20CV01149.
- 14 3. “Class Counsel” means Kenneth A. Goldman of Law Office of Kenneth
15 Goldman, PC and Sahag Majarian of the Law Offices of Sahag Majarian, II
- 16 4. “Class Counsel Award” means attorneys’ fees for Class Counsel’s litigation and
17 resolution of this Action and their expenses and costs incurred in connection with the Action,
18 paid from the Gross Settlement Fund as described in Paragraph 63 below.
- 19 5. “Class Information” means information regarding Settlement Class Members that
20 Defendants will in good faith compile from their records and provide to the Settlement
21 Administrator. It shall be formatted as a Microsoft Excel spreadsheet and shall include: each
22 Settlement Class Member’s full name; last known address; last known home telephone number;
23 Social Security number; start date of employment; end date of employment; and Compensable
24 Weeks for the Settlement Class.
- 25 6. “Class Members” means all current and former hourly-paid, non-exempt
26 employees of D’La Colmena, Inc. within California at any time during the Class Period (or if any
27 such person is incompetent, deceased, or unavailable due to military service, the person’s legal
28 representative or successor in interest evidenced by reasonable verification).

1 7. “Class Period” means the period from May 7, 2016 through June 3, 2021.

2 8. “Class Representative Service Award” means the award provided to Plaintiff in
3 recognition of her participation in this litigation as described in Paragraph 62 below.

4 9. “Compensable Weeks” means the number of weeks during which members of the
5 Wages Settlement Class was employed directly by Defendants during the Class Period.

6 10. “Costs” means those amounts of money reasonably expended to litigate, and
7 settle, this matter.

8 11. “Court” means the Santa Cruz County Superior Court.

9 12. “Defendants” means D’La Colmena, Inc. and Adrain J. Gonzales (“COLMENA”
10 or “Defendants”).

11 13. “Defense Counsel” means Ana C. Toledo of Noland, Hamerly, Etienne & Hoss.

12 14. “Effective Date” means the date upon which the Court grants final approval of the
13 Settlement if (a) no Settlement Class Members file objections to the Settlement, or (b) any
14 Settlement Class Member files an objection but it is subsequently withdrawn. However, if an
15 appeal or other appellate proceeding is initiated, the Effective Date shall be the date the trial
16 court regains jurisdiction following the latter of termination of all appellate proceedings or the
17 expiration of the time to bring further appeal.

18 15. “Former Employee” means those Settlement Class Members who are former
19 hourly-paid, non-exempt employees of COLMENA within California (or if any such person is
20 incompetent, deceased, or unavailable due to military service, the person’s legal representative or
21 successor in interest evidenced by reasonable verification) as of the date of upon which the Court
22 grants preliminary approval of the Settlement.

23 16. “Gross Settlement Fund” means the maximum settlement amount of Two
24 Hundred Fifty Thousand Dollars and zero cents (\$250,000.00) to be paid by Defendants in full
25 satisfaction of all claims arising from the Action, which includes all Individual Settlement
26 Payments to Settlement Class Members, Class Counsel Award, the Class Representative
27 Enhancement Payment to Plaintiff, Settlement Administration Costs to the Settlement
28 Administrator, and the Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§

2698, *et seq.*, “PAGA”) Payment. This Gross Settlement Fund has been agreed to by Plaintiff and Defendants based on the aggregation of the agreed-upon settlement value of individual claims. In no event will Defendants be liable for more than the Gross Settlement Fund absent the conditions set forth in Paragraph 66 below, and which could cause the Gross Settlement Fund to increase based upon a larger than anticipated number of Settlement Class Members. Defendants maintain no reversionary right to any portion of the Gross Settlement Fund. The entire Gross Settlement Fund will be distributed and no part of the Gross Settlement Fund will revert to Defendants. The Gross Settlement Fund does not include employer-side payroll taxes, and any tax obligations owed by COLMENA shall be paid separate and apart from the Gross Settlement Fund.

17. “Individual Settlement Payment” means the amount payable to each Settlement Class Member as described in Paragraph 61 below.

18. “LWDA Payment Amount” means 75% of the PAGA Settlement Fund.

19. “Net Settlement Amount” or “NSA” means the Gross Settlement Fund, less Class Counsel Award, Costs, Class Representative Service Award, the PAGA Settlement Fund, and Settlement Administrator Costs.

20. “Notice Packet” means the Notice of Proposed Class Action Settlement (substantially in the form attached as **Exhibit A**).

21. “PAGA Employee Share” means 25% of the PAGA Settlement Fund.

22. “PAGA Period” means the period of April 7, 2019 through June 3, 2021.

23. “PAGA Settlement Class” means all current and former hourly-paid, non-exempt employees who worked in California directly for D’La Colmena, Inc. at any time during the PAGA Period (or if any such person is incompetent, deceased, or unavailable due to military service, the person’s legal representative or successor in interest evidenced by reasonable verification). PAGA Settlement Class Members may not exclude themselves from the PAGA portion of the Settlement if approved by the Court.

24. “PAGA Settlement Fund” means the portion of the Gross Settlement Fund that the Parties have agreed will be allocated and paid to settle all claims and remedies under the

PAGA. The amount of the PAGA Payment is subject to court approval pursuant to California Labor Code section 2699(l). The Parties have agreed that Ten Thousand Dollars (\$10,000) of the Gross Settlement Fund shall be allocated to the resolution of any PAGA Settlement Class Members' claims arising under the PAGA. Pursuant to the PAGA, 75%, or Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00), of the PAGA Settlement Fund shall be paid to the California Labor and Workforce Development Agency ("LWDA"), and 25%, or Two Thousand Five Hundred Fifty Dollars and Zero Cents (\$2,500.00), of the PAGA Settlement Amount shall be part of the Net Settlement Amount to be distributed to the PAGA Settlement Class and considered penalties for tax liability purposes.

25. "Parties" means Plaintiff and Defendants, collectively, and "Party" shall mean either Plaintiff individually or Defendants as defined above.

26. "Plaintiff" means Abelina Cortez.

27. "Released Claims" shall collectively mean all claims against the Released Parties (as defined below), or any of them, for any type of relief and penalties, that accrued during the Class Period (defined as May 7, 2016 through June 3, 2021), and as a result of Class Members' employment at Defendants, which relate to or arise under any state or local law or state administrative order that was or could have been pled based on the facts alleged in the operative complaint relating to claims of failure to pay all wages due each pay period, failure to pay minimum wages, failure to pay overtime wages, failure to furnish accurate wage statements, violations of California's meal and rest period laws, wage theft/time shaving, attorneys' fees or litigation costs, violations of California *Labor Code* sections 201, 202, 203, 204, 226, 226.7, including without limitation all related claims for restitution and other equitable relief arising under the Private Attorney General Act, *Business and Professions Code* §§ 17200 *et seq.*, and interest on unpaid wages. The release specifically excludes claims for workers' compensation, personal injuries, unemployment insurance, state disability compensation, claims under the Employment Retirement Income Security Act of 1974, previously vested benefits under any Employer-sponsored benefits plan, wrongful termination, discrimination, retaliation, and harassment including but not limited to those arising under the Age Discrimination In

1 Employment Act, the California Fair Employment and Housing Act, Title VII of the Federal
2 Civil Rights Act of 1964, and/or Federal Civil Rights Act of 1991, or any similar state or federal
3 laws, the California Family Rights Act, the Federal Family Medical Leave Act, the California
4 Pregnancy Leave Law, or similar state or federal laws, the Federal Equal Pay Act of 1963,
5 violations of the Americans with Disabilities Act of 1990 or violations of any other state or
6 federal law, rule or regulation concerning discrimination, retaliation and/or harassment. In
7 consideration for the service award and as an inducement for Defendants to enter into this
8 Stipulation, Class Representative's Released Claims (and only the Class Representative)
9 additionally include any and all claims including Unknown Claims against Defendants that
10 accrued during the Class Period, but does not include claims for: age discrimination under the
11 Age Discrimination In Employment Act, unemployment insurance, workers' compensation
12 benefits, state disability compensation, previously vested benefits under any Employer-
13 sponsored benefits plan or claims under the Employment Retirement Income Security Act of
14 1974.

15 28. "Released Parties" means Defendants, each of their respective parent companies,
16 subsidiaries, current and former management companies, shareholders, members, owners, agents
17 (including without limitation, any investment bankers, accountants, insurers, reinsurers, attorneys
18 and any past, present or future officers, directors and employees) predecessors, successors, and
19 assigns.

20 29. "Relevant Pay Period" means any period for which wages are or were due and
21 payable on regular paydays, and for which wage statements were issued during the period of
22 May 7, 2016 through the date of preliminary approval.

23 30. "Response Deadline" means the date forty-five (45) days after the Settlement
24 Administrator mails Notice Packets to Settlement Class Members and the last date on which
25 Settlement Class Members may request for exclusion and/or objection to the Settlement.

26 31. "Settlement" means the disposition of the Action pursuant to this Agreement.

27 32. "Settlement Administration Costs" means the amount to be paid to the Settlement
28 Administrator from the Gross Settlement Fund for administration of this Settlement.

41. Class Certification. The Parties stipulate and agree to the certification of this Action for purposes of this Settlement only. Should the Settlement not become final and effective as herein provided, class certification shall immediately be set aside and the Settlement Class immediately decertified (subject to further proceedings on motion of any party to certify or deny certification thereafter). The Parties' willingness to stipulate to class certification as part of the Settlement shall have no bearing on, and shall not be admissible in or considered in connection with, the issue of whether a class should be certified in a non-settlement context in

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

3 42. Procedural History. On or about May 7, 2020, Plaintiff filed a Class Action
4 lawsuit in Santa Cruz Superior Court. On May 4, 2020, Plaintiff submitted his letter to the Labor
5 & Workforce Development Agency (“LWDA”) as a prerequisite to pursue penalties under the
6 Labor Code Private Attorneys General Act of 2004.

7 43. The Parties subsequently agreed to mediate the Action with retired Court of
8 Appeal Justice Steven Vartabedian. In preparation, Defendants voluntarily provided time
9 records and payroll history for roughly 28% of the anticipated Settlement Class up to, and
10 including December 31, 2020, plus various policies and wage data.

11 44. On June 3, 2021, the parties participated in an all-day mediation where an
12 agreement-in-principle was reached.

13 45. Benefits of Settlement to Class Members. Plaintiff and Class Counsel recognize
14 the expense and length of continued proceedings necessary to litigate their disputes through trial
15 and through any possible appeals. Plaintiff has also taken into account the uncertainty and risk
16 of the outcome of further litigation, including the possibility that one or more of the alleged
17 classes may not be certified, and the difficulties and delays inherent in such litigation. Plaintiff
18 and Class Counsel are also aware of the burdens of proof necessary to establish liability for the
19 claims asserted in the Action, both generally and in response to Defendant’s defenses thereto,
20 and the difficulties in establishing damages for the Settlement Class Members. Plaintiff and
21 Class Counsel have also taken into account the extensive settlement negotiations conducted.
22 Based on the foregoing, Plaintiff and Class Counsel have determined that the Settlement set forth
23 in this Agreement is a fair, adequate and reasonable settlement, and is in the best interests of the
24 Settlement Class Members.

25 46. Defendants’ Reasons for Settlement. Defendants have concluded that any further
26 defense of this litigation would be protracted and expensive for all Parties. Substantial amounts
27 of time and resources of Defendants have been and, unless this Settlement is made, will continue
28 to be devoted to the defense of the claims asserted by Plaintiff and Settlement Class Members.

Defendants have also taken into account the risks of further litigation in reaching their decision to enter into this Settlement. Despite continuing to contend that it is not liable for any of the claims set forth by Plaintiff, Defendants have, nonetheless, agreed to settle in the manner and upon the terms set forth in this Agreement to resolve the claims as set forth in the Action. Defendants have claimed, and continue to claim, that the Released Claims have no merit and do not give rise to liability. This Agreement is a compromise of disputed claims. Nothing contained in this Agreement and no documents referred to herein and no action taken to carry out this Agreement may be construed or used as an admission by or against Defendants as to the merits or lack thereof of the claims asserted. The monies being paid as part of the settlement are genuinely disputed and the parties agree that the provisions of Labor Code section 206.5 are not applicable to this settlement.

47. Settlement Class Members' Claims. Settlement Class Members have claimed and continue to claim that the Released Claims have merit and give rise to liability on the part of Defendants. This Agreement is a compromise of disputed claims. Nothing contained in this Agreement and no documents referred to herein and no action taken to carry out this Agreement may be construed or used as an admission by or against the Settlement Class Members or Class Counsel as to the merits or lack thereof of the claims asserted.

TERMS OF AGREEMENT

48. Release As To All Settlement Class Members. As of the Effective Date, in exchange for the Gross Settlement Fund, Plaintiff and the Settlement Class Members release the Released Parties from the Released Claims for the Class Period.

49. Plaintiff and the Settlement Class Members may hereafter discover facts in addition to or different from those they now know or believe to be true with respect to the subject matter of the Released Claims, but upon the Effective Date, shall be deemed to have, and by operation of the final judgment shall have, fully, finally, and forever settled and released any and all of the Released Claims, whether known or unknown, suspected or unsuspected, contingent or non-contingent, which now exist, or heretofore have existed, upon any theory of law or equity

1 now existing or coming into existence in the future, including, but not limited to, conduct that is
2 negligent, intentional, with or without malice, or a breach of any duty, law or rule, without
3 regard to the subsequent discovery or existence of such different or additional facts.

4 50. Tax Liability. The Parties make no representations as to the tax treatment or legal
5 effect of the payments called for hereunder, and Settlement Class Members are not relying on
6 any statement or representation by the Parties or by the Settlement Administrator in this regard.
7 Settlement Class Members understand and agree that withholdings, including, but not limited to
8 Settlement Class Members' FICA and FUTA contributions, will be taken from that portion of the
9 Net Settlement Amount designated as wages, and that they will be responsible for the payment of
10 any employee taxes and penalties assessed on the payments described herein and will hold the
11 Parties free and harmless from and against any claims, liabilities, costs and expenses, including
12 attorney's fees, resulting in any way from personal tax treatment of the payments made pursuant
13 to this Agreement, including the treatment of such payments as not subject to withholding or
14 deduction for payroll and employment taxes. Defendants' share of employer payroll taxes and
15 other required employer withholdings, including but not limited to Defendants' FICA and FUTA
16 contributions, shall be paid separate and apart from the Gross Settlement Fund.

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

1 imposed on the acknowledging party, and (3) no attorney or adviser to any other Party has
2 imposed any limitation that protects the confidentiality of any such attorney's or adviser's tax
3 strategies (regardless of whether such limitation is legally binding) upon disclosure by the
4 acknowledging party of the tax treatment or tax structure of any transaction, including any
5 transaction contemplated by this Agreement.

6 52. Settlement Administration. Within seven (7) calendar days after the Court grants
7 preliminary approval of this Agreement, Defendants shall provide the Settlement Administrator
8 with the Class Information for purposes of mailing Notice Packets to Settlement Class Members.

9 53. Notice By First Class U.S. Mail. Upon receipt of the Class Information, the
10 Settlement Administrator will perform a search based on the National Change of Address
11 Database to update and correct any known or identifiable address changes. Within fourteen (14)
12 calendar days after receiving the Class Information from Defendants as provided herein, the
13 Settlement Administrator shall mail copies of the Notice Packet, written in English and Spanish,
14 to all Settlement Class Members via First Class U.S. Mail. The Settlement Administrator shall
15 exercise its best judgment to determine the current mailing address for each Settlement Class
16 Member. The address identified by the Settlement Administrator as the current mailing address
17 shall be presumed to be the best mailing address for each Settlement Class Member. Any Notice
18 Packets returned to the Settlement Administrator as non-delivered on or before the Response
19 Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address
20 is provided, the Settlement Administrator shall promptly attempt to determine a correct address
21 by use of skip-tracing, or other search using the name, address and/or Social Security number of
22 the Settlement Class Member involved, and shall then perform a re-mailing, if another mailing
23 address is identified by the Settlement Administrator. Settlement Class Members who received a
24 re-mailed Notice Packet shall have their Response Deadline extended fourteen (14) days from
25 the original Response Deadline.

26 54. Claims. This is a no-claims settlement. All Settlement Class Members who do
27 not properly seek exclusion from the settlement (as outlined in Paragraph 57 of this document)
28 will receive Individual Settlement Payments from the Net Settlement Amount. The calculation

of Individual Settlement Payments shall be as described in Paragraph 61 below.

55. Disputes Regarding Individual Settlement Payments. Settlement Class Members will have the opportunity, should they disagree with Defendants' records regarding the dates of employment, to provide documentation and/or an explanation to show contrary employment dates. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. Counsel for the Parties will confer in good faith to resolve the dispute(s) and advise the Settlement Administrator if the Parties were able to resolve the dispute. Any dispute resolved by the Parties following conferring in good faith shall be binding upon the Settlement Class Member and the Parties. In the event that the Parties are unable to resolve the dispute, the Settlement Administrator shall determine the eligibility for and amount of any Individual Settlement Payment and provide its determination to the Parties in writing at least fifteen (15) days prior to any final settlement approval hearing in this matter. Any Party shall have the right to raise the dispute to the trial court for resolution; however, the Party challenging the Settlement Administrator's determination shall have the burden of proof as to any error in the Settlement Administrator's determination and shall bear its own costs related thereto.

56. Disputes Regarding Administration of Settlement. Any disputes regarding or relating to the administration of the Settlement shall be resolved by the same process described in Paragraph 58.

57. Exclusions. The Notice Packet shall state that Settlement Class Members who wish to exclude themselves from the Settlement must submit a written request for exclusion by the Response Deadline. The written request for exclusion must state that the Settlement Class Member wishes to exclude himself or herself from the Settlement and (1) must contain the name, address, and the last four digits of the Social Security number of the person requesting exclusion; (2) must be signed by the Settlement Class Member; (3) must be postmarked by the Response Deadline and returned to the Settlement Administrator at the specified address, and (4) must clearly state the intention to be excluded from the Settlement. The request for exclusion will not be valid if it is not timely submitted, if it is not signed by the Settlement Class Member, or if it

1 does not contain the name and address of the Settlement Class Member and articulate the intent
2 to be excluded. The date of the postmark on the return mailing envelope on the request for
3 exclusion shall be the exclusive means used to determine whether the request for exclusion was
4 timely submitted. Any Settlement Class Member who validly requests to be excluded from the
5 Settlement Class will not be entitled to any recovery under the Settlement and will not be bound
6 by the terms of the Settlement or have any right to object, appeal or comment thereon.
7 Settlement Class Members who fail to submit a valid request for exclusion on or before the
8 Response Deadline shall be bound by all terms of the Settlement and any final judgment entered
9 in this Action if the Settlement is approved by the Court. No later than fourteen (14) calendar
10 days after the Response Deadline, the Settlement Administrator shall provide counsel for the
11 Parties with the total number of Settlement Class Members who have submitted valid written
12 requests for exclusion. In addition to providing the list of individuals who have requested an
13 exclusion to Defendant, if the total number of Settlement Class Members who have submitted
14 valid written requests for exclusion is equal to or exceeds five percent (5%) of the Settlement
15 Class, the Settlement Administrator shall provide the Parties with a list of the Settlement Class
16 Members who have submitted valid written requests for exclusion. At no time shall any of the
17 Parties or their counsel seek to solicit or otherwise encourage members of the Settlement Class to
18 submit requests for exclusion from the Settlement.

19 58. Objections. The Notice Packet shall state that Settlement Class Members who
20 wish to object to the Settlement should submit a written statement of objection (“Notice of
21 Objection”) to the Settlement Administrator by the Response Deadline. The Notice of Objection
22 must be signed by the Settlement Class Member and state: (1) the full name of the Settlement
23 Class Member; (2) the dates of employment of the Settlement Class Member; (3) the last four
24 digits of the Settlement Class Member’s Social Security number; (4) the basis for the objection;
25 and (5) if the Settlement Class Member intends to appear at the Final Settlement Approval
26 hearing. Settlement Class Members who fail to make objections in the manner specified above
27 may be deemed to have waived any objections at the Court’s discretion and may be foreclosed
28 from making any objections (whether by appeal or otherwise) to the Settlement. Settlement

Class Members who submit a timely Notice of Objection will have a right to appear at the Final Settlement Approval hearing in order to have their objections heard by the Court. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage Settlement Class Members to file or serve written objections to the Settlement or appeal from the Order and Final Judgment. Class Counsel shall not represent any Settlement Class Members with respect to any such objections. Any Settlement Class Member who submits a timely request for exclusion and who also objects to this Settlement shall be deemed to have validly excluded himself or herself from the Settlement and the objection shall be waived. Any written Notice of Objection received by the Settlement Administrator shall be provided to counsel for the Parties within two business days of the Settlement Administrator's receipt of the written objection.

59. Funding and Allocation of Gross Settlement Fund. This is a non-reversionary, non-claims-made Settlement in which Defendants are required to pay the entirety of the Gross Settlement Fund as specified in this Agreement. No amount of the Gross Settlement Fund will revert to Defendants. Defendants' share of payroll taxes and other required withholdings from Individual Settlement Payments, including but not limited to FICA and FUTA contributions, shall be paid separate and apart from the Gross Settlement Fund. Within ten (10) calendar days following the order granting final approval of the Settlement, Defendants shall provide fifty percent (50%) of the Gross Settlement Fund to the Settlement Administrator. Upon the latter of May 1, 2022 or ten (10) calendar days following the order granting final approval of the Settlement, Defendants shall provide the remaining fifty percent (50%) of the Gross Settlement Fund and Defendants' share of payroll taxes to the Settlement Administrator.

60. Individual Settlement Payments. Individual Settlement Payments will be paid from the Net Settlement Amount and PAGA Settlement Fund and shall be paid pursuant to the settlement formula set forth herein. Individual Settlement Payments shall be mailed by First Class U.S. Mail to Settlement Class Members' last known mailing address within ten (10) calendar days after Defendants provide all funds to the Settlement Administrator for disbursement under this Agreement. Any checks issued to Settlement Class Members shall remain valid and negotiable for one hundred and eighty (180) days from the date of their

1 issuance. After that time, any such unclaimed checks will be distributed to *Cy Pres* Recipients as
2 described in Paragraph 64 below. In such event, those Class Members will nevertheless remain
3 bound by the Settlement. Individuals will be entitled to payment from the Net Settlement
4 Amount based on their status as members of the Wages Settlement Class and 203 Settlement
5 Class as defined in Paragraphs 34 and 40 above. All PAGA Settlement Class members shall not
6 be permitted to exclude themselves from the PAGA Settlement Class and shall receive their
7 share of the PAGA Settlement Fund as defined in Paragraph 24 above.

8 61. Calculation of Individual Settlement Payments. The calculation of Individual
9 Settlement Payments will involve the following steps:

10 A. The Net Settlement Amount will be divided and allocated as follows:

11 i. Ninety percent (90%) of the NSA shall comprise the Wages
12 Settlement Fund.

13 a. Twenty percent (20%) of the Wages Settlement Fund shall be
14 designated as unpaid wages for which IRS Forms W-2 will
15 issue.

16 b. Eighty percent (80%) of the Wages Settlement Fund shall be
17 designated as penalties and interest;

18 ii. Ten percent (10%) of the NSA shall be allocated as waiting time
19 penalties and interest on said penalties. Such funds shall comprise
20 the 203 Settlement Fund.

21 B. The Wages Settlement Fund shall be divided by the total number of
22 Compensable Workweeks during the Class Period in order to establish the
23 Wages Payment Ratio. The Wages Payment Ratio will then be multiplied by
24 the number of Compensable Weeks attributable to each Settlement Class
25 Member in order to determine the correct amount to be paid to each
26 Settlement Class Member out of the Wages Settlement Fund.

27 C. The 203 Settlement Fund shall be divided by the number of Former
28 Employees in order to determine the 203 Payment Ratio. Each Former

Employee shall be entitled to receive the 203 Payment Amount.

D. The PAGA Employee Share shall be divided by the total number of Compensable Workweeks during the PAGA Period in order to establish the PAGA Payment Ratio. The PAGA Payment Ratio will then be multiplied by the number of Compensable Weeks attributable to each member of the PAGA Settlement Class in order to determine the correct amount to be paid to each PAGA Settlement Class Member out of the PAGA Employee Share.

62. Class Representative Service Award. Plaintiff Abelina Cortez agreed to serve as the class representative without the expectation of a Class Representative Service Award. However, Plaintiff has now identified herself in the public record as an individual who is willing to make class action employment claims. Among the considerations for any Class Representative Service Award are (a) that the Agreement provides a substantial benefit to the Settlement Class Members; (b) Plaintiff is not seeking an extraordinary amount, but a number that is reasonable and represents the amount of time and the risks associated with her participation in this litigation; and (c) that Plaintiff is providing a general release of all claims. Plaintiff contends a Class Representative Service Award of five thousand dollars and zero cents (\$5,000.00) is reasonable and fair. The Class Representative Service Award shall be paid to Plaintiff from the Gross Settlement Fund no later than ten (10) calendar days after Defendant provides funds to the Settlement Administrator for disbursement under this Agreement. Defendants do not oppose Plaintiff's requested Class Representative Service Award.

63. Class Counsel Award. Class Counsel will submit an application for attorneys' fees not to exceed thirty-five percent (35%) of the Gross Settlement Fund (or (\$87,500.00) as anticipated prior to any potential increase as described in Paragraph 66), plus actual costs not to exceed Fifteen Thousand Dollars (\$15,000). Any portion of the requested Class Counsel Award that is not awarded to Class Counsel shall be part of the Net Settlement Amount and shall be distributed to Settlement Class Members as provided in this Agreement. The Class Counsel Award shall be paid to Class Counsel from the Gross Settlement Fund no later than ten (10) calendar days after Defendants provide funds to the Settlement Administrator for disbursement

under this Agreement. Class Counsel shall be solely and legally responsible to pay all applicable taxes on the payment made pursuant to this paragraph. The Settlement Administrator shall issue an IRS Form 1099 – MISC to each Class Counsel for the payments made pursuant to this paragraph. Defendants do not oppose this application. This Settlement is not contingent upon the Court awarding Class Counsel any particular amount in attorneys’ fees and costs.

64. Cy Pres. Any checks that remain unclaimed for 180 days after issuance shall be distributed pursuant to Code of Civil Procedure section 384, designated for nonprofit organizations or foundations to support projects that will benefit the class or similarly situated persons, or that promote the law consistent with the objectives and purposes of the underlying cause of action, to child advocacy programs, or to nonprofit organizations providing civil legal services to the indigent (“*Cy Pres* Recipients”). The funds resulting from unclaimed checks shall be distributed fifty percent (50%) to the Foundation for Advocacy Inclusion & Resources (FAIR) and fifty percent (50%) to Salud Para la Gente medical clinic in Watsonville, California.

65. Settlement Administration Costs. The Settlement Administrator shall be paid for the costs of administration of the Settlement from the Gross Settlement Fund. The costs of administration for the disbursement of the Gross Settlement Fund are currently estimated to be four thousand dollars and zero cents (\$4,000.00). This figure represents the Settlement Administrator’s estimate of its fees to administer this Settlement, based on information it was provided about the issues in the case, the complexity of the Settlement, and the approximate sizes of the putative Classes. To the extent actual Settlement Administrations Costs are greater than \$8,000.00, such excess amount shall be taken out of the Net Settlement Amount, unless it is determined by the Court that such increased costs were caused by misconduct by Defendants, whether collectively or individually. No fewer than fourteen (14) days prior to the Final Approval Hearing, the Settlement Administrator shall provide the Parties with a statement detailing the costs of administration of this Settlement. The Settlement Administrator shall be paid the Settlement Administration Costs no later than fourteen (14) calendar days after Defendants provide funds to the Settlement Administrator for disbursement under this Agreement. The Settlement Administrator, on Defendants’ behalf, shall have the authority and

obligation to make payments, credits and disbursements, including payments and credits in the manner set forth herein, to Settlement Class Members calculated in accordance with the methodology set out in this Agreement and orders of the Court.

A. The Parties agree to cooperate in the Settlement administration process and to make all reasonable efforts to control and minimize the costs and expenses incurred in administration of the Settlement. The Parties each represent they do not have any financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest.

B. The Settlement Administrator shall be responsible for:

1. Calculating the amount each Settlement Class Member is eligible to receive, processing and mailing payments to the Plaintiff, Class Counsel, and Settlement Class Members;
2. Printing, translating and mailing the Notice Packets to the Settlement Class Members as directed by the Court;
3. Receiving and reporting the requests for exclusion and objections submitted by Settlement Class Members;
4. Deducting taxes from Individual Settlement Payments and distributing tax forms;
5. Establishing and maintaining a toll free informational telephone support line to assist Class Members who have questions regarding the Notice;
6. Issuing to Plaintiff, Settlement Class Members, and Class Counsel, W-2, 1099 forms or other tax forms as may be required by law for all amounts paid pursuant to this Agreement;
7. Conducting additional address searches for mailed Notices that are returned as undeliverable. These searches may be done through a class action locator service. To the extent new and more current

addresses are found, the Settlement Administrator will also reprint and re-mail Notices accordingly;

8. Calculating Settlement Class Members settlement share, fielding inquiries from Class Members, and administration of any requests for exclusion. This service will include settlement proceed calculations, printing and issuance of checks, and preparation of W-2, 1099 Forms. Basic accounting for and payment of employee tax withholdings will also be included as part of this service;
9. Informing Defendants of their employer-side tax liability, if any;
10. Processing and mailing tax payments to the appropriate state and federal taxing authorities;
11. Providing declaration(s) as necessary in support of preliminary and/or final approval of this Settlement;
12. Other tasks as the Parties mutually agree or the Court orders the Settlement Administrator to perform;
13. The Settlement Administrator shall keep the Parties timely apprised of the performance of all Settlement Administrator responsibilities; and
14. No later than fourteen (14) calendar days after the Response Deadline, the Settlement Administrator shall provide counsel for the Parties with an accounting of the Gross Settlement Fund and report the amount of all payments to be made to each Settlement Class Member by name and Social Security number.

C. No person shall have any claim against Defendants, Defense Counsel, Plaintiff, Settlement Class Members, Class Counsel or the Settlement Administrator based on distributions and payments made in accordance with this Agreement.

66. Increase of Gross Settlement Fund Upon Increase of Settlement Class Size. As of June 3, 2021, Defendants' best estimate of the number of eligible Settlement Class Members is

92. If the actual number of eligible Settlement Class Members is ten percent (10%) greater than this estimate (i.e. 102 Class Members or more), then the Gross Settlement Fund as defined in Paragraph 16 above shall be increased on a proportional basis.

67. Non-Interference. No Party may solicit, encourage, or otherwise aid in obtaining exclusions from Settlement Class Members.

68. Final Settlement Approval Hearing and Entry of Final Judgment. Upon expiration of the Response Deadline, with the Court's permission, a Final Settlement Approval Hearing shall be conducted to determine final approval of the Settlement along with the amount properly payable for (i) the Class Counsel Award, (ii) the Class Representative Service Award, (iii) Individual Settlement Payments, and (iv) the Settlement Administration Costs. Pursuant to California Rule of Court 3.769(h), after granting Final Approval, the Court shall retain jurisdiction over the Parties to enforce the terms of the judgment.

69. Nullification of Settlement Agreement. This Settlement shall not take effect until the Court has entered an order granting final approval of the Settlement and that order has become final after any objections to the Settlement or any appeals from the order granting final approval of the Settlement have been resolved. If for any reason this Settlement is materially modified on appeal, then this Settlement will become null and void, no payment under this Settlement will be made, and the Settlement shall not be used nor be admissible in any subsequent proceeding either in this Court or in any other Court or forum.

70. Tolling. In the event that the Court does not enter a final judgment as provided herein, pursuant to Code of Civil Procedure § 583.330, the Parties stipulate that the matter shall be deemed stayed as of June 3, 2021 for purposes of calculating time limits under Code of Civil Procedure § 583.310 (i.e. "the 5-Year Rule"). The time to bring the matter to trial shall resume running upon the Court's entry of an order denying final approval of this Settlement Agreement. Should the Court raise any issues with the Settlement or Final Approval of the Settlement, the Parties shall cooperate in good faith in addressing those issues so that the Court may enter an order approving the Settlement.

71. Interim Stay of Proceedings. The Parties agree to stay and hold all proceedings in

1 the Action, except such proceedings necessary to implement and complete the Settlement, in
2 abeyance pending the Final Settlement Approval hearing to be conducted by the Court.

3 72. No Effect on Employee Benefits. Amounts paid to Plaintiff or other Settlement
4 Class Members pursuant to this Agreement shall be deemed not to be pensionable earnings and
5 shall not have any effect on the eligibility for, or calculation of, any of the employee benefits
6 (e.g., vacations, holiday pay, retirement plans, etc.) of the Plaintiff or Settlement Class Members.

7 73. No Admission By the Parties. Defendants deny any and all claims alleged in this
8 Action and denies all wrongdoing whatsoever. This Agreement is not a concession or admission,
9 and shall not be used against Defendants as an admission or indication with respect to any claim
10 of any fault, concession or omission by Defendants.

11 74. Exhibits and Headings. The terms of this Agreement include the terms set forth
12 in any attached Exhibits, which are incorporated by this reference as though fully set forth
13 herein. Any Exhibits to this Agreement are an integral part of the Settlement. The descriptive
14 headings of any paragraphs or sections of this Agreement are inserted for convenience of
15 reference only and do not constitute a part of this Agreement.

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

18 76. Entire Agreement. This Agreement and any attached Exhibits constitute the
19 entire Agreement among these Parties, and no oral or written representations, warranties or
20 inducements have been made to any Party concerning this Agreement or its Exhibits other than
21 the representations, warranties and covenants contained and memorialized in the Agreement and
22 its Exhibits.

23 77. Authorization to Enter Into Settlement Agreement. Counsel for all Parties
24 warrant and represent they are expressly authorized by the Parties whom they represent to
25 negotiate this Agreement and to take all appropriate actions required or permitted to be taken by
26 such Parties pursuant to this Agreement to effectuate its terms, and to execute any other
27 documents required to effectuate the terms of this Agreement. The Parties and their counsel will
28 cooperate with each other and use their best efforts to effect the implementation of the

1 Settlement. The persons signing this Agreement on behalf of Defendants represents and
2 warrants that they are authorized to sign this Agreement on behalf of Defendants. Plaintiff
3 represents and warrants that she is authorized to sign this Agreement and that she has not
4 assigned any claim, or part of a claim, covered by this Settlement to a third party.

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

7 79. California Law Governs. All terms of this Agreement and the Exhibits hereto and
8 any disputes arising hereunder shall be governed by and interpreted according to the laws of the
9 State of California.

10 80. Counterparts. This Agreement may be executed in one or more counterparts. All
11 executed counterparts and each of them shall be deemed to be one and the same instrument
12 provided that counsel for the Parties to this Agreement shall exchange among themselves copies
13 or originals of the signed counterparts.

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

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

24 83. Invalidity of Any Provision. Before declaring any provision of this Agreement
25 invalid, the Court shall first attempt to construe the provisions as valid to the fullest extent
26 possible consistent with applicable precedents so as to define all provisions of this Agreement as
27 valid and enforceable.

28 ///

1 84. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to
2 class certification for purposes of this Settlement only; provided, however, Plaintiff or Class
3 Counsel may appeal any reduction in the Class Counsel Award.

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Abelina Cortez
Abelina Cortez, Plaintiff

08-02-21
Date

D'LA COLMENA, INC., Defendant

By: _____

Date

Its: _____

Adrian J. Gonzales, Defendant

Date

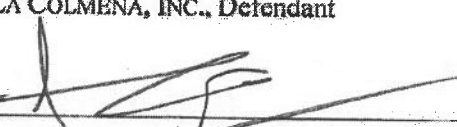
LAW OFFICE OF KENNETH A. GOLDMAN, PC
15303 Ventura Boulevard, Suite 1650
Sherman Oaks, California 91403

1 84. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to
2 class certification for purposes of this Settlement only; provided, however, Plaintiff or Class
3 Counsel may appeal any reduction in the Class Counsel Award.
4
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6 Abelina Cortez, Plaintiff

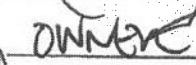
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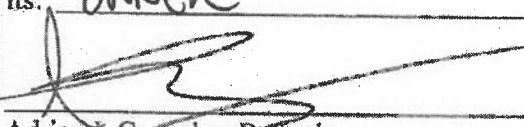
8 D'LA COLMENA, INC., Defendant

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10 By: 

8-11-2021

Date

11 Its: 

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13 
14 Adrian J. Gonzales, Defendant

8-11-2021

Date

EXHIBIT A

SANTA CRUZ COUNTY SUPERIOR COURT
Cortez v. D’La Colmena, Inc., et al.
Case No. 20CV01149

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

To: ALL CURRENT AND FORMER HOURLY-PAID, NON-EXEMPT EMPLOYEES OF D’LA COLMENA, INC. WITHIN CALIFORNIA AT ANY TIME DURING THE PERIOD OF MAY 7, 2016 THROUGH JUNE 3, 2021

**IF YOU DO NOTHING, YOU ARE EXPECTED TO RECEIVE
APPROXIMATELY \$[INDIVIDUAL’S AMOUNT]**

**NO PARTY WILL TAKE ANY ACTION AGAINST YOU FOR PARTICIPATING
IN THIS SETTLEMENT. THE PARTIES FULLY SUPPORT YOUR
PARTICIPATION IN THIS SETTLEMENT.**

This Notice is Court Approved. This is not a solicitation from an attorney.

READ THIS NOTICE CAREFULLY – IT AFFECTS YOUR LEGAL RIGHTS

WHY DID I GET THIS NOTICE?

You received this Notice because we believe that you are a class member who may be entitled to money from this settlement. To receive money from this settlement, you do not need to do anything.

This Notice describes a proposed settlement of the class action lawsuit entitled *Cortez v. D’La Colmena, Inc., et al.* pending in Santa Cruz County Superior Court, Case No. 20CV01149 (hereinafter the “Lawsuit”). A complaint was filed on May 7, 2020 Abelina Cortez (hereinafter “Plaintiff” or the “Class Representative”). This Notice is being sent to you by order of the Santa Cruz Superior Court, which preliminarily approved the settlement and conditionally certified the class for settlement purposes on [DATE]. This Notice informs you of the key terms of the proposed settlement, describes your rights in connection with the settlement, and explains what steps you may take to object to, or exclude yourself from the settlement. If you do not exclude yourself from the settlement and the Court finally approves this settlement, you will receive a settlement payment and be bound to the terms of the settlement and any final judgment.

WHAT IS THIS SETTLEMENT ABOUT?

The Lawsuit alleges unpaid wages, unpaid overtime premiums, inaccurate wage statements, failure to provide adequate meal breaks and paid rest breaks, unpaid wages at the time of termination, and penalties pursuant to the Private Attorney General Act of 2004 (“PAGA”).

D’La Colmena, Inc. and Adrian J. Gonzales (hereinafter, “Defendants”) deny each and all of Plaintiff’s claims, contentions, and allegations. The Court has not made any rulings regarding the merits of the case. Defendants contend they complied with all applicable laws, and are fully prepared to defend

the lawsuit. Defendants agreed to this settlement as a compromise of disputed claims and to avoid ongoing litigation costs and disruption.

The Settlement is a compromise of disputed claims and does not admit fault, liability, or any wrongdoing of any kind on the part of Defendants.

WHY IS THERE A SETTLEMENT?

This Settlement is the result of substantial litigation, an extensive review of data, and participation in a full-day mediation with a well-respected mediator with substantial employment law experience. The negotiations process proceeded with an informed understanding of the law and the facts. The Court did not decide in favor of the Plaintiffs/Class or Defendants and Defendants have not admitted any wrongdoing. Instead, both sides agreed to a settlement after weighing the risks and expense of proceeding with litigation against the benefits obtained by all Parties, including compensation for the Settlement Class and the financial impact of a potential judgment for a substantial sum on the ability of class members to receive any money from this case. The Class Representative and her lawyers, in consultation with the mediator, believe the settlement is best for the Class.

WHAT IS A CLASS ACTION?

In a class action lawsuit, one or more persons sue on behalf of other people who have similar claims. A class action allows the Court to resolve the claims of all the class members at the same time. A class member is bound by the determination or judgment entered in the case, whether the class wins or loses, and may not file his or her own lawsuit on the same claims that were decided in the class action. A class action allows one court to resolve all of the issues in a lawsuit for all the class members who choose not to exclude themselves from the class.

WHO IS INCLUDED IN THE CLASS?

All current and former hourly-paid, non-exempt employees of D’La Colmena, Inc. within California at any time from May 7, 2016 through June 3, 2021. (the “Class Period”).

WHAT ARE THE TERMS OF THE CLASS SETTLEMENT?

In exchange for the release of claims against it and final judgment in the Lawsuit, Defendants will pay Two Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00) (“Gross Settlement Fund” or “GSF”). After attorneys’ fees and costs, the class representative enhancement award, the PAGA Payment (described below) and settlement administration costs are deducted from the Gross Settlement Fund, the remaining Net Settlement Amount (“NSA”), subject to the Court’s approval, will be distributed to all Settlement Class Members during the Class Period as described below.

Class Counsel Award: Class Counsel will request up to thirty-five percent (35%) of the Gross Settlement Fund (estimated \$87,500.00) as attorneys’ fees for litigation and resolution of the Lawsuit and actual expenses and actual costs, subject to a fee splitting agreement between Class Counsel. Any amount not awarded will revert to the NSA. The Class Counsel Award request is subject to the review and approval of the Court.

Class Representative Service Award: Class Counsel will request an enhancement award for Abelina Cortez of no more than five thousand dollars and zero cents (\$5,000.00) to be paid out of the

Gross Settlement Fund for her service to the class and general release of all of her individual claims. Any amount not awarded will revert to the NSA.

PAGA Payment: Ten thousand dollars and zero cents (\$10,000.00) of the GSF will be designated for payment of penalties pursuant to PAGA and allocated as follows: (1) seven thousand five hundred dollars and zero cents (\$7,500.00) shall be paid to the California Labor Workforce Development Agency as mandated by law, and (2) two thousand five hundred dollars and zero cents (\$2,500.00) shall be disbursed to the PAGA Settlement Class on a proportional basis according to the number of Compensable Weeks attributable to each Settlement Class Member.

Settlement Administration: The cost of settlement administration will be paid from the GSF. The cost is estimated at four thousand dollars and zero cents (\$4,000.00) which pays for tasks such as mailing this Notice, calculating payments based on data provided by the parties, mailing checks and tax forms, and reporting to the parties and the Court.

HOW DOES THE SETTLEMENT AFFECT MY RIGHTS?

Unless you exclude yourself, you are a part of the Settlement, which means you cannot sue, continue to sue, or be part of any other lawsuit against Defendants D’La Colmena, Inc. and Adrian J. Gonzales, each of their respective parent companies, subsidiaries, current and former management companies, shareholders, members, owners, agents (including without limitation, any investment bankers, accountants, insurers, reinsurers, attorneys and any past, present or future officers, directors and employees) predecessors, successors, and assigns (“Released Parties”) about the legal issues in this case.

It also means that all of the Court’s orders will apply to you and legally bind you. You will be releasing and forever discharging Released Parties from any and all Released Claims. The Released Claims are all claims against the Released Parties (as defined below), or any of them, for any type of relief and penalties, that accrued during the Class Period (defined as May 7, 2016 through June 3, 2021), and as a result of Class Members’ employment at D’La Colmena, which relate to or arise under any state or local law or state administrative order that was or could have been pled based on the facts alleged in the operative complaint relating to claims of failure to pay all wages due each pay period, failure to pay minimum wages, failure to pay overtime wages, failure to furnish accurate wage statements, violations of California’s meal and rest period laws, wage theft/time shaving, attorneys’ fees or litigation costs, violations of California *Labor Code* sections 201, 202, 203, 204, 226, 226.7, including without limitation all related claims for restitution and other equitable relief arising under the Private Attorney General Act, *Business and Professions Code* §§ 17200 *et seq.*, and interest on unpaid wages. The release specifically excludes claims for workers’ compensation, personal injuries, unemployment insurance, state disability compensation, wrongful termination, discrimination, retaliation, and harassment arising under state or federal law. In consideration for the service award and as an inducement for Defendants to enter into this Stipulation, Class Representative’s Released Claims (and only the Class Representative) additionally include any and all claims including Unknown Claims against Defendants that accrued during the Class Period, but does not include claims for unemployment insurance, workers’ compensation benefits and state disability compensation.

HOW IS AN INDIVIDUAL SETTLEMENT PAYMENT DETERMINED?

Subject to Court approval, the Individual Settlement Payments from the NSA will be allocated as follows: Ninety percent (90%) of the NSA shall be designated as the Wages Settlement Fund and ten percent (10%) of the NSA as the Former Employee Settlement Fund. Twenty percent (20%) of the

Wages Settlement Fund shall be subject to payroll taxes as wages and eighty percent (80%) of the Wages Settlement Fund shall be designated as penalties and interest.

The Wages Settlement Fund and Penalty Settlement Fund shall be divided by the total number of Compensable Weeks worked by the Settlement Class during the Class Period to establish the base value of each workweek. The number of workweeks attributable to each Settlement Class Member shall be multiplied by the value of each workweek to determine the Settlement Class Member's individual portion of the Wages Settlement Fund and Penalty Settlement Fund. The employees' portion of the PAGA penalties shall be distributed in the same manner as the Wages and Penalty settlement funds.

The Former Employee Settlement Fund shall be divided by the total number of Former Employees in the Settlement Class and distributed evenly among those Former Employees.

YOUR ESTIMATED SETTLEMENT PAYMENT IS: \$[INDIVIDUAL'S AMOUNT]. YOU HAVE [XX] COMPENSABLE WORKWEEKS WITHIN THE CLASS PERIOD.

WHAT DO I NEED TO DO TO RECEIVE A SETTLEMENT PAYMENT?

Subject to Court approval, if you are a member of the Settlement Class, you will automatically receive money from this settlement based on the formulas explained above. No further action is required. If you did not receive this notice at your current mailing address, or if your mailing address has changed, or will change, you will need to contact the settlement administrator at Simpluris, Inc. [ADMINISTRATOR ADDRESS] and provide your current mailing address, the name of the case and case number (*Cortez. V. D'La Colmena, Inc.* Case No. 20CV01149), your full name, and the last four digits of your Social Security number (for identity verification purposes only).

Your estimated Settlement Payment is stated above. If you dispute the number of your Compensable Weeks attributable to this settlement, set forth above, upon which your settlement share is based, you must advise the Settlement Administrator and provide documents substantiating your dispute. Please do not send originals; documentation sent to the Settlement Administrator will not be returned or preserved.

WHAT IF I DON'T WANT TO PARTICIPATE IN THIS SETTLEMENT?

You have the right to exclude yourself from the settlement. To do so, you must mail a signed, written statement requesting exclusion from the settlement postmarked no later than [OPT OUT DATE] to Simpluris, Inc. [ADMINISTRATOR ADDRESS].

To be valid, a written request for exclusion must state that you wish to be excluded, and (1) must contain the name, address, telephone number and the last four digits of the Social Security number of the person requesting exclusion; (2) must be signed by you, the Settlement Class Member; (3) must include the name of the case and case number (*Cortez. V. D'La Colmena, Inc.* Case No. 20CV01149); and (4) must be postmarked by [OPT OUT DATE] and returned to the Settlement Administrator at the specified address. Unless you timely and validly request to be excluded from the settlement, you will be legally bound by the judgment upon final approval of the settlement, including the Release described in this Notice.

If you timely and validly request to be excluded from the settlement, you will not receive any payment for the class remedies under the settlement, you will not be bound by the orders of the

Court or the terms of the settlement, including the releases provided therein, and you retain the right to pursue a claim on an individual basis. Class Counsel will not represent your interests if you request to be excluded. You will not be entitled to opt out of the PAGA portion of the settlement and you will receive your portion of the PAGA Employee Share if approved by the Court.

WHAT IF I WANT TO OBJECT TO THIS SETTLEMENT?

Any Settlement Class Member who has not asked to be excluded from the settlement may object to the settlement and appear at the hearing where the Court will make a final decision whether or not to approve the settlement (the “Final Approval Hearing”).

You may object to any of the terms of the Settlement before the Final Approval Hearing. If the Court rejects or overrules your objection, you will still be bound by the terms of the Settlement, but you will also receive a monetary award. The Court recommends a written objection to be served on the Settlement Administrator, Simpluris, Inc., by [OBJECTION DATE]; however, oral objections may be considered at the final approval hearing. The written objection should state: (1) your full name, address, telephone number, and name of the case and case number (*Cortez. V. D’La Colmena, Inc.* Case No. 20CV01149); (2) a written statement of all grounds for the objection accompanied by any legal support for the objection; (3) a statement as to whether you intend to appear at the final approval hearing; (4) last four digits of your social security number; and (5) the signature of you or your counsel

You have the right to retain your own attorney, at your own expense, to submit an objection or appear on your behalf at the Final Approval Hearing. Objecting is not the same as excluding yourself from the settlement. If you file an objection, you still remain eligible to receive an individual settlement award, and will still be bound by the Court’s decision. You will not have an opportunity to opt-out after the Court’s decision.

WHAT IS THE FINAL APPROVAL HEARING?

The Court has preliminarily approved the Settlement and will hold a hearing to decide whether to give final approval to the Settlement. The purpose of the Final Approval Hearing will be for the Court to determine whether the Settlement should be approved as fair, reasonable, adequate, and in the best interests of the Class; to consider the award of attorneys’ fees and expenses to Class Counsel; and to consider the request for a service award to the representative Plaintiff.

The Final Approval Hearing is scheduled to take place on [FINAL APPROVAL HEARING DATE], at XXX a.m. in Department 5 of the Santa Cruz Superior Court, located at 701 Ocean Street, Santa Cruz, CA 95060.

The Final Approval Hearing may be continued without further notice to the Class Members. It is not necessary for you to appear at the Final Approval Hearing unless you have timely filed an objection with the Court. However, you have the right to attend the Final Approval Hearing and be represented by your own counsel at your own expense. If you plan to attend the Final Approval Hearing, you may contact Class Counsel to confirm the date and time. If the Settlement is not approved by the Court or does not become final for some reason, the Lawsuit may continue.

At the hearing, the Court will be available to hear any objections and arguments concerning the Settlement. You may attend, but you do not have to attend. You may speak at the Final Approval Hearing only if (a) you have timely served and filed an Objection, and (b) followed the procedures set

forth above for notifying the Court and the parties that you intend to speak at the Final Approval Hearing.

If you have requested exclusion from the Settlement, however, you may not speak at the Final Approval Hearing.

WHAT HAPPENS IF I DO NOT EXCLUDE MYSELF FROM THIS SETTLEMENT?

The settlement, if finally approved by the Court, will bind all Settlement Class Members who do not request to be excluded from the settlement, whether or not they cash their Individual Settlement Payments. Final approval of the settlement will bar any Settlement Class Member who does not request to be excluded from the settlement from hereafter initiating a lawsuit or proceeding regarding the Released Claims during the period between May 7, 2016 through June 3, 2021. The Settlement Agreement contains additional details about the scope of the release.

FURTHER INFORMATION

The foregoing is only a summary of the settlement. If you have any questions about the settlement, you can contact Class Counsel at the addresses listed below or inspect the Court's files and the Settlement Agreement on file with the Court during regular court hours.

CLASS COUNSEL:

Kenneth A. Goldman
Law Office of Kenneth A. Goldman, PC
15303 Ventura Blvd., Ste. 1650
Sherman Oaks, CA 91403
Tel.: (818) 289-7689

Sahag Majarian, II
Law Offices of Sahag Majarian, II
18250 Ventura Boulevard
Tarzana, California 91356
(818) 609-0807 (Spanish speakers available)

WHAT HAPPENS IF MY INFORMATION CHANGES?

If, after you receive this Notice, you change your postal address or telephone number, it is your responsibility to inform the Settlement Administrator of your updated information.

PLEASE DO NOT TELEPHONE OR CONTACT THE COURT FOR INFORMATION REGARDING THIS SETTLEMENT.